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Payment Institutions and E-money Institutions Act[1]

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09.06.2010	RT I 2010, 34, 182	01.07.2010, partially 02.07.2010
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Chapter 1
GENERAL PROVISIONS

§ 1. Scope of application of Act

(1) This Act regulates the provision of payment services and e-money services, the activities and liability of payment institutions and e-money institutions and supervision over payment institutions and e-money institutions.

(2) The provisions of the Administrative Procedure Act apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act and the Financial Supervision Authority Act.

§ 2. Implementation of Act

(1) This Act applies to payment institutions and e-money institutions founded and operating in Estonia, branches of foreign payment institutions and e-money institutions in Estonia and all other persons providing payment services or e-money services in Estonia.

(2) This Act also applies to the activities of Estonian payment institutions and e-money institutions and their branches in a foreign state, unless otherwise provided for in the legislation of the foreign state.

§ 3. Payment services and payment service providers

(1) For the purposes of this Act, payment services are the following services provided by a person for the purposes of economic or professional activities:
1) services which enable to make cash payments to payment accounts;
2) services which enable to withdraw cash from payment accounts;
3) execution of payment transactions, including transfer of funds to a payment account opened with a payment service provider;
4) execution of payment transactions if the funds have been granted as a loan to the client of the payment institution;
5) issue and acquisition of payment means, means of payment or payment instruments (hereinafter all jointly *payment instrument*);
6) money remittance;
7) execution of payment transactions if the consent of the payer for making a payment is given by means of a telecommunications, digital or information technology device and the payment transaction is executed through a telecommunications network, information technology system or other similar network operator acting only as an intermediary between the client of the payment institution and the supplier of goods or services.

(2) The content of payment services specified in clauses (1) 3), 4) and 7) of this section is:
1) execution of direct debit orders, including one-off direct debit orders, the purpose of which is to debit the payment account of the payer if the payment transaction is initiated by the payee on the basis of an authorisation given by the payer directly to the payee, the payment service provider of the payee or the payment service provider of the payer;
2) execution of payment transactions through a payment card or a similar instrument;
3) execution of credit transfers, including standing orders.

(3) Money remittance specified in clause (1) 6) of this section is a payment service where funds are transferred from the payer to the payee or a payment service provider acting on behalf of the payee without opening a payment account in the name of the payer or payee.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

(4) Payment system is a system for transfer of funds which operates on the basis of agreed and standardised rules and whereby payment transactions are processed and settled.

(5) The provisions of § 709 of the Law of Obligations Act shall apply to payers, payees and payment accounts.

(6) The following persons may provide payment services:
1) payment institutions within the meaning of this Act;
2) e-money institutions within the meaning of this Act;
3) credit institutions within the meaning of the Credit Institutions Act;
4) postal service providers providing financial services within the meaning of § 36 of the Postal Act;
5) the European Central Bank and central banks of states which are contracting parties to the EEA Agreement (hereinafter *Contracting State*) when not performing their duties as monetary authorities or other state agencies;
6) Contracting States or their regional or local governments when not performing their duties as state agencies;
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]
7) companies to which the exemption specified in § 11 of this Act has been granted.

§ 4. Transactions excluded from payment services

(1) The following services and transactions are not deemed to be payment services and the provisions of this Act shall not apply thereto:
1) payment transactions made exclusively in cash directly from the payer to the payee, without any intermediary intervention;
2) payment transactions from the payer to the payee through a commercial agent authorised to negotiate or conclude the sale or purchase of goods or services on behalf of the payer or the payee;
3) transport of banknotes and coins, their collection, processing and delivery;
4) payment transactions consisting of cash collection and delivery in the course of charity or non-profit activities;
5) services where cash is paid by the payee to the client as part of a payment transaction following an explicit request by the client before the execution of the payment transaction through a payment for the purchase of goods or services;
6) cash exchange services where the funds are not held on a payment account;
7) payment transactions carried out within a payment or securities settlement system between settlement agents, central counterparties, clearing houses or central banks and other participants of the system, and payment service providers;
8) payment transactions related to the administration and safekeeping of securities, including distribution of dividends or other income received therefrom, or redemption, repurchase or sale of securities carried out by persons specified in clause 7) of this subsection or by investment firms, credit institutions, management companies or other persons with the right to provide investment services or the service of safekeeping of securities;
9) technical support services for the provision of payment services, including services related to the processing and storage of data, trust and privacy protection, services related to data and entity authentication,

communications network and information technology, provision and maintenance of terminals and devices used for payment services, without the service providers entering into possession of the funds to be transferred during the services;
10) services or transactions based on payment instruments that can be used to purchase goods or services only in the indoor premises and territories in the possession of the issuer of the aforementioned payment instrument or under a contract entered into with the issuer in connection with the economic activities either within a common limited network of service providers or for the purchase of a limited range of goods or services;
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]
11) payment transactions executed by means of any telecommunications, digital or information technology device where the goods or services purchased are delivered and used through a telecommunications, digital or information technology device, provided that the telecommunications, digital or information technology operator does not act only as an intermediary between the client of the payment institution and the supplier of the goods or services;
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]
12) payment transactions carried out between payment service providers, their agents or branches for their own account;
13) payment transactions 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 consolidation group;
14) services to withdraw cash by means of automated teller machines acting on behalf of one or more card issuers, which are not a party to the payment service contract entered into with the client withdrawing money from an account, on the condition that these providers do not provide other payment services listed in § 3 of this Act.

(2) In addition to the provisions of subsection (1) of this section, transactions based on any of the following documents by which the provider places the funds at the disposal of the payee shall not be deemed to be payment services within the meaning of this Act:
1) paper cheques in accordance with the Geneva Convention of 19 March 1931 providing a uniform law for cheques;
2) cheques similar to those referred to in clause 1) of this subsection and governed by the laws of the Contracting States which are not party to the Geneva Convention of 19 March 1931 providing a uniform law for cheques;
3) paper-based drafts in accordance with the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;
4) drafts similar to those referred to in clause 3) of this subsection and governed by the laws of the Contracting States which are not party to the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;
5) paper-based vouchers;
6) paper-based traveller's cheques;
7) paper-based postal money orders as defined by the Universal Postal Union.

§ 5. Payment institution

(1) A payment institution is a company the permanent activity of which is the provision of payment services. A payment institution may operate only as a public limited company if it provides any of the payment services specified in subsection 3 (1) of this Act, except for clause 6). A payment institution is a financial institution within the meaning of § 5 of the Credit Institutions Act.

(2) In addition to the provision of payment services listed in § 3 of this Act, a payment institution may engage in the following services and activities:
1) provision of ancillary services closely related to payment services, such as ensuring the execution of payment transactions, foreign exchange services, safekeeping activities, and the storage and processing of data;
2) operation of payment systems;
3) other activities not related to the provision of payment services unless otherwise provided by law.

(3) Payment institutions may use the payment accounts held by them only for the execution of payment transactions. Funds received from a client of the payment institution for the provision of payment services shall not be deemed to be a deposit or other repayable funds within the meaning of § 4 of the Credit Institutions Act or e-money within the meaning of § 6 of this Act.

(4) Payment institutions may grant loans related to the provision of payment services only if the following conditions are met:
1) grant of loans is an ancillary service and loans are granted only for the execution of a payment transaction;
2) loans related to the execution of a payment transaction shall be repaid within twelve months;
3) loans shall not be granted from the funds received or held for the purpose of executing a payment transaction;
4) own funds of the payment institution shall be sufficient to cover the risks related to the granted loans.

(5) The Financial Supervision Authority may determine the level of own funds sufficient to cover the risks related to the loans granted by a payment institution pursuant to the provisions of subsection (4) of this section.

(6) Payment institutions shall not be engaged in the receipt of deposits or other repayable funds within the meaning of § 4 of the Credit Institutions Act.

(7) A savings and loan association which provides payment services is a payment service provider within the meaning of this Act and the provisions of this Act and other legislation concerning payment service providers shall apply thereto, with the specifications provided for in this Act and the Savings and Loan Associations Act. The provisions of the second sentence of subsection (1) of this section shall not apply to savings and loan associations.
[RT I 2010, 34, 182 - entry into force 01.07.2010]

§ 6. E-money and issue thereof

(1) E-money is monetary value stored on an electronic medium (hereinafter *e-money device*) which expresses a monetary claim against the issuer and meets all the following conditions:
1) it is issued at par value of the amount of the monetary payment received;
2) it is used as a payment instrument to execute payment transactions within the meaning of subsection 709 (6) of the Law of Obligations Act;
3) it is accepted as a payment instrument by at least one person who is not the issuer of the same e-money.

(2) Interest or other fees shall not be charged or paid, or other benefits granted for the period of holding e-money.

(3) The provisions of this Act concerning e-money and e-money institutions shall not apply to payment instruments specified in clause 4 (1) 10) or payment transactions specified in clause 4 (1) 11) of this Act.

(4) For the purposes of this Act, e-money services include the issue of e-money and ancillary services closely related to the issue or administration of e-money.

(5) Up to 1000 euros of e-money may be stored on an e-money device if the e-money device does not allow repeated storage of e-money (hereinafter *recharging*). If it is possible to recharge an e-money device, up to 2500 euros of e-money may be stored or recharged on the e-money device during a calendar year.

(6) E-money shall not be deemed to be a deposit or other repayable funds within the meaning of § 4 of the Credit Institutions Act

(7) The following persons may issue e-money (hereinafter *e-money issuer*):

(1) e-money institutions within the meaning of this Act;
2) companies to which the exemption specified in § 12 of this Act has been granted.
3) credit institutions within the meaning of the Credit Institutions Act;
4) the European Central Bank and central banks of Contracting States when not performing their duties as monetary authorities or other state agencies;
5) Contracting States or their regional or local governments when performing their duties;

(8) E-money may be distributed or redeemed by the e-money issuer or a person acting on behalf of the e-money issuer (hereinafter *distributor*). Upon use of a distributor, the requirements for transfer of activities provided for in § 62 of this Act shall apply to the e-money institution.

(9) If an e-money institution provides payment services through a distributor, the provisions of §§ 59–61 of this Act concerning paying agents shall apply to the e-money institution.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

§ 7. E-money institution

(1) An e-money institution is a public or private limited company the permanent activity of which is the issue of e-money in its name.

(2) An e-money institution may, in addition to the issue of e-money, be engaged in the following:
1) provision of payment services;
2) grant of loans related to the provision of payment services if the conditions provided for in subsection 5 (4) of this Act are met;
3) provision of ancillary services closely related to the issue or administration of e-money or payment services;
4) operation of payment systems;
5) other activities not related to the issue of e-money unless otherwise provided by law.

(3) E-money institutions shall not grant loans out of or secured by the funds received in exchange for e-money.

(4) If an e-money institution provides payment services, the provisions of subsection 5 (3) of this Act apply with regard to such e-money institution.

[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

§ 8. Protection of name

(1) Only payment institutions may use the word *makseasutus*[payment institution] or derivatives or foreign language equivalents thereof in their business names.

(2) Only e-money institutions may use the word combination *e-raha asutus*[electronic money institution] or derivatives or foreign language equivalents thereof in their business names.

§ 9. Consolidation group, control relationship and close links

(1) For the purposes of this Act, a consolidation group is formed by:
1) a parent company with a subsidiary or subsidiaries;
2) a parent company with a subsidiary or subsidiaries and a parent company or undertakings related to the subsidiaries thereof within the meaning of the holding specified in clause (4) 1) of this section;
3) companies or other legal persons under a common management pursuant to the contract entered into or the provisions of the memorandum of association or the articles of association or whose majority of the membership of the managing or supervisory bodies is formed by the same persons until the consolidated annual financial report is approved.

(2) For the purposes of this Act, a parent company is a person who controls at least one company or other legal person (subsidiary) pursuant to § 10 of the Securities Market Act. For the purposes of this Act, subsidiaries of subsidiaries of parent companies are deemed to be subsidiaries of the same parent company.

(3) For the purposes of this Act, control relationship shall mean the relationship between parent companies and subsidiaries provided for in subsections (1) and (2) of this section.

(4) For the purposes of this Act, close links shall mean a situation where at least two persons are linked:
1) by a holding where at least 20 per cent of the share capital or votes determined by shares is held in a company or other legal person;
2) by a control relationship within the meaning of subsection 3 of this section.

(5) A situation in which two or more persons are permanently linked to one and the same person by a control relationship shall also be regarded as a close link.

§ 10. Client

(1) For the purposes of this Act, a client of a payment institution is any person to whom payment services are provided directly by the payment institution or through an agent, and a person who has addressed a payment institution or an agent in order to receive payment services.

(2) For the purposes of this Act, a client of an e-money issuer is any person to whom e-money is issued or has been issued directly by the e-money issuer or through a distributor, and a person who has addressed an e-money issuer or a distributor in order to acquire e-money.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

§ 11. Exemptions for payment service providers upon application of Act

(1) A company may fail to comply with the requirements provided for in Chapters 2–10 of this Act and these requirements shall not apply to the activities of the company, except the provisions of §§ 47–49 of this Act concerning the members of the management board and supervisory board (hereinafter *managers*) and the employees of the company, the provisions of § 79 concerning the safekeeping of assets and the provisions of subsections 82 (3) and (4) concerning reporting, if all the following conditions are met:
[RT I 2010, 34, 182 - entry into force 02.07.2010]
1) the company provides only the payment service specified in clause 3 (1) 6) of this Act;
2) the average total amount of payment transactions made within the preceding twelve months does not exceed one million euros a month. Payment transactions made by the agents of the company are also taken into account. This requirement shall be assessed based on the total amount of payment transactions set out in the business plan, whereas the Financial Supervision Authority may demand adjustment of the business plan;
3) managers of the company or persons responsible for business management have not been convicted of an economic offence, official misconduct, offence against property or offence against public trust or financing and support of act of terrorism or activities directed at it, or the information concerning the punishment has been expunged from the punishment register pursuant to the Punishment Register Act.

(2) The seat and the principal place of business of the company specified in subsection (1) of this section shall be in Estonia.

(3) A company which exercises the right provided for in subsection (1) of this section shall not found a branch or provide cross-border services in a Contracting State pursuant to the provisions of Chapter 3 of this Act.

§ 12. Exemptions for e-money service providers upon application of Act

(1) A company which issues e-money which complies with the definition of low value payment instruments specified in subsection 73312 (1) of the Law of Obligations Act may fail to comply with the requirements provided for in Chapters 2–10 of this Act and these requirements shall not apply to the activities of the company, except the provisions of §§ 47–49 of this Act concerning managers and employees of companies and the provisions of subsections 82 (1) and (3) concerning reporting, if the following conditions are met:
1) average outstanding e-money shall not exceed 500 000 euros calculated pursuant to subsection (5) of this section;
2) managers of the company or persons responsible for business management have not been convicted of an economic offence, official misconduct, offence against property or offence against public trust or financing and support of act of terrorism or activities directed at it, or the information concerning the punishment has been expunged from the punishment register pursuant to the Punishment Register Act.

(2) The seat and the principal place of business of the company specified in subsection (1) of this section shall be in Estonia.

(3) A company which exercises the right provided for in subsection (1) of this section shall not found a branch or provide cross-border services in a Contracting State or distribute e-money through a distributor in another Contracting State pursuant to the provisions of Chapter 3 of this Act.

(4) A company which exercises the right provided for in subsection (1) of this section may provide payment services if it meets the conditions provided for in subsection 11 (1) of this Act.

(5) For the purposes of this Act, average outstanding e-money is deemed to be the average total amount of financial liabilities related to e-money in issue at the end of each calendar day within the preceding six calendar months. Average outstanding e-money shall be calculated on the first calendar day of each calendar month and applied for that calendar month.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

§ 13. Application for exemption

(1) A company being founded or an operating company which wishes to exercise the right provided for in subsection 11 (1) or subsection 12 (1) of this Act is required to apply for a corresponding authorisation from the Financial Supervision Authority.

(2) In order to receive an authorisation, a company being founded or an operating company (hereinafter in this section *applicant*) shall submit to the Financial Supervision Authority a written application together with the information and documents (hereinafter in this section *application*) which prove that the conditions provided for in subsection 11 (1) or subsection 12 (1) of this Act are met. The applicant shall submit to the Financial Supervision Authority a business plan which complies with the requirements provided for in § 16 of this Act.

(3) In order to verify the justification of an application, the Financial Supervision Authority may demand additional information and documents, perform on-site inspections, consult state databases and obtain oral explanations from the managers and auditors of the applicant, their representatives and, if necessary, third parties.

(4) The Financial Supervision Authority shall make a decision to grant or refuse to grant an authorisation within one month after receipt of all the necessary information and documents, but not later than within three months after receipt of the application. If, based on the submitted application, it is evident that the risks related to the services planned in the business plan are not sufficiently covered or the internal procedures and internal control of the company do not ensure sufficient risk management, the Financial Supervision Authority may establish obligatory secondary conditions to the applicant upon issue of an authorisation in order to protect the interests of the clients of the applicant, and the Financial Supervision Authority may also determine which of the services provided for in §§ 3 and 6 may be provided by the applicant.

(5) The Financial Supervision Authority has the right to refuse to grant an authorisation if:
1) the information and documents submitted upon application do not prove compliance with the conditions provided for in subsection (2) of this section;
2) misleading information or documents or incorrect information or falsified documents have been submitted upon application for the authorisation.

(6) The Financial Supervision Authority may, by its precept, demand that the activities of a company exercising the right provided for in subsection 11 (1) or subsection 12 (1) of this Act be brought into compliance with the provisions of this Act or revoke an authorisation provided for in this section if:
1) the circumstances provided for in subsection (5) of this section become evident;
2) the company has repeatedly or significantly violated the provisions of legislation regulating its activities;
3) the company has not complied with the secondary conditions established by the Financial Supervision Authority on the basis of subsection (4) of this section;

4) violation of the requirements provided for in the Money Laundering and Terrorist Financing Prevention Act becomes evident.

(7) A company exercising the right provided for in subsection 11 (1) or subsection 12 (1) of this Act is required to bring its activities into compliance with the provisions of this Act not later than by the due date specified by the Financial Supervision Authority or terminate the provision of payment services or e-money services.

(8) The Financial Supervision Authority shall immediately deliver a decision regarding the grant or refusal to grant an authorisation or the revocation of an authorisation to the applicant or the company exercising the right provided for in subsection 11 (1) or subsection 12 (1) of this Act.

(9) The Financial Supervision Authority shall publish a decision to grant, amend or revoke an authorisation on its website not later than on the working day following the day the decision is made. The Financial Supervision Authority shall additionally publish the decision to revoke an authorisation in at least one national daily newspaper.

(10) A company holding an authorisation shall immediately notify the Financial Supervision Authority of significant changes in the circumstances which were the basis for the issue of the authorisation upon becoming aware of them.

(11) If the conditions which were the basis for granting the authorisation are no longer met, the company shall, at the request of the Financial Supervision Authority, submit an application for an activity licence for payment institutions or e-money institutions within 30 days pursuant to the provisions of § 14 of this Act or terminate the provision of the services. If the company continues to provide payment services or e-money services without the activity licence for payment institutions or e-money institutions, the Financial Supervision Authority may file a petition with the court for the compulsory dissolution of the company pursuant to the provisions of § 87 of this Act.

Chapter 2
APPLICATION FOR ACTIVITY LICENCE

§ 14. Activity licence

(1) In order to operate as a payment institution or e-money institution, a company shall hold a relevant activity licence.

(2) A company to which the Financial Supervision Authority has refused to grant the authorisation provided for in § 13 of this Act shall hold an activity licence for provision of payment services in order to provide the payment services specified in subsection 3 (1) of this Act or an activity licence for issuing e-money in order to provide the e-money services specified in clause 6 (3) 1).

(3) An activity licence for provision of payment services or an activity licence for issuing e-money shall be issued to a company founded in Estonia or revoked by a decision of the Financial Supervision Authority.

(4) Activity licences for provision of payment services and activity licences for issuing e-money are issued for an unspecified term and are not transferable to other persons.

(5) Persons specified in clauses 3 (6) 2)–7) of this Act are not required to apply for an activity licence for provision of payment services.

(6) Persons specified in clauses 6 (7) 2)–5) of this Act are not required to apply for an activity licence for issue of e-money.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

§ 15. Application for activity licence

(1) In order to apply for an activity licence for provision of payment services or an activity licence for issuing e-money, the members of the management board entered in the memorandum of association or registry card of the company being founded or operating (hereinafter *applicant*) shall submit to the Financial Supervision Authority a written application (hereinafter *application for activity licence*) and the following documents and information:
1) a copy of the articles of association and, in the case of an operating company, the resolution of the general meeting on amendment of the articles of association, and the amended text of the articles of association;
2) upon foundation of a company, a notarised transcript of the memorandum of association or foundation resolution;
3) a document certifying the existence of the share capital paid up or to be paid up;
4) an action plan which shall set out in particular the planned payment services or e-money services;

5) a business plan which complies with the requirements of § 16 of this Act;
6) the opening balance of the applicant and an overview of revenue and expenditure or, in the case of an operating company, the balance sheet and income statement as at the end of the month prior to submission of the application for an activity licence and the last three annual reports if they exist;
7) a description of the application of the general requirements for safekeeping and protection of assets provided for in Chapter 9 of this Act;
8) the internal rules provided for in § 50 of this Act and the accounting policies and procedures or drafts thereof;
9) information on the information and other technological means and systems, security systems, control mechanisms and systems needed for provision of the planned services;
10) a description of the internal control system and measures which would ensure performance of obligations in connection with preventing money laundering and terrorist financing and information on the payer upon transfer of funds;
11) a description of the organisational structure of the applicant including, if necessary, a description of the procedure for the use of agents and branches or for the transfer of services, and its participation in national or international payment systems;
12) a list of the shareholders of the applicant which sets out the name and the personal identification code or registry code of each shareholder, or the date of birth in the absence of a personal identification code or registry code, and information on the number of shares and votes to be acquired or owned by each shareholder;
13) information specified in § 40 of this Act on persons who own qualifying holdings in the applicant;
14) information on the managers of the applicant, including each person's name and surname, personal identification code or date of birth in the absence of a personal identification code, place of residence, educational background, a complete list of places of employment and positions and, in the case of members of the management board, a description of their areas of responsibility, and documents certifying the managers' trustworthiness and conformity to the requirements of this Act which the applicant deems necessary to submit;
15) information on companies in which the holding of the applicant or its manager exceeds 20 per cent, which also sets out the amount of share capital, a list of the areas of activity and the size of the holding of the applicant and each manager;
16) information on the auditor and internal auditor of the applicant, including their name, residence or seat, personal identification code or, in the absence of the identification code, the date of birth or registry code;
17) in the case of an operating company, documents certifying the amount of own funds together with the sworn auditor’s report;
[RT I 2010, 9, 41 - entry into force 08.03.2010]
18) the technical, financial and legal principles of the functioning of the payment system approved by *Eesti Pank*beforehand and the draft rules for the functioning of the system if the applicant wishes to be engaged in the operation of payment systems.

(2) If, during the processing of an application for an activity licence, there are changes in the information or documents specified in subsection (1) of this section, the applicant shall submit the updated information or documents to the Financial Supervision Authority immediately after making or becoming aware of the amendments.

(3) The applicant shall submit a description of the auditing arrangements and organisational administration concerning the documents provided for in clauses (1) 7), 8) and 10) of this section and the completion of the documents which have been established by the applicant in order to apply all necessary measures to protect the legitimate interests of its clients and ensure continuity and reliability in the performance of payment services.

§ 16. Business plan

(1) A business plan shall include a description of the character of the planned business activities, organisational structure, internal control system and management structure of the applicant, a description of the rights, obligations and liability related to the provision of planned services and also a description, forecast and analysis of the following factors:
1) the amount of revenue and expenditure by area of activity;
2) obligations related to the provision of payment services or e-money services;
3) the size of the assets and share capital of the applicant;
4) the level of the technical administration of the activities of the applicant;
5) strategy and market share in which the applicant proposes to engage in activities;
6) the planned activities, provided services and offered products, the potential agents or distributors, and clients and competitors;
7) plans regarding annual balance sheets and financial indicators which, inter alia, set out revenue, expenditure, profit and cash flows, and the presumptions which constitute the basis thereof;
8) general principles and strategy of risk management;
9) investment policy.

(2) A business plan shall be submitted for at least three years.

(3) The Financial Supervision Authority has the right to demand amendment of a business plan if in the opinion of the Financial Supervision Authority the financial indicators and other information presented in the business plan are not reliable and the minimum amount of own funds which is calculated taking account of the obligations planned in the business plan does not comply with the requirements established by legislation regarding payment institutions or e-money institutions.

§ 17. Review of applications for activity licences

(1) If an applicant has failed to submit all the information and documents specified in § 15 of this Act, or if such information or documents are inaccurate, misleading or incomplete or have not been prepared in accordance with the requirements, the Financial Supervision Authority has the right to demand elimination of the deficiencies by the applicant.

(2) The Financial Supervision Authority may demand the submission of additional information and documents if it is not convinced on the basis of the information and documents specified in § 15 of this Act as to whether the applicant for an activity licence has adequate facilities for the provision of payment services or e-money services or whether it meets the requirements for payment institutions or e-money institutions prescribed by this Act or legislation issued on the basis thereof or if other circumstances relating to the applicant need to be verified.

(3) In order to verify the information submitted by an applicant, the Financial Supervision Authority may perform on-site inspections, order an assessment or special audit, receive information from state agencies and local government authorities, consult state databases, obtain oral explanations from the applicant's managers and auditors, their representatives and, where necessary, third parties concerning the content of documents and facts which are relevant in making a decision on the issue of an activity licence.

(4) The information and documents specified in subsections (1)–(3) of this section shall be submitted to the Financial Supervision Authority within a reasonable term determined by the Financial Supervision Authority.

(5) The Financial Supervision Authority may refuse to review an application for activity licence if the applicant has failed to eliminate the deficiencies specified in subsection (1) of this section within the prescribed term or has not submitted the information or documents requested by the Financial Supervision Authority by the end of the term. Upon refusal to review an application, the Financial Supervision Authority shall return the submitted documents.

(6) Upon processing of an application for an activity licence, the Financial Supervision Authority shall cooperate with the financial supervision authority of the respective Contracting State if:
1) the applicant is a parent undertaking or subsidiary of a payment institution, e-money institution, management company, investment fund, investment firm, credit institution or insurer founded in a Contracting State or other person subject to financial supervision;
2) the subsidiary of the parent undertaking of the applicant is a payment institution, e-money institution, management company, investment fund, investment firm, credit institution or insurer founded in the Contracting State or another person subject to financial supervision;
3) the applicant and a payment institution, e-money institution, management company, investment fund, investment firm, credit institution or insurer founded in the Contracting State or another person subject to financial supervision are companies controlled by one and the same person.

§ 18. Decision on issue of activity licence

(1) The Financial Supervision Authority shall make a decision to issue or refuse to issue an activity licence within three months after receipt of all the necessary documents and information which comply with the requirements, but not later than within six months after receipt of the application for the activity licence.

(2) Before making the decision to issue or refuse to issue an activity licence, the Financial Supervision Authority shall consult with *Eesti Pank*if necessary.

(3) Upon issue of an activity licence, the Financial Supervision Authority may:
1) establish more favourable secondary conditions to the applicant which, if it is justified, permit the applicant to derogate from the circumstances on the basis of which the activity licence is obtained;
2) extend the term provided for in subsection (1) of this section in the course of which the applicant shall bring itself into conformity with the requirements on the basis of which the activity licence is issued.

(4) If it is evident from the submitted documents and information that the risks related to the services planned in the business plan of the applicant are not sufficiently covered and the organisational structure and management structure of the applicant are not sufficient for operating as a payment institution or e-money institution with continuity and its internal procedures and internal control do not ensure sufficient risk management, the Financial Supervision Authority may, in addition to the provisions of subsection (3) of this section, establish secondary conditions to the applicant upon issue of an activity licence in order to protect the interests of the clients which:
1) restrict the provision of payment services or e-money services or ancillary services related thereto;
2) require the foundation of a separate subsidiary for the provision of non-payment services which are provided at the same time as payment services.

(5) A decision regarding an activity licence shall at least set out:

1) the name and registry code of the person with regard to whom the decision is made;
2) the type or types of services with regard to which the decision is made;
3) the date on which the decision is made and the date on which it enters into force.

(6) The Financial Supervision Authority shall immediately deliver a decision to issue or refuse to issue an activity licence to the applicant.

§ 19. Bases for refusal to issue activity licence

(1) The Financial Supervision Authority has the right to refuse to issue an activity licence to an applicant if:
1) the applicant does not meet the requirements for payment institutions or e-money institutions provided for in this Act or legislation issued on the basis thereof;
2) the resources for full payment of the share capital of a company being founded are not proved;
3) the applicant does not have the necessary funds or experience to operate as a payment institution or e-money institution with continuity;
4) the minimum amount of own funds of the applicant, which is calculated taking account of the obligations planned in the business plan provided for in § 16 of this Act, does not comply with the requirements established by legislation regarding payment institutions or e-money institutions;
5) the managers, auditor or shareholders of the applicant do not meet the requirements provided for in this Act or legislation established on the basis thereof;
6) close links between the applicant and another person prevent sufficient supervision over the applicant, or the requirements arising from legislation or the implementation of legislation of the other state where the person with whom the applicant has close links is established prevent sufficient supervision over the applicant;
7) the information submitted by the applicant indicates that the applicant mainly plans to operate in another Contracting State;
8) the internal rules provided for in § 50 of this Act are not sufficiently accurate or unambiguous for regulation of the activities of the payment institution or e-money institution;
9) the applicant or its manager has been punished for an economic offence, official misconduct, offence against property or offence against public trust or financing and support of act of terrorism or activities directed at it, or the corresponding information concerning the punishment has not been expunged from the punishment register pursuant to the Punishment Register Act.

(2) Among other matters, the following shall be considered upon assessment of that provided for in clause (1) 3) of this section:
1) the level of the organisational and technical administration of the activities of the applicant;
2) the educational background of the persons connected with the management of the applicant, their work experience, business connections, trustworthiness and reputation;
3) the adequacy and sufficiency of the business plan provided for in § 16 of this Act;
4) the activities, financial situation, reputation and experience of the applicant, its parent company and persons belonging to the same consolidation group as the applicant.

§ 20. Amendment of decision on issue of activity licence

(1) Upon changes in the business name or address of the seat of a payment institution or e-money institution, the Financial Supervision Authority shall make a decision on amendment of a decision on issue of an activity licence specified in subsection 18 (1) of this Act.

(2) The Financial Supervision Authority shall decide on amendment of a decision on issue of an activity licence not later than within one month after becoming aware of the amendments to the information specified in subsection (1) of this section.

(3) The Financial Supervision Authority shall immediately deliver a decision on amendment specified in subsection (1) of this section to the payment institution or e-money institution.

§ 21. Termination of validity of activity licence

The validity of an activity licence terminates if:
1) a decision to dissolve the payment institution or e-money institution is made;
2) the activity licence is revoked;
3) payment institutions or e-money institutions are merged, in the case of an institution being acquired;
4) a new payment institution or e-money institution is founded by merger, in the case of institutions that are merging;
5) the payment institution or e-money institution is declared bankrupt.

§ 22. Revocation of activity licence

(1) Revocation of an activity licence means deprivation of a right granted by the activity licence.

(2) The Financial Supervision Authority may revoke an activity licence if:
1) the payment institution or e-money institution fails to commence activities within twelve months as of the issue of the activity licence or if an act by the founders of the payment institution or e-money institution indicates that the payment institution or e-money institution will be unable to commence activities within the

specified term or the activities of the payment institution or e-money institution are suspended for more than six consecutive months;
2) the payment institution or e-money institution has submitted false information upon application for the activity licence which was of significant importance in the decision to issue the activity licence, and also in other cases where false information has been submitted to the Financial Supervision Authority by or for the payment institution or e-money institution;
3) the payment institution or e-money institution does not meet the requirements in force with regard to the issue of activity licences;
4) the circumstances provided for in clause 19 (1) 5) of this Act become evident;
5) the payment institution or e-money institution has repeatedly or significantly violated the provisions of legislation regulating its activities;
6) the payment institution or e-money institution or its manager has been punished for an economic offence, official misconduct, offence against property or offence against public trust or financing and support of act of terrorism or activities directed at it, or the corresponding information concerning the punishment has not been expunged from the punishment register pursuant to the Punishment Register Act;
7) the payment institution or e-money institution fails to comply with the secondary conditions specified in subsection 18 (4) of this Act;
8) the payment institution or e-money institution has published significantly incorrect or misleading information or advertising concerning its activities or managers;
9) the payment institution or e-money institution is unable to perform the obligations it has assumed or if, for any other reason, its activities significantly damage the interests of clients, currency circulation, functioning of the money markets or stability of the payment system;
10) the amount of own funds of the payment institution or e-money institution does not meet the requirements provided for in this Act or legislation established on the basis thereof;
11) the payment institution or e-money institution belongs to a consolidation group the structure of which prevents the receipt of information necessary for supervision on a consolidated basis, or if a company which belongs to the same consolidation group as the payment institution or e-money institution operates on the basis of legislation of a foreign state, which prevents the exercise of sufficient supervision;
12) close links between the payment institution or e-money institution and other persons prevent the exercise of sufficient supervision;
13) the payment institution or e-money institution has committed money laundering or financed or supported an act of terrorism or violates the procedure for preventing money laundering and terrorist financing established by legislation;
14) it becomes evident that the payment institution or e-money institution has chosen Estonia as the place for application for the activity licence and registration in order to evade compliance with stricter requirements established for payment institutions or e-money institutions in another Contracting State where the payment institution or e-money institution mainly operates;
15) according to the information submitted to the Financial Supervision Authority by the financial supervision authority of the Contracting State or a third country, the payment institution or e-money institution has violated the conditions provided for in the legislation of the Contracting State or the third country or established by the financial supervision authority of the Contracting State or the third country.
16) the payment institution or e-money institution has failed to implement a precept of the Financial Supervision Authority within the term or to the extent prescribed.

(3) Prior to deciding on the revocation of an activity licence on the bases specified in subsection (2) of this section, the Financial Supervision Authority may issue a precept to the payment institution or e-money institution and set a term for elimination of the deficiencies which are the reasons for the revocation.

(4) An activity licence shall be revoked on the basis of an application of a payment institution or e-money institution if the payment institution or e-money institution no longer wishes to provide the services specified in subsection 3 (1) or clause 6 (3) 1) of this Act.

(5) The Financial Supervision Authority may refuse to revoke an activity licence on the basis of an application specified in subsection (4) of this section if there is good reason to believe that revocation of the activity licence may damage the legitimate interests of clients or other creditors of the payment institution or e-money institution.

(6) An application specified in subsection (4) of this section shall be reviewed by the Financial Supervision Authority and a decision to revoke or to refuse the revocation of the activity licence shall be made within two months as of the receipt of the application.

(7) The decision on revocation of an activity licence shall be immediately delivered to the addressee of the decision.

§ 23. Informing the public

(1) The Financial Supervision Authority shall publish a decision to issue, amend or revoke an activity licence and to issue and revoke the authorisations provided for in §§ 25 and 32 of this Act on its website not later than on the working day following the day the decision enters into force.

(2) In addition to the provisions of subsection (1) of this section, the Financial Supervision Authority shall publish a decision to revoke an activity licence which is made pursuant to § 22 of this Act in at least one national daily newspaper.

Chapter 3
OPERATION OF PAYMENT INSTITUTION AND E-MONEY INSTITUTION IN FOREIGN STATE AND OPERATION OF FOREIGN PAYMENT INSTITUTION AND E-MONEY INSTITUTION IN ESTONIA

§ 24. Operation of payment institution and e-money institution in foreign state

(1) A payment institution or e-money institution founded in Estonia and holding an activity licence may provide the service specified in subsection 3 (1) or clause 6 (3) 1) of this Act in a foreign state by establishing branches or providing cross-border services, including through an agent or distributor (hereinafter jointly in this Chapter *agent*).

(2) The provisions of §§ 29 and 30 of this Act apply to the provision of services by Estonian payment institutions and e-money institutions in another Contracting State.

(3) The provisions of §§ 25–28 and subsections 30 (1), (2), (4) and (6)–(9) of this Act apply to the provision of services by Estonian payment institutions and e-money institutions in a foreign state not specified in subsection (2) of this section (hereinafter *third country*).

(4) A cross-border service means the service which is provided by a payment institution or e-money institution in a state where the institution or its branch is not registered.

(5) Upon provision of services in a foreign state, a payment institution or e-money institution shall comply with the requirements provided for in this Act, legislation issued on the basis thereof and legislation of the foreign state.

§ 25. Branch of payment institution and e-money institution in third country

(1) A payment institution or e-money institution which wishes to found a branch in a third country shall apply for a respective authorisation (hereinafter in this Chapter *authorisation for foundation of a branch*) from the Financial Supervision Authority.

(2) In order to apply for an authorisation for the foundation of a branch in a third country, a payment institution or e-money institution shall submit a written application (hereinafter in this Chapter *application*) and the following information and documents to the Financial Supervision Authority:
1) the name of the third country in which the branch is to be founded;
2) the address of the seat of the branch in the third country;
3) a business plan for the activities of the branch in the third country, which complies with the requirements provided for in § 16 of this Act;
4) information specified in clause 15 (1) 14) of this Act concerning the managers of the branch.

(3) The information and documents specified in subsection (2) of this section shall be submitted in Estonian. At the request of the Financial Supervision Authority, the information and documents shall be submitted together with a translation made by a sworn translator or certified by a notary into the official language or one of the official languages of the third country where the payment institution or e-money institution wishes to found a branch.
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§ 26. Processing of application for authorisation for foundation of branch and decision on issue of authorisation

(1) The provisions of § 17 of this Act apply to the processing of applications for an authorisation for the foundation of a branch and verification of the submitted information and the financial situation, organisational structure and technical systems of the applicant and existence of sufficient resources for the foundation of a branch.

(2) The Financial Supervision Authority shall make a decision to grant or refuse to grant an authorisation for the foundation of a branch within two months after receipt of all the necessary information and documents, but not later than within three months after receipt of the respective application.

(3) The Financial Supervision Authority shall immediately inform the payment institution or e-money institution of a decision to grant or refuse to grant an authorisation for the foundation of a branch.

§ 27. Bases for refusal to grant authorisation for foundation of branch

The Financial Supervision Authority may refuse to grant an authorisation for the foundation of a branch if:
1) the managers of the branch do not meet the requirements for managers of payment institutions or e-money institutions provided for in this Act;
2) the information or documents submitted upon application for an authorisation for the foundation of a branch do not meet the requirements provided for in this Act or legislation established on the basis thereof, or are inaccurate, misleading or incomplete;
3) the financial situation, organisational structure and other resources of the payment institution or e-money institution are insufficient for the provision of services specified in the business plan in third countries;
4) the foundation of the branch in a third country or implementation of the business plan submitted by the payment institution or e-money institution may damage the payment institution or e-money institution, the interests of the shareholders of the payment institution or e-money institution, the financial situation of the payment institution or e-money institution or adversely affect the reliability of its activities in Estonia, in another Contracting State or in a third country;
5) a financial supervision authority of a third country has no legal basis or possibilities for cooperation with the Financial Supervision Authority due to which the Financial Supervision Authority cannot exercise sufficient supervision over the branch founded in the third country.

§ 28. Revocation of authorisation for foundation of branch

(1) The Financial Supervision Authority may revoke an authorisation for the foundation of a branch in a third county if:
1) the payment institution or e-money institution has submitted false information upon application for the authorisation for foundation of a branch which was of significant importance in the decision to grant the authorisation, and also in other cases where false information has been submitted to the Financial Supervision Authority by or for the payment institution or e-money institution;
2) the payment institution or e-money institution has significantly violated the requirements of legislation of the relevant third country and it may damage the interests of the clients of the payment institution or e-money institution;
3) the payment institution or e-money institution or its branch does not comply with the requirements in force with regard to the issue of authorisations for the foundation of a branch;
4) the payment institution or e-money institution fails to submit reports on its branch as required;
5) the manager of the payment institution or e-money institution or its branch has been punished for an economic offence, official misconduct, offence against property or offence against public trust or financing and support of act of terrorism or activities directed at it, or the information concerning the punishment has not been expunged from the punishment register pursuant to the Punishment Register Act;
6) the payment institution or e-money institution has failed to implement a precept of the Financial Supervision Authority within the term or to the extent prescribed.
7) the risks arising from the activities of the branch are significantly greater than risks arising from the activities of the payment institution or e-money institution;
8) the activity licence of the payment institution or e-money institution has been revoked;
9) the circumstances provided for in § 27 of this Act become evident.

(2) The Financial Supervision Authority shall immediately inform the payment institution or e-money institution and the financial supervision authority of a third country of a decision to revoke an authorisation for the foundation of a branch.

(3) After becoming aware of revocation of an authorisation for the foundation of a branch, the payment institution or e-money institution shall terminate provision of its services through the branch founded in the third country not later than by the due date specified by the Financial Supervision Authority.

§ 29. Branch of payment institution and e-money institution in Contracting State

(1) A payment institution or e-money institution which wishes to found a branch in another Contracting State shall inform the Financial Supervision Authority of its intention and submit the following information and documents to the Financial Supervision Authority:
1) the name of the Contracting State in which the branch is to be founded;
2) the names of the managers of the branch;
3) the address of the seat of the branch in the Contracting State;

4) the business plan of the branch which shall contain information on all the services intended to be provided in the Contracting State and describe the organisational structure of the branch and the fact whether the branch intends to use agents and if the agent exists, the personal data of the agent;

(2) The information and documents specified in subsection (1) of this section shall be submitted in Estonian. At the request of the Financial Supervision Authority, the information and documents shall be submitted together with a translation made by a sworn translator or certified by a notary into the official language or one of the official languages of the Contracting State where the payment institution or e-money institution wishes to found a branch.
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(3) Based on subsection (6) of this section, the Financial Supervision Authority shall make a decision to forward or refuse to forward the information and documents specified in subsection (1) of this section to the financial supervision authority of the Contracting State within one month after receipt of all the required information and documents. The Financial Supervision Authority shall immediately inform the payment institution or e-money institution of a decision to forward the information and documents or refuse to forward the information and documents.

(4) The Financial Supervision Authority may refuse to review the information and documents specified in subsection (1) of this section if:
1) the information or documents submitted for forwarding do not meet the requirements provided for in this Act or are incomplete;
2) the information or documents required by the Financial Supervision Authority have not been submitted within the prescribed term.

(5) Upon forwarding the information and documents specified in subsection (1) of this section, the Financial Supervision Authority shall also submit information on the size of the own funds of the payment institution or e-money institution to the financial supervision authority of the Contracting State.

(6) The Financial Supervision Authority may make a decision to refuse to forward the information and documents specified in subsection (1) of this section if:
1) the financial situation, organisational structure or other resources of the payment institution or e-money institution are insufficient for the provision of services specified in the action plan in a Contracting State;
2) the foundation of the branch or implementation of the action plan submitted by the payment institution or e-money institution may damage the interests of its clients, the financial situation of the payment institution or e-money institution or adversely affect the reliability of its activities;
3) the information or documents submitted for forwarding are incorrect, misleading or incomplete;

(7) A payment institution or e-money institution may found a branch in a Contracting State pursuant to the provisions of legislation of the Contracting State.

(8) The payment institution or e-money institution shall inform the Financial Supervision Authority of changes in the information or documents specified in subsection (1) of this section, if possible, at least one month before entry into force of the changes or immediately after entry into force of the changes. The Financial Supervision Authority shall inform the financial supervision authority of the corresponding Contracting State of the changes.

(9) The Financial Supervision Authority may prohibit, by a precept, provision of services by a payment institution or e-money institution through a branch founded in another Contracting State if:
1) the basis for refusal to forward information and documents provided in subsection (6) of this section exists;
2) the financial supervision authority of the Contracting State has informed the Financial Supervision Authority that the payment institution or e-money institution has committed a violation of the conditions provided for in the legislation of the Contracting State or established by the financial supervision authority of the Contracting State.

(10) The Financial Supervision Authority shall immediately deliver the precept specified in subsection (9) of this section to the payment institution or e-money institution. The payment institution or e-money institution is required to terminate the provision of its services through the branch founded in the Contracting State by the due date specified by the Financial Supervision Authority.

(11) If a payment institution or e-money institution wishes to use an agent founded in another Contracting State, the use of an agent is deemed equal to foundation of a branch and the provisions regulating the foundation and activities of branches provided by this section shall apply.

§ 30. Provision of cross-border services

(1) A payment institution or e-money institution which intends to provide cross-border services in a foreign state shall inform the Financial Supervision Authority thereof and shall submit the following information and documents to the Financial Supervision Authority:
1) the name of the state where it is intended to provide cross-border services;
2) a description of the planned cross-border services which shall contain information on the provision thereof and the fact whether it is intended to use agents and if the agent exists, the personal data of the agent.

(2) The information and documents specified in subsection (1) of this section shall be submitted in Estonian. At the request of the Financial Supervision Authority, the information and documents shall be submitted together with a translation made by a sworn translator or certified by a notary into the official language or one of the official languages of the foreign state where the payment institution or e-money institution wishes to provide cross-border services.
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(3) Based on subsection (5) of this section, the Financial Supervision Authority shall make a decision to forward or refuse to forward the information and documents specified in subsection (1) of this section to the financial supervision authority of the Contracting State within one month after receipt of all the required information and documents. The Financial Supervision Authority shall immediately inform the payment institution or e-money institution of a decision to forward the information and documents or refuse to forward the information and documents.

(4) The Financial Supervision Authority may refuse to review the information and documents specified in subsection (1) of this section if the information and documents:
1) do not meet the requirements provided for in this Act or are incomplete;
2) have the deficiencies specified in clause 1) of this subsection and the information or documents additionally required by the Financial Supervision Authority have not been submitted within the prescribed term.

(5) The Financial Supervision Authority may make a decision to refuse to forward the information and documents specified in subsection (1) of this section if:
1) the information or documents submitted do not meet the requirements provided for in this Act or are inaccurate, misleading or incomplete;
2) the financial situation, organisational structure or other resources of the payment institution or e-money institution are insufficient for the provision of cross-border services;
3) the provision of cross-border services may damage the interests of the clients of the payment institution or e-money institution, its financial situation or adversely affect the reliability of its activities;

(6) A payment institution or e-money institution may commence provision of cross-border services pursuant to the provisions of the legislation of the foreign state.

(7) The payment institution or e-money institution shall inform the Financial Supervision Authority of changes in the information or documents specified in subsection (1) of this section, if possible, at least one month before entry into force of the changes or immediately after entry into force of the changes. If the payment institution or e-money institution provides cross-border services in a Contracting State, the Financial Supervision Authority shall inform the financial supervision authority of the Contracting State of the changes.

(8) The Financial Supervision Authority may prohibit, by a precept, provision of cross-border services by a payment institution or e-money institution if:
1) the basis for refusal to forward information and documents provided in subsection (5) of this section exists;
2) the financial supervision authority of the foreign state has informed the Financial Supervision Authority that the payment institution or e-money institution has committed a violation of the conditions provided for in the legislation of the foreign state or established by the financial supervision authority of the foreign state.

(9) The Financial Supervision Authority shall immediately deliver the precept specified in subsection (8) of this section to the payment institution or e-money institution. The payment institution or e-money institution is required to terminate the provision of cross-border services in the foreign state by the due date specified by the Financial Supervision Authority.

§ 31. Operation of foreign payment institution and e-money institution in Estonia

(1) A person who, according to the legislation of the home state, may provide the service specified in subsection 3 (1) or clause 6 (3) 1) of this Act, may provide the same service in Estonia on the basis of an activity licence issued in the home state by establishing branches or providing cross-border services in Estonia, including through an agent. For the purposes of this Act, a home state is a state where the corresponding person is founded.

(2) The provisions of §§ 35 and 36 of this Act apply to a person specified in subsection (1) of this section who is founded in another Contracting State and complies with the requirements established for payment institutions and e-money institutions by the Directive 2007/64/EC of the European Parliament and of the Council on payment services in the internal market (OJ L 319, 5.12.2007, p. 1–36) or the Directive 2000/46/EC of the European Parliament and of the Council on the taking up, pursuit of and prudential supervision of the business of electronic money institutions (OJ L 275, 27.10.2000, p. 39–43).

(3) The provisions of §§ 32–34 of this Act apply to a person specified in subsection (1) of this section which does not comply with the requirements provided for in subsection (2) of this section (hereinafter *payment institution or e-money institution of a third country*).

(4) For the purposes of this section, cross-border services are services provided in Estonia by a person who is not or whose branch is not registered in Estonia. The provisions of § 36 of this Act concerning cross-border services apply also if cross-border services are provided through an agent operating in Estonia.

(5) Upon provision of payment or e-money services in Estonia, a person of a foreign state shall comply with the requirements established with regard to its activities in this Act and on the basis thereof and other requirements for operation in Estonia arising from legislation.

§ 32. Branch of payment institution and e-money institution of third country in Estonia and provision of cross-border services in Estonia

(1) In order to found a branch or provide cross-border services in Estonia, a payment institution or e-money institution of a third country is required to apply for an authorisation (hereinafter in this section and §§ 33 and 34 *authorisation*) from the Financial Supervision Authority.

(2) Upon application for an authorisation, a written application and the following information and documents shall be submitted to the Financial Supervision Authority:
1) the name and address of the payment institution or e-money institution;
2) information provided for in clause 15 (1) 14) of this Act on the managers of the payment institution or e-money institution and, in the case of foundation of a branch, on the managers of the branch;
3) information and documents provided for in § 40 of this Act relating to shareholders who have qualifying holdings in the payment institution or e-money institution;
4) the scope of the activity licence issued to the payment institution or e-money institution and information concerning the agency which issued the activity licence;
5) in the case of foundation of a branch, the business name and address of the branch;
6) the information and documents specified in clauses 386 (2) 1), 3), 4) and 5) of the Commercial Code;
7) the last two annual reports, if they exist.
8) the business plan which meets the requirements provided for in § 16 of this Act and sets out all services provided by the payment institution or e-money institution in Estonia.
9) the personal data of the agent, if the agent exists.

(3) In addition to the information specified in subsection (2) of this section, a payment institution or e-money institution of a third country shall submit the following to the Financial Supervision Authority:
1) the permission of the financial supervision authority of the home state to found a branch or provide cross-border services in Estonia;
2) the confirmation of the financial supervision authority of the home state to the effect that the payment institution or e-money institution holds a valid activity licence in its home state and that it pursues its activities in a correct manner and in accordance with good practices;
3) information on the financial situation of the payment institution or e-money institution, including the size of own funds and the description of the consumer protection scheme applied with regard to the clients of the payment institution or e-money institution in the home state.

(4) The information and documents specified in this section which are in a foreign language shall be submitted together with a translation into Estonian made by a sworn translator or certified by a notary. With the consent of the Financial Supervision Authority, the aforementioned information and documents may be submitted in another language.
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§ 33. Processing of application for authorisation and revocation of authorisation

(1) The provisions of §§ 17–19 and 22–23 of this Act apply to the processing of applications for an authorisation and verification of information and to the grant and revocation of authorisations, unless otherwise provided for in this section.

(2) In addition to the bases provided for in § 19 of this Act, the Financial Supervision Authority may refuse to grant an authorisation if the financial supervision authority of a third country does not guarantee adequate supervision of the applicant or the financial supervision authority of a third country has no legal basis or possibilities for cooperation with the Financial Supervision Authority.

(3) The Financial Supervision Authority may revoke an authorisation if circumstances provided for in § 19 of this Act or in subsection (2) of this section become evident.

(4) The Financial Supervision Authority may refuse to revoke an authorisation if the clients of the payment institution or e-money institution have claims against the branch or the payment institution or e-money institution of a third country or the revocation of the authorisation damages the payment institution or e-money institution or the interests of its shareholder or clients.

§ 34. Amendment of authorisation

(1) A payment institution or e-money institution of a third country which wishes to provide services in Estonia which are not specified in the business plan submitted upon application for an authorisation shall submit an application for the amendment of the authorisation to the Financial Supervision Authority.

(2) In order to amend an authorisation, a payment institution or e-money institution of a third country shall submit to the Financial Supervision Authority the information and documents specified in clauses 32 (2) 1)–5) and 8) of this Act.

(3) The provisions of §§ 17–19 of this Act apply to the processing of applications for the amendment of authorisations for the foundation of a branch, verification of information and deciding on amendment of the authorisations.

§ 35. Branch of payment institution and e-money institution of Contracting State in Estonia

(1) A payment institution or e-money institution of a Contracting State which wishes to found a branch in Estonia shall inform the financial supervision authority of the Contracting State thereof and submit the following information and documents thereto:
1) the action plan of the branch which shall contain information on all the services intended to be provided in Estonia and describe the organisational structure of the branch and the fact whether the branch intends to use agents and if the agent exists, the personal data of the agent;
2) the business name and address of the branch;
3) the names of the managers of the branch.

(2) The information and documents specified in subsection (1) of this section which are in a foreign language shall be submitted together with a translation into Estonian made by a sworn translator or certified by a notary. With the consent of the Financial Supervision Authority, the aforementioned information and documents may be submitted in another language.
[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

(3) The Financial Supervision Authority shall immediately inform the financial supervision authority of the Contracting State of receipt of the information and documents specified in subsection (1) of this section. The Financial Supervision Authority may make, within one month after receipt of the aforementioned information and documents, a decision which determines the requirements which the payment institution or e-money institution is required to comply with in Estonia and according to which the payment institution or e-money institution shall provide its services. The Financial Supervision Authority shall immediately inform the financial supervision authority of the Contracting State of its decision.

(4) A payment institution or e-money institution of a Contracting State may found a branch and commence provision of services after the decision specified in the second sentence of subsection (3) of this section is made or one month after the date on which the information and documents specified in subsection (1) of this section were received by the Financial Supervision Authority.

(5) The Financial Supervision Authority shall be informed of changes in the information and documents specified in subsection (1) of this section at least one month in advance, if possible. Within one month as of becoming aware of the changes, the Financial Supervision Authority may amend the decision specified in subsection (3) of this section or make the aforementioned decision unless it has been made earlier.

(6) Confirmation from the Financial Supervision Authority concerning receipt of the information specified in subsection (1) of this section and the decision of the Financial Supervision Authority specified in subsection (3) of this section, if it exists, shall be submitted upon entry of a branch in the commercial register. If the Financial Supervision Authority makes a decision specified in subsection (5) of this section, the Authority shall send a copy of the decision to the commercial register.

§ 36. Provision of cross-border services in Estonia by payment institution and e-money institution of Contracting State

(1) A payment institution or e-money institution of a Contracting State which wishes to provide cross-border services in Estonia shall inform the Financial Supervision Authority thereof through the financial supervision authority of the Contracting State. An action plan shall be submitted to the Financial Supervision Authority which shall contain information about all the services to be provided in Estonia.

(2) The information and documents specified in subsection (1) of this section which are in a foreign language shall be submitted together with a translation into Estonian made by a sworn translator or certified by a notary. With the consent of the Financial Supervision Authority, the aforementioned information and documents may be submitted in another language.
[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

(3) After the Financial Supervision Authority has received the action plan specified in subsection (1) of this section, the payment institution or e-money institution of a Contracting State may commence the provision of cross-border services in Estonia.

(4) The Financial Supervision Authority shall immediately inform the financial supervision authority of the Contracting State of receipt of the action plan specified in subsection (1) of this section. The Financial Supervision Authority may make, within one month after receipt of the aforementioned action plan, a decision in which it determines the requirements according to which the payment institution or e-money institution of the Contracting State shall provide its services. The Financial Supervision Authority shall immediately inform the payment institution or e-money institution of the Contracting state of the decision.

(5) The Financial Supervision Authority shall be informed of changes in the information contained in the action plan specified in subsection (1) of this section at least one month in advance, if possible. Within one month as of becoming aware of the changes, the Financial Supervision Authority may amend the decision specified in subsection (4) of this section or make the aforementioned decision unless it has been made earlier.

Chapter 4
QUALIFYING HOLDING

§ 37. Qualifying holding

(1) For the purposes of this Act, a qualifying holding means any direct or indirect holding in the share capital of a payment institution or e-money institution which represents 10 per cent or more of the share capital of the company, of all rights related thereto or of the voting rights in the company or which makes it possible to exercise a significant influence over the managing bodies of the company in which that holding subsists.

(2) Holding is direct if a person holds or exercises it personally.

(3) Holding is indirect if:
1) a person holds or exercises it together with one or several controlled companies;
2) it is held or exercised by one or several companies controlled by a person;
3) it is held or exercised by a person or a company controlled by the person upon agreement with a third party;
4) the voting rights arising therefrom are deemed to belong to a person.

(4) The provisions of this Chapter concerning share capital and shares of public limited companies also apply to share capital and shares of private limited companies.

§ 38. Requirements for persons having qualifying holding

Qualifying holdings in a payment institution or e-money institution may be acquired, held and increased and control over a payment institution or e-money institution may be gained, held and increased by anyone (hereinafter in this Chapter *person*):
1) who has impeccable business reputation and whose activities in connection with the acquisition comply with the principles of sound and prudent management of the payment institution or e-money institution;
2) who after the acquisition or increase of the holding shall elect, appoint or designate only such persons as managers of the payment institution or e-money institution which comply with the requirements provided for in § 47 of this Act;
3) whose financial situation is sufficiently secure to ensure regular and reliable operation of the payment institution or e-money institution, and in the case of a legal person if such financial statements exist, they allow for a correct assessment to be made of its financial situation;
4) who is able to ensure that the payment institution or e-money institution is able to meet the prudential requirements provided for in this Act, in the case of a legal person above all the requirement that the consolidation group, which part the payment institution or e-money institution will form, has a structure which enables exercise of efficient supervision, exchange of information and cooperation between the financial supervision authorities;
5) with regard to whom there is no justified reason to believe that the acquisition is related to money laundering or terrorist financing or an attempt thereof or increases such risks.

§ 39. Giving notification of acquisition of holding

(1) A person who intends to acquire a direct or indirect qualifying holding in a payment institution or e-money institution or to increase such holding so that the proportion of the share capital of the payment institution or e-money institution or votes represented by shares exceeds 20, 30 or 50 per cent, or to conclude a transaction as a result of which the payment institution or e-money institution will become a company controlled thereby (hereinafter *acquirer*) shall notify the Financial Supervision Authority of its intention beforehand and submit the information and documents provided for in subsection 40 (1) of this Act and the regulation established on the basis of subsection 40 (2) of this Act.

(2) The provisions of this Chapter also apply if a person acquires a qualifying holding in a payment institution or e-money institution or increases such holding so that the proportion of the share capital of the payment institution or e-money institution or votes represented by shares exceeds 20, 30 or 50 per cent due to any other event or as a result of any other transaction or, due to the event or as a result of the transaction, the payment institution or e-money institution becomes a company controlled by the person. In such case, the person is required to give notification to the Financial Supervision Authority immediately after gaining control over the

payment institution or e-money institution or becoming aware of the acquisition or increase of a qualifying holding in the payment institution or e-money institution.

(3) The Financial Supervision Authority shall notify the acquirer in writing within two working days after receipt of the notice specified in subsection (1) or (2) of this section or the additional information and documents specified in subsection 40 (4) and the possible termination date of terms in proceedings provided for in § 41 of this Act.

§ 40. Information submitted upon giving notification of acquisition of holding

(1) The Financial Supervision Authority shall be notified of the name of the company in which a qualifying holding is acquired or increased or which becomes controllable by the acquirer and the size of the holding acquired in this company, and the following information and documents shall be submitted:
1) a description of the company acquired which contains, inter alia, the list of shares and information on the type of shares and number of votes acquired or previously owned by the acquirer and other information if necessary;
2) a curriculum vitae of the acquirer who is a natural person which contains, inter alia, the name, residence, education, work and service experience and personal identification code of the acquirer or date of birth in the absence of a personal identification code;
3) a list of the shareholders or members of the acquirer if the acquirer is a legal person and information on the number of shares held by and number of votes of each shareholder or member;
4) the name, seat, registry code, authenticated copy of a registration certificate and a copy of the articles of association, if they exist, of the acquirer if the acquirer is a legal person or of the (legal) person administering the pool of assets;
5) the information on the members of the management board and supervisory board of the acquirer if the acquirer is a legal person, including, for each person, the name and surname, personal identification code or date of birth in the absence of a personal identification code, education, work and service experience, and documents which prove the trustworthiness, experience, competence and impeccable reputation of such persons;
6) a confirmation that the persons becoming the managers of the payment institution or e-money institution as a result of acquiring a holding have not been punished for an economic offence, official misconduct, offence against property or offence against public trust or financing and support of act of terrorism or activities directed at it, or the information concerning the punishment has been expunged from the punishment register pursuant to the Punishment Register Act. In the case of a citizen of a foreign state, a certificate of the punishment register or an equivalent document of a competent court or administrative authority of the country of origin of the person which has been issued less than three months earlier is accepted;
7) a description of the business activities of the acquirer and a description of the economic and non-economic interests of persons connected with the acquisition;
8) a confirmation that in the case of a person specified in clause 6) of this subsection no such circumstances have existed or exist which in accordance with law preclude the right of the person to be a manager of a payment institution or e-money institution;
9) the last three annual reports of the acquirer, if they exist. If more than nine months have passed since the end of the previous financial year, an audited interim report for the first six months of the financial year shall be submitted. The sworn auditor's report shall be added to the reports if preparation of the report is prescribed by legislation;
[RT I 2010, 9, 41 - entry into force 08.03.2010]
10) if the acquirer is a natural person, ratings required for assessing the financial situation of the acquirer and companies connected with the acquirer and reports intended for the public, if possible; and if the acquirer is a legal person, credit ratings issued to the acquirer and the consolidation group;
11) if the acquirer is a company belonging to a consolidation group, a description of the structure of the group, data relating to the sizes of the holdings of the companies belonging to the group, and the last three annual reports of the consolidation group together with sworn auditor's reports;
[RT I 2010, 9, 41 - entry into force 08.03.2010]
12) if the acquirer is a natural person, documents certifying the financial status of the person during the last three years;
13) information and documents concerning the sources of monetary or non-monetary resources for which it is intended to acquire a qualifying holding or increase it or gain control;
14) the circumstances relating to the acquisition of holding pursuant to §§ 9, 10 and 72^1 of the Securities Market Act;
15) the size of the qualifying holding owned by the person after acquisition of the holding and the circumstances relating to the holding pursuant to §§ 9, 10 and 72^1 of the Securities Market Act;
16) if a payment institution or e-money institution becomes a controlled company, a business plan and other circumstances related to gaining of control and exercising control;
17) a review of the strategy applied in a payment institution or e-money institution in connection with the acquisition of holdings provided that the payment institution or e-money institution is not turned into a controlled company as a result of the acquisition.

(2) The Minister of Finance may establish a regulation which specifies the information and documents to be submitted to the Financial Supervision Authority and specified in subsection (1) of this section.

(3) The information and documents submitted to the Financial Supervision Authority shall be in Estonian. With the consent of the Financial Supervision Authority, the aforementioned information and documents may be submitted in another language.

(4) The Financial Supervision Authority may request in writing additional information and documents in order to specify or verify the information and documents specified in subsection (1) of this section by specifying which additional information is required.

§ 41. Legislative proceeding and term in proceeding

(1) The Financial Supervision Authority shall assess the compliance of the acquirer with the requirements provided for in § 38 of this Act and shall resolve on prohibition on acquisition of holding or granting authorisation for acquisition of holding within sixty working days (hereinafter *term in a proceeding*) as of submission of the notice provided for in subsection 39 (3) of this Act concerning receipt of the information and documents required for the assessment.

(2) The Financial Supervision Authority has the right to demand the additional information and documents specified in subsections 40 (4) of this Act within fifty working days as of the beginning of the term in the proceeding.

(3) The term in the proceeding shall suspend for the period between the first submission of the demand by the Financial Supervision Authority for additional information and documents specified in subsection (2) of this section and receipt from the acquirer of the demanded additional information and documents, but the suspension shall not exceed twenty working days. The term in the proceeding shall not suspend if additional information and documents are demanded.

(4) If no financial supervision is exercised over the acquirer or a financial supervision authority of a third country exercises supervision over the acquirer, the Financial Supervision Authority may extend the term in the proceeding specified in subsection (3) of this section to up to thirty working days.

(5) Upon assessment of acquisition and increase of the qualifying holding or upon turning a payment institution or e-money institution into a controlled company, the Financial Supervision Authority shall cooperate with the financial supervision authority of the Contracting State if the acquirer is:
1) an insurer, credit institution, management company, investment fund, investment firm, payment institution, e-money institution or another person subject to financial supervision having obtained an activity licence in a Contracting State;
2) a parent company of an insurer, credit institution, management company, investment fund, investment firm, payment institution, e-money institution or another person subject to financial supervision having obtained an activity licence in a Contracting State;
3) a person controlling an insurer, credit institution, management company, investment fund, investment firm, payment institution, e-money institution or another person subject to financial supervision having obtained an activity licence in a Contracting State.

(6) The Financial Supervision Authority shall consult with other financial supervision authorities in the framework of the cooperation specified in subsection (5) of this section. The Financial Supervision Authority and corresponding financial supervision authorities shall immediately inform each other of all the information that is essential upon assessment of acquisition and increase of the qualifying holding or upon turning a payment institution or e-money institution into a controlled company.

(7) If more than one person wish to acquire a qualifying holding simultaneously, the Financial Supervision Authority shall treat them equally under equal circumstances.

§ 42. Requirements for acquisition of holding

(1) The Financial Supervision Authority has the right to specify a term for the acquirer during which the acquirer has the right to acquire or increase the qualifying holding or turn a payment institution or e-money institution into a controlled company. The Financial Supervision Authority may extend the term prescribed but the term shall not exceed twelve months in total. The acquirer is required, within the specified term, to give notification to the Financial Supervision Authority immediately of making a decision on conclusion of a transaction or failure to conclude a transaction by which the qualifying holding is acquired or increased or a payment institution or e-money institution is turned into a controlled company.

(2) A qualifying holding may be acquired or increased or the payment institution or e-money institution may be turned into a controlled company if the Financial Supervision Authority does not prohibit, by a precept, acquisition or increase of a qualifying holding or turning of the payment institution or e-money institution into a controlled company based on the provisions of § 41 and subsection 43 (1) of this Act.

§ 43. Bases for prohibition on acquisition of holding and decision on acquisition

(1) The Financial Supervision Authority may prohibit, by a precept, acquisition and increase of the qualifying holding and upon turning a payment institution or e-money institution into a controlled company if:
1) the acquirer does not comply with the requirements provided for in § 38 of this Act;
2) the acquirer fails to submit the information or documents provided for in this Act or requested pursuant to this Act to the Financial Supervision Authority;
3) The information or documents submitted to the Financial Supervision Authority do not comply with the requirements provided by legislation or are incorrect, misleading or incomplete or based on the information and documents submitted the Financial Supervision Authority cannot exclude reasonable doubt with respect to unsuitability of the acquisition and with respect to that the acquisition does not comply with the requirements provided for in this Act;
4) the payment institution or e-money institution would become a company controlled by a person residing or located in a third country and sufficient supervision is not exercised over the person in the country of residence or location of the person or the financial supervision authority of the third country has no legal basis or possibility to cooperate with the Financial Supervision Authority.

(2) The Financial Supervision Authority shall forward a decision to the acquirer concerning the authorisation to acquire the qualifying holding or a prohibiting precept within two working days after adoption of the decision but prior to the expiry of the term in the proceeding. If financial supervision over the acquirer is exercised by the financial supervision authority of another Contracting State, its assessment of the acquisition or increase of the qualifying holding or upon turning a payment institution or e-money institution into a controlled company must be also indicated in the decision.

(3) If the circumstances specified in subsection (1) of this section become evident after acquisition or increase of qualifying holding or turning a payment institution or e-money institution into a controlled company, the Financial Supervision Authority may issue a precept according to which the acquisition of qualified holding or turning of a payment institution or e-money institution into a controlled company is deemed to be contrary to this Act.

(4) The Financial Supervision Authority, by its precept, has the right to prohibit or restrict in each specific case the exercise of voting rights or other rights enabling control in a payment institution or e-money institution by the acquirer or a person who has a qualifying holding in the payment institution or e-money institution or who controls the payment institution or e-money institution if any of the circumstances provided for in subsections (1) or (3) of this section exist. The Financial Supervision Authority may issue a precept regardless of whether a precept provided for in subsection (1) or (3) of this section is issued. The Financial Supervision Authority shall publish the precept on its website at the request of the acquirer or, if necessary, on its own initiative.

(5) If an acquirer or a person who has a qualifying holding in a payment institution or e-money institution or who controls a payment institution or e-money institution is a credit institution, management company, investment fund, investment firm, insurer, payment institution or e-money institution registered in another Contracting State, another person subject to financial supervision or a person belonging to the same consolidation group with an aforementioned person, the Financial Supervision Authority shall inform the competent financial supervision authority of that Contracting State of issue of a precept specified in subsection (3) or (4) of this section.

(6) Compliance with the precepts of the Financial Supervision Authority provided for in subsections (1), (3) and (4) of this section is also mandatory for the payment institution or e-money institution, the person maintaining the share register thereof or another person who organises the exercise of voting rights.

§ 44. Consequences of illegal acquisition of holding

(1) As a result of a transaction by which a qualifying holding is acquired or increased, the person shall not acquire the voting rights determined by the shares, and the votes represented by the shares shall not be included in the quorum of the general meeting if:
1) the transaction is contrary to a precept issued by the Financial Supervision Authority;
2) the Financial Supervision Authority has issued a precept specified in subsection 43 (3) or (4) of this Act;
3) the Financial Supervision Authority has not been informed of the transaction pursuant to the procedure provided for in § 54 of this Act;
4) the transaction is concluded after the expiry of the term specified in subsection 43 (1) of this Act or before the expiry of the term specified in § 41 or before acquisition of a qualifying holding is permitted pursuant to this Act.

(2) If any of the circumstances specified in subsection (1) of this section exist as a result of a transaction, the person who concluded the transaction does not have any rights arising from the transaction which would entitle the person to turn the payment institution or e-money institution into a company controlled thereby.

(3) If voting rights representing a qualifying holding acquired or increased by such a transaction, in the case of which any of the circumstances specified in subsection (1) of this section exist, are included in the quorum of the general meeting and influence the adoption of a resolution of the general meeting, the resolution of the general meeting shall be void. A court may declare the resolution of the general meeting void on the basis of a petition of the Financial Supervision Authority, a shareholder or a manager of the company, if the petition is submitted within three months as of the adoption of the resolution of the general meeting.

(4) If, arising from a transaction by which a payment institution or e-money institution is turned into a company controlled by a person and in the case of which any of the circumstances specified in subsection (1) of this section exists, rights enabling control are exercised, a court may declare the exercise of the rights void on the basis of a petition of the Financial Supervision Authority, a shareholder or a manager of the company, if the petition is submitted within three months as of the exercise of the rights.

§ 45. Giving notification of changes in qualifying holding

(1) If a person intends to transfer shares in an amount which would result in the person losing a qualifying holding in a payment institution or e-money institution or if the person reduces the holding thereof such that it falls below one of the limits specified in subsection 39 (1) of this Act or foregoes control over the payment institution or e-money institution, the person is required to inform the Financial Supervision Authority immediately of the intention and indicate the number of shares which the person owns and transfers and holds after the transaction.

(2) The provisions of subsection (1) of this section also apply if a person loses control over a payment institution or e-money institution or qualifying holding in a payment institution or e-money institution due to any other event or as a result of any other transaction or if the holding of the person is reduced such that it falls below one of the limits specified in subsection 39 (1) of this Act. In such case, the person is required to inform the Financial Supervision Authority immediately after becoming aware of the loss of qualifying holding or control or the reduction of holding.

(3) Upon becoming aware of transactions specified in subsections 39 (1) and (2) of this Act or subsections (1) and (2) of this section, a payment institution or e-money institution is required to immediately inform the Financial Supervision Authority thereof.

(4) A payment institution or e-money institution shall, together with its annual report, submit to the Financial Supervision Authority information concerning persons who, as at the end of the financial year, have a qualifying holding in the payment institution or e-money institution and shall set out the size of holding owned by the person and related circumstances pursuant to §§ 37 and 39 of this Act and §§ 9, 10 and 721 of the Securities Market Act.

Chapter 5
CONTROL, MANAGEMENT AND ORGANISATIONAL STRUCTURE

§ 46. Place of business of payment institution and e-money institution

The seat and the principal place of business of a payment institution or e-money institution entered in the commercial register in Estonia shall be in Estonia.

§ 47. Requirements for managers and employees

(1) Only persons who have the education, experience and professional qualifications necessary to manage a payment institution or e-money institution and who have an impeccable business reputation may be elected or appointed managers of payment institutions and e-money institutions.

(2) The management board of a payment institution or e-money institution shall consist of at least two members.

(3) [Repealed - RT I 2010, 34, 182 - entry into force 02.07.2010]

(4) The following shall not be elected or appointed managers of payment institutions or e-money institutions:
1) persons whose earlier activities have resulted in the bankruptcy, compulsory liquidation or revocation of the activity licence of a company;
2) bankrupts or persons who are subject to a prohibition on business or from whom the right to engage in economic activity has been taken away pursuant to law;
3) persons whose earlier activities as a manager of a company have shown that they are not capable of organising the management of a company such that the interests of the shareholders, members, creditors and clients of the company are sufficiently protected;
4) persons who have been punished for an economic offence, official misconduct, offence against property or offence against public trust or financing and support of act of terrorism or activities directed at it, and whose

corresponding information concerning the punishment has not been expunged from the punishment register pursuant to the Punishment Register Act;
5) persons whose earlier activities have shown that they are not suitable to manage a company for other good reasons.

(5) The managers and employees of a payment institution or e-money institution are required to act with the prudence and competence expected of them and according to the requirements for their positions and the interests of the payment institution or e-money institution and its clients.

(6) The managers and employees of a payment institution or e-money institution are required to give priority to the economic interests of the payment institution or e-money institution and the clients thereof over their own personal economic interests. In addition to the above, the managers and employees of a payment institution or e-money institution are required to ensure the continuous existence of financial resources necessary for the economic activities, provide services lawfully with due professionalism, precision and care and provide clients with necessary information on payment services.

(7) The managers of a payment institution or e-money institution shall guarantee that the organisational structure of the payment institution or e-money institution is transparent, the areas of responsibility are clearly delineated and procedures for the establishment, measurement, management, constant monitoring and reporting of risks have been established and that such procedures are sufficient and proportional taking into account the nature, extent and level of complexity of the operation of the payment institution or e-money institution.

(8) The managers of a payment institution or e-money institution are required to regularly review the regulations and other rules of procedure established on the basis of this Act, evaluate their efficiency and take appropriate measures to eliminate any deficiencies.

§ 48. Giving notification of managers and auditor

(1) Upon the election or appointment of a manager of a payment institution or e-money institution, the person to be elected or appointed shall present the following to the payment institution or e-money institution:
1) the information specified in clauses 15 (1) 14) and 15) of this Act;
2) a confirmation that no circumstances exist which, according to this Act, would preclude the management of a payment institution or e-money institution.

(2) A payment institution or e-money institution shall submit the information and confirmation specified in subsection (1) of this section to the Financial Supervision Authority.

(3) Upon the election or appointment of an auditor, a payment institution or e-money institution shall submit to the Financial Supervision Authority the name of the auditor together with a confirmation that no circumstances exist which would preclude the right to be an auditor of a payment institution or e-money institution.

(4) A payment institution or e-money institution is required to inform the Financial Supervision Authority of the intention to elect or appoint managers or an auditor, and of their resignation or the initiation of their removal before the expiry of their term of office at least ten days before making the corresponding decision or immediately after the receipt of the corresponding application.

§ 49. Removal of manager of payment institution and e-money institution

(1) The Financial Supervision Authority has the right to issue a precept to demand the removal of a manager of a payment institution or e-money institution if:
1) the person does not conform to the requirements prescribed for managers by this Act;
2) the person has submitted misleading or inaccurate information or falsified documents in connection with his or her election or appointment;
3) the activities of the person in managing the payment institution or e-money institution have shown that he or she is not capable of sound and prudent management of the payment institution or e-money institution or he or she is not capable of organising the management of the payment institution or e-money institution such that the interests of the clients and creditors are sufficiently protected.

(2) If a payment institution or e-money institution fails to comply with a precept specified in subsection (1) of this section in full or within the prescribed term, the Financial Supervision Authority has the right to demand the removal of the manager of the payment institution or e-money institution by a court or revoke the activity licence of the payment institution or e-money institution.

(3) A court may, at the request of the Financial Supervision Authority or the management board, the supervisory board or a shareholder of the payment institution or e-money institution, appoint a new member to replace a member removed from the supervisory board. The authority of a court-appointed member of the supervisory board shall continue until the election of a new member of the supervisory board by the general meeting.

§ 50. Internal rules of payment institution and e-money institution

(1) A payment institution and e-money institution shall establish and apply rules of procedure regulating the activities of the payment institution or e-money institution and its managers and employees (hereinafter in this Chapter *internal rules*), which ensure that legislation regulating the activities of the payment institution or e-money institution and that decisions taken by the managing bodies are complied with.

(2) The internal rules established and applied by a payment institution or e-money institution shall ensure legitimate and regular provision of services. A payment institution or e-money institution shall regularly evaluate the efficacy of its internal rules and the correspondence thereof to the actual situation, and shall update the internal rules in order to guarantee the protection of the interests of the clients.

(3) Among other matters, the internal rules shall set out the following:
1) the procedure for the movement of the internal information and documents, including the requirements for submission and forwarding of information;
2) the procedure for the provision of payment services or e-money services, including a plan for determination of a risk of interruption of business, for managing or prevention of the risk thereof;
3) the procedure for conclusion of transactions and performance of acts in the name and for the account of the payment institution or e-money institution or in the name and for the account of clients;
4) duties and functions of employees, relationships of subordination, reporting chains, the procedure for reporting and the delegation of rights, and shall provide the separation of functions upon assumption of obligations in the name of the payment institution or e-money institution, the recording of services for accounting and reporting purposes and the assessment of risks;
5) the procedure for maintaining databases and processing of data;
6) internal rules of procedure which set out the safety and regular monitoring of information technology systems used and systems used for the safekeeping of assets of clients;
7) the procedure for the functioning of the internal control system;
8) internal rules of procedure for imposing international sanctions established on the basis of the International Sanctions Act and application of the Money Laundering and Terrorist Financing Prevention Act, and the code of conduct for verification of compliance therewith;

§ 51. Internal control and preservation of information

(1) A payment institution or e-money institution shall apply sufficient internal control measures which cover all levels of management and operations of the payment or e-money institution.

(2) The supervisory board of a payment institution or e-money institution shall appoint the head of the internal audit for the performance of the duties of the internal audit unit (hereinafter *internal auditor*). An internal auditor shall be governed by the requirements and the legal bases for the activities established for a certified internal auditor in the Auditors Activities Act. An internal auditor shall not perform duties which create or may create a conflict of interests.
[RT I, 09.05.2014, 2 - entry into force 19.05.2014]

(3) The duty of an internal auditor is to monitor whether the activities of a payment institution or e-money institution and its managers and employees comply with legislation, the precepts of the Financial Supervision Authority, the resolutions of managing bodies, the internal rules, agreements entered into with the payment institution or e-money institution and good practice.

(4) A payment institution or e-money institution shall ensure that the internal auditor has the rights and working conditions necessary to perform his or her duties, including the right to obtain explanations and information from the managers and employees of the payment institution or e-money institution and to observe the elimination of any deficiencies discovered and compliance with any precepts issued.

(5) An internal auditor is required to forward any information concerning a payment institution or e-money institution which becomes known to him or her and which indicates a violation of law or damage to the interests of clients to the managers of the payment institution or e-money institution and the Financial Supervision Authority immediately in writing.

(6) A payment institution and e-money institution and their branches in a foreign state shall preserve the information provided for in this Act unaltered and available to the Financial Supervision Authority for a period of at least five years unless the Financial Supervision Authority has established a different term or a longer term is provided by law.

(7) A payment institution and e-money institution and their branches in a foreign state shall preserve the records which set out the respective rights and obligations of the payment institution or e-money institution and the client under a contract to provide services, or the terms on which the payment institution or e-money institution provides the services to the client for at least the duration of the legal relationship related to the provision of payment services or e-money services with the client unless a longer term is provided by this Act or other legislation.

(8) Following the termination of the activity licence of a payment institution or e-money institution, the Financial Supervision Authority has the right to require the payment institution or e-money institution to preserve information for the five-year term provided for in subsection (6) of this section.

Chapter 6
TRANSFORMATION, DIVISION AND MERGER

§ 52. Transformation and division

(1) Transformation of a payment institution or e-money institution is prohibited.

(2) Division of a payment institution or e-money institution is prohibited.

§ 53. Merger

(1) The merger of a payment institution or e-money institution shall be performed pursuant to the procedure provided for in the Commercial Code, unless otherwise provided by this Act.

(2) A payment institution may merge only with another payment institution and an e-money institution may merge only with another e-money institution.

(3) If payment institutions or e-money institutions merge by founding a new payment institution or e-money institution, the payment institution or e-money institution being founded as a result of merger shall apply for an activity licence pursuant to the procedure provided for in Chapter 2 of this Act.

(4) A payment institution or e-money institution being founded and an acquiring payment institution or e-money institution shall comply with the prudential requirements provided for in this Act and legislation established on the basis thereof.

(5) An authorisation from the Financial Supervision Authority is required for the merger of payment institutions and the merger of e-money institutions (hereinafter *authorisation for merger*).

§ 54. Merger agreement and merger report

(1) The merger agreement of a payment institution or e-money institution shall not be entered into with a suspensive or resolutive condition. A merger agreement may only provide for a condition according to which the merger agreement enters into force after the Financial Supervision Authority grants an authorisation for merger.

(2) The Financial Supervision Authority shall be informed of entry into a merger agreement between payment institutions or e-money institutions within ten days after the entry into the merger agreement.

(3) Upon the merger of payment institutions or e-money institutions, a merger report shall be prepared and the report shall be audited by an auditor.
[RT I, 02.11.2011, 1 - entry into force 12.11.2011]

(4) An auditor’s report shall set out the assessment methods which have been used upon determination of the exchange ratio of shares, and provide an opinion on whether the acquiring payment institution or e-money institution meets the prudential requirements provided for in this Act.

§ 55. Authorisation for merger

(1) In order to be granted an authorisation for merger, the acquiring payment institution or e-money institution or merging payment institutions or e-money institutions jointly shall submit an application (hereinafter in this Chapter *application for authorisation for merger*) to the Financial Supervision Authority to which the following information and documents are appended:
1) the merger agreement or a notarised transcript thereof;
2) the merger report;
3) merger resolutions if the adoption thereof is required;
[RT I, 02.11.2011, 1 - entry into force 12.11.2011]
4) the auditor’s report;
5) the information and documents specified in clauses 15 (1) 13) and 14) of this Act concerning the acquiring payment institution or acquiring e-money institution;
6) the business plan provided for in § 16 of this Act for the three years following the merger;
7) the draft of the internal rules specified in § 50 of this Act.

(2) In order to be granted an authorisation for merger upon the merger of payment institutions or merger of e-money institutions by founding a new payment institution or e-money institution, the merging payment institutions or e-money institutions shall jointly submit an application for authorisation for merger to the Financial Supervision Authority to which the following information and documents are appended:
1) the merger agreement or a notarised transcript thereof;
2) the merger report;
3) merger resolutions if the adoption thereof is required;
[RT I, 02.11.2011, 1 - entry into force 12.11.2011]
4) the auditor's report;
5) an application for an activity licence provided for in § 15 of this Act.

§ 56. Processing of application for authorisation for merger and decision on grant of authorisation for merger

(1) The provisions of § 17 of this Act apply to the processing of applications for authorisations for merger, verification of the submitted information and documents and verification whether the applicant for the authorisation for merger has adequate facilities for the provision of payment services or e-money services and whether the acquiring payment institution or acquiring e-money institution complies with the requirements arising from this Act or legislation issued on the basis thereof.

(2) The Financial Supervision Authority shall make a decision to grant or refuse to grant an authorisation for merger within one month after receipt of all the necessary information and documents, but not later than within three months after receipt of the application.

(3) The Financial Supervision Authority shall immediately deliver a decision to grant or refuse to grant an authorisation for merger to the acquiring payment institution or acquiring e-money institution or merging payment institutions or merging e-money institutions.

(4) The Financial Supervision Authority shall decide to terminate the activity licences of the merging payment institutions or merging e-money institutions upon merger of payment institutions or e-money institutions by founding a new payment institution or e-money institution together with the decision to issue an activity licence to a payment institution or e-money institution being founded as a result of a merger, and the decision does not enter into force before the date of entry of the new payment institution or e-money institution in the commercial register.

(5) The Financial Supervision Authority shall decide to terminate the activity licence of a payment institution or e-money institution being acquired upon merger of payment institutions or e-money institutions together with the decision to grant an authorisation for merger to the acquiring payment institution or acquiring e-money institution.

(6) The Financial Supervision Authority shall publish a decision to grant an authorisation for merger on its website not later than on the working day following the day the decision is made.

§ 57. Bases for refusal to grant authorisation for merger

The Financial Supervision Authority may refuse to grant an authorisation for merger if:
1) the managers of the acquiring or a new payment institution or the acquiring or a new e-money institution do not comply with the requirements arising from this Act and legislation issued on the basis thereof;
2) the merger would violate the limitations on investment provided for in this Act or legislation issued on the basis thereof;
3) the financial situation of the acquiring or a new payment institution or the acquiring or a new e-money institution does not comply with the requirements provided for in this Act;
4) the merger agreement does not comply with the requirements provided for in this Act or other legislation;
5) close links between the acquiring or a new payment institution or the acquiring or a new e-money institution and another person prevent sufficient supervision over the payment institution or e-money institution;
6) the merger may damage the interests of the clients or other creditors of the payment institution or e-money institution for other reasons.

§ 58. Merger notification

(1) Merging payment institutions and merging e-money institutions shall immediately publish a merger notification concerning the fact of being granted an authorisation for merger in at least one national daily newspaper and on their website if it exists.

(2) A payment institution or e-money institution shall submit an application for entry of a merger in the commercial register immediately after publication of the merger notice specified in subsection (1) of this section.

Chapter 7

REQUIREMENTS FOR ACTIVITIES

§ 59. Use of paying agents

(1) A paying agent is a natural or a legal person who is a representative of a payment institution acting on the basis of an authorisation and who may provide payment services specified in subsection 3 (1) of this Act. Such activity may be an ancillary activity of a paying agent.

(2) A payment institution which intends to provide its services through a paying agent shall submit the following information and documents to the Financial Supervision Authority:
1) the name of the paying agent or names of the persons connected with the management of the paying agent;
2) the address of the paying agent;
3) a description of the internal control measures applied by the paying agent in order to comply with the requirements arising from the Money Laundering and Terrorist Financing Prevention Act;
4) information certifying the trustworthiness of the paying agent or the persons connected with the management of the paying agent.

(3) The Financial Supervision Authority may demand the submission of additional information and documents in order to protect the interests and rights of the clients of the payment institution if it is not convinced on the basis of the information and documents specified in subsection (2) of this section as to whether the paying agent has adequate facilities for the provision of services or whether it meets the requirements for paying agents prescribed by this Act or if other circumstances relating to the paying agent need to be verified.

§ 60. List of paying agents

(1) Only a paying agent included in the list of paying agents (hereinafter *list*) is permitted to operate as a paying agent, and a payment institution is permitted to use only the services provided by a paying agent entered in such list.

(2) The list shall be published on the website of the Financial Supervision Authority.

(3) A paying agent shall be entered in the list and deleted from the list by the Financial Supervision Authority.

§ 61. Requirements for paying agents

(1) Paying agents who are natural persons and members of the management board of paying agents who are companies shall have impeccable professional and business reputation.

(2) The following shall not operate in the capacity of the persons specified in subsection (1):
1) persons whose activities have resulted in the bankruptcy or compulsory liquidation of a company or the revocation of the activity licence of a company;
2) persons who are subjected to a prohibition on business;
3) persons whose activities have shown that they are not capable of organising the management of a company such that the interests of the shareholders, members, creditors and clients of the company are sufficiently protected;
4) persons who have been punished for an economic offence, official misconduct, offence against property or offence against public trust or financing and support of act of terrorism or activities directed at it, and whose corresponding information concerning the punishment has not been expunged from the punishment register pursuant to the Punishment Register Act;

§ 62. Requirements for transfer of activities related to payment services or e-money services

(1) For the better performance of its duties, a payment institution or e-money institution has the right to transfer the activities or duties related to the provision of payment services or e-money services to third parties (hereinafter in this section *transfer*). In such event the payment institution or e-money institution shall give prior notice thereof to the Financial Supervision Authority.

(2) Important duties and activities shall not be transferred in such manner which may damage or decrease the capability of the payment institution or e-money institution to conduct effective internal control or the exercise of sufficient supervision over the payment institution or e-money institution.

(3) Important duties or activities are activities the failure to perform or inadequate performance of which would significantly impair the compliance of the payment institution or e-money institution with the requirements of this Act, the requirements of legislation issued on the basis thereof or with the conditions and obligations of its activity licence, or its financial performance, reliability, or the soundness or the continuity of its services.

(4) A payment institution or e-money institution shall establish transfer procedure by internal rules and the transfer of important duties shall meet at least the following conditions:
1) the transfer shall not result in the delegation by the managers of the payment institution or e-money institution of its responsibility;
2) it shall not damage the interests of the clients of the payment institution or e-money institution and the relationships with the clients and obligations to the clients must not be altered due to such transfer;
3) the transfer shall not be contrary to the conditions which the payment institution or e-money institution must meet in order to be granted an activity licence in accordance with this Act and to remain in conformity with the activity licence;
4) the transfer shall not remove or modify any other conditions based on which the activity licence was granted to the payment institution or e-money institution;

(5) Upon transfer of important duties or any other activities related to the services provided by a payment institution or e-money institution, including upon use of agents or distributors, the payment institution or e-money institution shall remain fully responsible for the due performance of the transferred duties and the compliance of the activities with the requirements arising from this Act.

(6) A payment institution or e-money institution shall exercise due skill, care and diligence when entering into, performing or terminating any contracts for transfer of important duties and activities related to services.

(7) If a payment institution or e-money institution has not performed its obligations to a third party provided for in subsection (1) of this section, the third party cannot make its respective claims against the clients of the payment institution or e-money institution.

(8) A payment institution or e-money institution shall have the right to terminate the contract for transfer where necessary giving reasonable advance notice, without damaging the continuity and quality of the provision of services to the clients or the legitimate interests thereof.

(9) The Financial Supervision Authority may issue to a payment institution or e-money institution a percept requiring withdrawal of the right to provide services granted to a paying agent or distributor if the legitimate interests of clients of the payment institution or e-money institution are violated or there is a danger of such violation.

(10) The Financial Supervision Authority may issue a precept requiring termination of the transfer of activities or duties related to services to a certain person or termination of all contracts for the transfer of activities or duties entered into by the payment institution or e-money institution with third parties if:
1) the third party lacks the qualifications needed for the performance of the activities or duties of the payment institution or e-money institution;
2) the legitimate interests of clients of the payment institution or e-money institution are violated or there is a danger of such violation;
3) the financial supervision authority of a third country which exercises supervision over a person of a third country has no legal basis or possibilities for cooperation with the Financial Supervision Authority;
4) a third party to which the activities or duties of the payment institution or e-money institution are transferred does not comply with the requirements for the performance of the activities or duties transferred thereto;
5) other conditions specified in this section are violated.

§ 63. Requirements for provision of payment services and e-money services

(1) The provisions of Chapter 40 of the Law of Obligations Act and other legislation concerning payment order and payment services shall apply to the provision of payment services and payment service contracts, including settlement contracts.

(2) An e-money issuer is required to issue e-money in exchange for the money of the client at par value of the money received.

(3) At the request of the e-money holder, an e-money issuer is required to redeem the e-money issued by the e-money issuer at par value for cash or by a transfer to a payment account.

(4) An e-money issuer or a distributor acting on behalf of the e-money issuer shall submit the following information to the client at the request thereof:
1) the business name of the e-money issuer, the address of its place of business and other relevant address important in the relations between the client and the e-money issuer and, if necessary, the address of its distributor, agent or branch and a reference to the list specified in § 105 of this Act, where the e-money issuer is entered;
2) information on the risks related to e-money services, taking into account the type and volume of the offered services;
3) the balance of e-money on the e-money device.

(5) A contract entered into between an e-money issuer and e-money holder, including a person who receives e-money as means of payment, shall clearly state the conditions of redemption of e-money, including conditions of payment of fees. Before entry into a contract, an e-money issuer is required to inform the client of the conditions of redemption of e-money and the fees related thereto.

(6) A fee for redemption of e-money shall be proportional to and comply with the actual costs incurred by the e-money issuer and redemption may be subject to a fee only if charging a fee is prescribed by the contract pursuant to subsection (5) of this section and at least one of the following conditions is met:
1) the e-money holder requests redemption of e-money before termination of the contract;
2) the e-money holder cancels the contract before the date of redemption of e-money provided by the contract;
3) the e-money holder shall request redemption of funds related to the unused e-money more than one year after the date of termination of the contract.

(7) If an e-money holder requests redemption of e-money on the date of termination of the contract or within one year after the date of termination of the contract:
1) the total monetary value of e-money held shall be redeemed;
2) all funds requested by the e-money holder shall be redeemed in the case the e-money institution is engaged in one or more of the activities specified in clause 7 (2) 5) of this Act and it is unknown in advance which proportion of funds is to be used as e-money.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

Chapter 8
PRUDENTIAL REQUIREMENTS

§ 64. Share capital

(1) The share capital of a payment institution shall be:
1) at least 20,000 euros if the payment institution provides only the payment service specified in clause 3 (1) 6) of this Act;
2) at least 50,000 euros if the payment institution provides the payment service specified in clause 3 (1) 7) of this Act;
3) at least 125,000 euros if the payment institution provides one or several payment services specified in clauses 3 (1) 1)–5) of this Act;

(2) The share capital of an e-money institution shall be at least 350,000 euros.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

§ 65. Own funds

(1) The own funds of a payment institution or e-money institution are composed of Tier 1 own funds and Tier 2 own funds, from which the following deductions have been made:
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]
1) qualifying holdings in credit institutions or financial institutions, including in other payment institutions or e-money institutions, and subordinated claims and other instruments included in Tier 2 own funds which are included in the own funds of the credit institutions or financial institutions and other payment institutions or e-money institutions specified in this clause;
2) holdings the size of which remains below qualifying in credit institutions or financial institutions, including in other payment institutions or e-money institutions, and subordinated claims and other instruments included in Tier 2 own funds which are included in the own funds of the credit institutions or financial institutions and other payment institutions or e-money institutions specified in this clause if the total amount of all such holdings, subordinated claims and instruments is higher than 10 per cent of the own funds of the payment institution or e-money institution before deductions;
3) holdings in insurers, reinsurers and insurance holding companies which exceed 20 per cent of the share capital of or number of votes in the company, subordinated claims and securities of indeterminate duration or claims arising from other instruments which conform to the requirements of § 68 of the Insurance Activities Act and are included in the own funds of the insurers, reinsurers and insurance holding companies specified in this clause.

(2) With the prior permission of the Financial Supervision Authority, it is permitted not to make the deductions specified in subsection (1) of this section if the specified holdings, subordinated claims or other instruments in credit institutions or financial institutions, including in other payment institutions or e-money institutions, insurers, reinsurers or insurance holding companies have been acquired temporarily in connection with the reorganisation or rehabilitation of the business activities of the company.

(3) The Financial Supervision Authority shall decide to grant the permission specified in subsection (2) of this section or refuse to grant such permission within one month after receipt of all the requisite documents and information and compliance with the requirements but not later than three months after the date of receipt of the respective application.

(4) The amount of Tier 2 own funds shall not exceed Tier 1 own funds.

(5) The total amount of subordinated liabilities and preferred shares included in Tier 2 own funds shall not exceed 50 per cent of Tier 1 own funds.

(6) Tier 2 own funds in excess of limitations prescribed in subsections (4) and (5) of this section shall not be taken into account for the purposes of calculating own funds.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

(7) From the total amount of deductions provided for in subsection (1) of this section, 50 per cent shall be deducted from Tier 1 own funds and 50 per cent from Tier 2 own funds after the limitations provided for in subsections (4) and (5) of this section have been applied. If the amount to be deducted from Tier 2 own funds exceeds Tier 2 own funds, the deficit shall be covered from Tier 1 own funds.

(8) The principles of calculation of own funds and the minimum amount of own funds and the procedure for submission of reports shall be established by a regulation of the Minister of Finance.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

§ 66. Subordinated liability

A liability is subordinated if the claim arising out of such liability, in the event of the dissolution or bankruptcy of a payment institution or e-money institution, is satisfied after the justified claims of all other creditors have been satisfied. In the event of the bankruptcy of a payment institution or e-money institution, a claim arising out of a subordinated liability shall be satisfied pursuant to the provisions of § 88 of this Act.

§ 67. Tier 1 own funds

(1) Tier 1 own funds consist of:
1) paid-up share capital, except for amounts paid for preferred shares;
2) issue premium;
3) reserves formed on the basis of law and the articles of association on account of the profits, and reserve capital;
4) audited profits from previous years;
5) audited loss from previous years;
6) profits for the current financial year, the size of which has been verified by an auditor;
7) other instruments of a capital nature which are similar to those specified in clauses 1)–3) of this subsection.

(2) Only amounts which actually exist may be indicated to be contained in the share capital, issue premium and reserves.

(3) In order to calculate the size of Tier 1 own funds, the following shall be deducted from the total of own funds specified in subsection (1) of this section:
1) the sum of the value of treasury shares, except for preferred shares treated as treasury shares;
2) the sum of the value of intangible assets;
3) losses of the current financial year.

(4) The profit specified in clauses (1) 4) and 6) of this section shall be included in Tier 1 own funds only after deduction of all the requisite taxes and dividends.

(5) Immediately after profit has been included in Tier 1 own funds, the following documents shall be submitted to the Financial Supervision Authority:
1) the statement concerning the amount of the profit included in the own funds and the deduction of all possible taxes and estimated dividends made therefrom;
2) the unqualified report by the sworn auditor concerning the financial statements for the previous financial year if the profit of the previous financial year entered in the undistributed audited profit retained from previous years specified in clause (1) 4) of this section has been included in the own funds;
[RT I 2010, 9, 41 - entry into force 08.03.2010]
3) the auditor's report confirming that, upon reviewing financial information, no facts have become evident which indicate that the data submitted in the income statement do not correctly and fairly reflect the income of the reviewed period in conformity to the accounting practices if the profit of the current financial year specified in clause (1) 6) of this section has been included in the own funds.

(6) If the sworn auditor's report contains notices, a prior permission from the Financial Supervision Authority shall be applied for to include the profit in the Tier 1 own funds and a reasoned opinion on the size of the profit to be included in the Tier 1 own funds shall be submitted to the Financial Supervision Authority. The Financial Supervision Authority shall base the grant of permission on the content of the notices and the effect of the deficiencies set forth in the notices to the profit to be included in the Tier 1 own funds.
[RT I 2010, 9, 41 - entry into force 08.03.2010]

(7) Upon calculation of the profit specified in clause (1) 6) of this section, the profit to be included in the own funds must not be higher than the value of the profit as verified by the auditor or the book value of the profit, depending of which of those two values is the lowest.

(8) In order to include the instruments specified in clause (1) 7) of this section in Tier 1 own funds, a prior permission of the Financial Supervision Authority shall be applied for and the documents and information concerning such instruments shall be submitted to the Financial Supervision Authority together with an independent legal assessment of the compliance of the instruments with the requirements established for Tier 1 own funds.

(9) Tier 1 own funds shall be available for immediate and unrestricted use to cover losses or risks.

§ 68. Tier 2 own funds

(1) Tier 2 own funds consist of:
1) subordinated liabilities within the meaning of § 66 of this Act;
2) preferred shares, except for preferred shares treated as treasury shares;
3) fixed assets revaluation reserve;
4) securities of indeterminate duration and other instruments which comply with the conditions provided for in § 70 of this Act;
5) other liabilities and instruments of a capital nature which are similar to those specified in clauses 1) and 2) of this subsection.

(2) Only such instruments specified in clauses (1) 1), 2), 4) and 5) of this section are considered as Tier 2 own funds that have been placed in full as a monetary payment at the disposal of the payment institution or e-money institution.

(3) In order to include the instruments specified in clause (1) 5) of this section in Tier 2 own funds, a prior permission of the Financial Supervision Authority shall be applied for by submitting the relevant documents and information concerning such instruments together with an independent legal assessment to the Financial Supervision Authority.

(4) The Financial Supervision Authority shall grant the permission specified in subsection (3) of this section if the instrument meets the following conditions:
1) the accounting policies and procedures set out the nature and reflection of such instrument;
2) it is audited by an auditor;
3) the amount of the instrument has been determined by the management board;
4) the liability or instrument may be used without restrictions for covering ordinary business risks prior to determining profit or loss.

§ 69. Inclusion of subordinated liabilities in own funds

(1) A subordinated liability may be included in Tier 2 own funds if the subordinated liability meets the following conditions:
1) the payment institution or e-money institution does not issue a guarantee for the performance of such liability;
2) the term for repayment of the subordinated liability shall not be less than five years or repayment of the liability is subject to at least five years' notice;
3) the liability does not include a condition pursuant to which the payment institution or e-money institution would, under certain circumstances, be required to repay the liability before the agreed due date, except in the case of the dissolution of the institution.

(2) Immediately after including a subordinated liability in Tier 2 own funds, the documents and information which constitute the basis of the subordinated liability shall be submitted to the Financial Supervision Authority together with an independent legal assessment of the compliance of the conditions of the transaction with the conditions of the subordinated liabilities subject to inclusion in Tier 2 own funds provided in this section.

(3) Repayment before the agreed due date of a subordinated liability included in Tier 2 own funds is permitted only at the initiative of the recipient of the loan and on the basis of a permission obtained from the Financial Supervision Authority beforehand.

(4) The Financial Supervision Authority has the right to refuse to grant the permission specified in subsection (3) of this section if in the opinion of the Financial Supervision Authority the own funds after repayment of the subordinated liability are not sufficient to comply with the requirements established on the basis of this Act.

(5) The Financial Supervision Authority shall decide to grant the permission specified in subsection (3) of this section or refuse to grant such permission within one month after receipt of all the requisite documents and information but not later than three months after the date of receipt of the relevant application.

(6) Immediately after the conditions of a subordinated liability included in Tier 2 own funds change, the documents and information which constitute the basis of the change of the conditions of the subordinated

liability shall be submitted to the Financial Supervision Authority together with an independent legal assessment of the compliance of the conditions of the transaction with the requirements provided in this section.

(7) During the five years before the date of extinguishment or termination of a subordinated liability, the calculated amount of the subordinated liability included in Tier 2 own funds shall be reduced by 20 per cent of the original amount of liability. Such amount shall be reduced by 5 per cent after every three months.

§ 70. Conditions for inclusion of securities and other instruments of indeterminate duration in Tier 2 own funds

(1) Securities and other instruments of indeterminate duration specified in clause 68 (1) 4) of this Act may be included in Tier 2 own funds provided that such securities and instruments meet the following conditions:
1) the liability of the payment institution or e-money institution arising from the securities or other instruments of indeterminate duration is a subordinated liability within the meaning of § 66 of this Act;
2) the securities or other instruments of indeterminate duration cannot be redeemed or repaid at the initiative of the person submitting such claim or without obtaining a prior permission from the Financial Supervision Authority;
3) the documents concerning the issue of securities provide that the amounts of refund and interest of unpaid liabilities may be used for covering loss in order to allow the payment institution or e-money institution to continue its ordinary business, or other documents concerning instruments provide that the payment institution or e-money institution has the right to postpone payment of interest if the own funds of the payment institution or e-money institution would be insufficient to comply with the requirements established on the basis of this Act.

(2) Immediately after the inclusion of securities or other instruments of indeterminate duration in Tier 2 own funds, a description of such instruments or securities and the documents and information which constitute the basis thereof shall be submitted to the Financial Supervision Authority together with an independent legal assessment of the compliance of the conditions of such instruments or securities with the conditions provided in this section for securities or other instruments of indeterminate duration subject to inclusion in Tier 2 own funds.

(3) The Financial Supervision Authority has the right to refuse to grant the permission specified in clause (1) 2) of this section if in the opinion of the Financial Supervision Authority the own funds of the institution after redemption or repayment of securities or other instruments of indeterminate duration are not sufficient to comply with the requirements established on the basis of this Act.

(4) The Financial Supervision Authority shall decide to grant the permission specified in clause (1) 2) of this section or refuse to grant such permission within one month after receipt of all the requisite documents and information but not later than three months after the date of receipt of the relevant application.

(5) Immediately after the conditions of securities or other instruments of indeterminate duration included in Tier 2 own funds change, the documents and information which constitute the basis of the change of the conditions of the securities or other instruments of indeterminate duration shall be submitted to the Financial Supervision Authority together with an independent legal assessment of the compliance of the conditions of the transaction with the requirements provided in this section.

§ 71. Minimum amount of own funds of e-money institutions and calculation thereof

(1) The own funds of an e-money institution shall at all times be equal to or exceed the following indicators:
1) the amount of the share capital specified in subsection 64 (2) of this Act;
2) the sum of the requirements calculated pursuant to the methods provided for in subsections (2) and (5) of this section.

(2) The own funds requirement of an e-money institution related to the issue of e-money shall equal to 2 per cent of the average outstanding e-money issued by the e-money institution pursuant to the provisions of subsection 12 (5) of this Act.

(3) If an e-money institution provides payment services which are not related to the issue of e-money or the provision of other services or activities specified in subsection 7 (2) of this Act and the amount of outstanding e-money is unknown in advance, the estimated amount of e-money to be issued may be taken as the basis for calculating the own funds requirements. Such estimated amount must be based on historical data. At the request of the Financial Supervision Authority, the e-money institution shall provide justification and relevant information concerning the calculation of the estimated amount.

(4) An e-money institution which commences activities or has operated for less than six months shall calculate the own funds requirement on the basis of the amount of e-money presented in the business plan. The Financial Supervision Authority has the right to demand adjustment of the business plan if in the opinion of the Financial Supervision Authority the amount of e-money planned to be issued in the business plan does not correspond to the needs of the e-money institution.

(5) If an e-money institution provides payment services which are not related to the issue of e-money, the provisions of §§ 73–76 of this Act concerning the calculation of the amounts of own funds of payment institutions shall apply to the calculation of the own funds requirement of the e-money institution related to

payment services. The Financial Supervision Authority shall determine which of the methods provided for in §§ 73–75 of this Act shall be used by the e-money institution to calculate the own funds requirement. Upon determining the appropriate method, the Financial Supervision Authority shall take into account the nature of the payment services provided by the e-money institution and the nature, extent and level of complexity of the operation on the basis of the financial data presented in the business plan of the e-money institution.

(6) Based on the evaluations given to the risk management processes, database of loss events, and internal procedures and control, the Financial Supervision Authority has the right to:
1) demand an e-money institution to increase the result received from the application of clause (1) 2) of this section up to 20 per cent;
2) permit an e-money institution to decrease the result received from the application of clause (1) 2) of this section up to 20 per cent.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

§ 72. Minimum amount of own funds of payment institution

(1) The Financial Supervision Authority determines which of the methods provided for in §§ 73, 74 or 75 of this Act shall be used by a payment institution to calculate own funds, taking into account the nature of the services provided by the payment institution and the nature, extent and level of complexity of the operation. The Financial Supervision Authority may determine the appropriate method on the basis of financial data presented in the business plan of the payment institution.

(2) The own funds of a payment institution shall at all times be equal to or exceed the following indicators:
1) the amount of the share capital specified in subsection 64 (1) of this Act;
2) the amount of own funds calculated pursuant to one of the three calculation methods provided for in §§ 73–75.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

(3) Based on the evaluations given to the risk management processes, database of loss events, and internal control mechanisms, the Financial Supervision Authority has the right to:
1) demand a payment institution to increase the result received from the application of clause (2) 2) of this section up to 20 per cent;
2) permit a payment institution to decrease the result received from the application of clause (2) 2) of this section up to 20 per cent.

§ 73. Fixed overheads method

(1) The amount of own funds of a payment institution shall not be less than 10 per cent of the fixed overheads of the previous financial year after deductions.

(2) The amount of own funds of a payment institution which commences activities or has operated for less than six months shall not be less than 10 per cent of the fixed overheads planned in the business plan after deductions.

(3) The Financial Supervision Authority has the right to demand that the amount of fixed overheads which was taken as the basis for calculating the minimum amount of own funds be adjusted after approval of the annual report if significant changes have occurred in the business activities of the payment institution.

(4) The Financial Supervision Authority has the right to demand adjustment of the business plan specified in subsection (2) of this section if in the opinion of the Financial Supervision Authority the amount of fixed overheads planned in the business plan does not correspond to the needs of the payment institution.

§ 74. Payment volume method

(1) In the case of the payment volume method, the own funds of a payment institution shall be at least equal to the sum of the following shares multiplied by the scaling factor provided for in § 76 of this Act:
1) 4 per cent of the share of payment volume which is up to or equal to 5 million euros;
2) 2.5 per cent of the share of payment volume which is over 5 million euros but not more than 10 million euros;
3) 1 per cent of the share of payment volume which is over 10 million euros but not more than 100 million euros;
4) 0.5 per cent of the share of payment volume which is over 100 million euros but not more than 250 million euros;
5) 0.25 per cent of the share of payment volume which is over 250 million euros.

(2) The shares of payment volume specified in subsection (1) of this section are calculated on the basis of one twelfth of the total amount of payment transactions executed by the payment institution during the preceding year.

§ 75. Indicator-based method

(1) In the case of the indicator-based method, the own funds of a payment institution shall be at least equal to the sum of the following indicators multiplied by the multiplication factor provided for in subsection (6) of this section and the scaling factor provided for in § 76 of this Act:
1) interest income;
2) interest expenses;
3) received commissions and fees;
4) other operating income.

(2) All the indicators specified in subsection (1) of this section shall be added up before multiplying, calculating the income with its positive sign and expenses with its negative sign. The indicator shall be calculated on the basis of the previous annual report approved by the general meeting or meeting of shareholders. A payment institution which commences activities or has operated for less than six months shall calculate the amount of own funds on the basis of the income and expenses planned in the business plan.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

(3) If the audited data on the basis of which the indicator specified in subsection (1) of this section is calculated are not available, the estimated values reflected in the business plan may be used.

(4) Income from extraordinary or irregular items may not be used in the calculation of the indicator specified in subsection (1) of this section.

(5) The expenses related to the transfer of services to third parties may reduce the indicators specified in subsection (1) of this section if the third party is another payment institution within the meaning of this Act.

(6) The multiplication factor specified in subsection (1) of this section shall be:
1) 10 per cent of the share of the indicator which is up to or equal to 2.5 million euros;
2) 8 per cent of the share of the indicator which is over 2.5 million euros but not more than 5 million euros;
3) 6 per cent of the share of the indicator which is over 5 million euros but not more than 25 million euros;
4) 3 per cent of the share of the indicator which is over 25 million euros but not more than 50 million euros;
5) 1.5 per cent of the share of the indicator which is over 50 million euros.

(7) The own funds calculated pursuant to the indicator-based method shall not fall below 80 per cent of the average amount of the indicators specified in subsection (1) of this section of the previous three financial years.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

§ 76. Scaling factor

The scaling factors used in payment volume method and indicator-based method shall be:
1) 0.5 if the payment institution provides only the money remittance service specified in clause 3 (1) 6) of this Act;
2) 0.8 if the payment institution provides only the payment service specified in clause 3 (1) 7) of this Act;
3) 1 if the payment institution provides at least one of the payment services specified in clauses 3 (1) 1)–5) of this Act;

§ 77. Prudential requirements for consolidation groups

(1) If at least one credit institution belongs to the consolidation group of a payment institution or e-money institution, the consolidation group is deemed to be the consolidation group of the credit institution and the provisions of the Credit Institutions Act and legislation established on the basis thereof shall apply with respect to the group.

(2) If a payment institution or e-money institution and a credit institution who is the parent company of the payment institution or e-money institution are subject to consolidated supervision by the Financial Supervision Authority, the payment institution or e-money institution need not follow the provisions of this Chapter upon calculation of own funds with the consent of the Financial Supervision Authority.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

(3) The Financial Supervision Authority shall grant the consent specified in subsection (2) of this section if the following conditions are met:
1) the parent company has no practical or legal impediments at the moment of requesting the consent specified in subsection (2) of this section or in the future as far as it is known for the immediate transfer of own funds or performance of obligations;
2) either the parent company proves to the Financial Supervision Authority the sufficient management of prudential requirements of the subsidiary and guarantees the performance of all the obligations assumed by the subsidiary or the risks related to the subsidiary are insignificant;
3) the procedures for the establishment, measurement, management, constant monitoring and reporting of risks of the parent company also apply to the subsidiary.

(4) In order to prevent multiple application of own funds requirements, the Financial Supervision Authority may decide which obligations related to own funds and calculation thereof provided for in this Chapter an e-money institution shall perform if:
1) the e-money institution belongs to the same consolidation group as a credit institution, payment institution, investment firm, management company, insruer or reinsurer or another e-money institution;
2) the e-money institution provides services other than issue of e-money.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

Chapter 9
SAFEKEEPING OF ASSETS

§ 78. General requirements for safekeeping of assets

(1) A payment institution or e-money institution shall establish the principles for the safekeeping and protection of the assets of clients by internal rules.

(2) A payment institution or e-money institution shall invest its assets in liquid assets such that execution of the payment orders or satisfaction of other justified claims of clients is ensured at all times pursuant to the procedure provided by law.

(3) [Repealed - RT I, 08.07.2011, 6 - entry into force 18.07.2011]

(4) A payment institution or e-money institution is required to apply measures which ensure the possibility to calculate own funds and limitations on investment at all times with sufficient precision.

(5) The Minister of Finance may, by a regulation, establish more specific requirements for the safekeeping of assets, limitations on investments, procedure for and specifications of reporting.

§ 79. Requirements for payment institutions for safekeeping of assets

(1) A payment institution which, in addition to the provision of payment services, is engaged in the activities specified in clause 5 (2) 3) is required to:
1) keep the assets of the client entrusted to the payment institution in connection with the provision of payment services separate from its own assets and the assets related to the areas of activity which are not related to the provision of payment services.
2) deposit the funds of the client in a separate account with a credit institution or invest the funds in liquid low-risk instruments if the payment institution has not transferred the funds related to the provision of payment services to the payee or another provider of payment services by the end of the working day following the date of receipt of the funds.

(2) The assets of the client entrusted to a payment institution in connection with the provision of payment services as well as assets acquired on account of such assets belong to the client related to the payment services and shall not be included in the bankruptcy estate of the payment institution and the claims of other creditors of the payment institution shall not be satisfied on account of such assets.

(3) Instead of the obligation provided for in subsection (1) of this section, the assets of the client entrusted to a payment institution in connection with the provision of payment services may be covered by an insurance contract or an equivalent guarantee contract by an insurer or credit institution, which does not belong to the same consolidation group as the payment institution, to the extent equal to the amount which would have been segregated in the absence of the insurance contract or equivalent guarantee contract if the payment institution is unable to meet its financial liabilities to the clients related to the provision of payment services.

(4) The Financial Supervision Authority has the right to demand payment institutions which provide only payment services to comply with the requirements for the safekeeping of the assets of clients provided for in subsections (1) and (2) or subsection (3) of this section by all the services provided by the payment institution.

(5) The requirements for the safekeeping of assets provided for in subsections (1) and (2) or subsection (3) of this section shall apply to the amount known or estimated on the basis of historical data for the cover and execution of future payment transactions. At the request of the Financial Supervision Authority, a payment institution is required to be able to justify the amount estimated of the basis of historical data.

(6) Based on a written application, the Financial Supervision Authority has the right to exempt a payment institution from the obligation to comply with the requirements provided for in this section with regard to the clients whose claims against the payment institution do not exceed 600 euros.

(7) The Financial Supervision Authority may publish instructions which explain the principles for safekeeping and investment of the client funds provided for in clause (1) 2) of this section.

§ 80. Requirements for e-money institutions for investment and safekeeping of assets

(1) An e-money institution is required to keep the funds which have been received upon issue of e-money and which are equal to the amount of financial liabilities related to the e-money held by the e-money holder:
1) separate from its own assets and assets related to the areas of activity which are not related to the provision of e-money services;
2) in a separate account with a credit institution or invest the funds in liquid low-risk instruments.

(2) The client funds transferred to the possession of an e-money institution upon issue of e-money as well as assets acquired on account of such assets belong to the client and shall not be included in the bankruptcy estate of the e-money institution and the claims of other creditors of the e-money institution shall not be satisfied on account of such assets.

(3) Instead of the obligation provided for in subsection (1) of this section, the client funds transferred to the possession of an e-money institution may be covered by an insurance contract or an equivalent guarantee contract by an insurer or credit institution, which does not belong to the same consolidation group as the e-money institution, to the extent equal to the amount which would have been segregated in the absence of the insurance contract or equivalent guarantee contract if the e-money institution is unable to meet its financial liabilities to the clients related to the issue of e-money.

(4) The liquid low-risk instruments specified in clause (1) 2) of this section shall be:
1) the debt securities specified in point 14 of Annex I to the Directive 2006/49/EC of the European Parliament and of the Council on the capital adequacy of investment firms and credit institutions (OJ L 177, 30.6.2006, p. 201–255) for which the specific risk capital charge shall not be higher than 1.6 per cent.
2) the units or shares of UCITS the assets of which are invested only in the debt instruments specified in clause 1) of this subsection.

(5) The Financial Supervision Authority has the right to decide on the basis of an evaluation of security, maturity, value or other risk element of the assets which instruments shall not be deemed to be liquid low-risk assets specified in subsection (4) of this section.

(6) If an e-money institution provides payment services which are not related to the issue of e-money, the requirements for the safekeeping of assets by payment institutions provided for in § 79 of this Act shall apply to the e-money institution in connection with such activities.

(7) The requirements for the safekeeping of assets provided for in this section shall be applied not later than as of the fifth working day after the date of issue of e-money unless otherwise provided by law.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

Chapter 10
ACCOUNTING AND REPORTING

§ 81. Organisation of accounting

(1) Accounting and reporting shall be organised pursuant to the requirements and relevant rules provided for in this Act, the Accounting Act and other legislation and the articles of association and accounting policies and procedures of the payment institution or e-money institution.

(2) Accounting shall provide truthful information relating to the business activities and the financial situation of the payment institution or e-money institution.

§ 82. Reports and their submission

(1) A payment institution or e-money institution shall prepare reports and submit them to the Financial Supervision Authority pursuant to the procedure provided for in this Act or legislation issued on the basis thereof.

(2) A payment institution or e-money institution shall submit to the Financial Supervision Authority the annual report, a copy of the sworn auditor’s report, the proposal for and the resolution on the distribution of profits for the financial year and an extract of the minutes of the general meeting concerning the approval or refusal to approve the annual report within two weeks after the general meeting of shareholders.
[RT I 2010, 9, 41 - entry into force 08.03.2010]

(3) A company which exercises the right provided for in subsection 11 (1) or subsection 12 (1) of this Act shall submit to the Financial Supervision Authority an overview on the number and total amount of payment transactions concluded or the volume of e-money services and liabilities related to the e-money services during a financial year within one month after the end of the financial year.

(4) The formats of reports of payment institutions and companies exercising the right provided for in subsection 11 (1) of this Act to be submitted to the Financial Supervision Authority, the methods of preparation and the procedure for submission of reports shall be established by a regulation of the Minister of Finance.

(5) The formats of reports of e-money institutions and companies exercising the right provided for in subsection 12 (1) of this Act to be submitted to the Financial Supervision Authority, the methods of preparation and the procedure for submission of reports shall be established by a regulation of the Minister of Finance.

(6) The formats of reports, methods of preparation and the procedure for submission of reports of branches of foreign payment institutions to be submitted to the Financial Supervision Authority may be established by a regulation of the Minister of Finance.

(7) The formats of reports, methods of preparation and the procedure for submission of reports of branches of foreign e-money institutions to be submitted to the Financial Supervision Authority may be established by a regulation of the Minister of Finance.

(8) The period for the regular reports to be submitted to the Financial Supervision Authority for supervision purposes is one quarter. A payment institution or e-money institution shall submit the regular report to the Financial Supervision Authority within twenty days after the end of the reporting period. If the last date of submission of the report falls on a day off, the report may be submitted not later than on the working day following the day off.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

(9) Based on the reports provided for in this section to be submitted to the Financial Supervision Authority, information may also be submitted as appropriate to the Ministry of Finance for the performance of duties arising from the Government of the Republic Act, and to *Eesti Pank*for the performance of duties arising from the Official Statistics Act.

(10) In addition to the provisions of this section, the Financial Supervision Authority has the right to request specific or regular reports and information necessary for the exercise of supervision to the extent provided by this Act.

(11) *Eesti Pank*has the right to request additional specific or regular reports from the persons specified in this section for the performance of duties arising from *Eesti Pank*Act. The formats of reports, methods of preparation and the procedure for submission of reports shall be established by *Eesti Pank*.

§ 82[1]. Verification of reports submitted for supervision purposes and elimination of deficiencies

(1) The Financial Supervision Authority shall verify the compliance of the reports submitted for supervision purposes with the requirements immediately after the receipt of the reports.

(2) If the Financial Supervision Authority discovers deficiencies in a report submitted for supervision purposes, the Financial Supervision Authority shall immediately notify the person who submitted the report thereof.

(3) In the case provided for in subsection (2) of this section, the person who submitted the report for supervision purposes is required to eliminate the deficiencies and submit the adjusted report to the Financial Supervision Authority. The adjusted report shall be submitted to the Financial Supervision Authority also if the person who submitted the report discovers an error in the information submitted earlier or the accounting policies of the previous accounting periods have changed.

(4) The person who submitted the report for supervision purposes is required to preserve the documents which are the source of information used in the preparation of the report for at least five years.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

§ 83. Disclosure of reports

(1) The annual report shall be available at the seat of the payment institution or e-money institution, in all the branches of the payment institution or e-money institution and on the website of the payment institution or e-money institution. If the payment institution or e-money institution does not have its own website, the payment institution or e-money institution shall submit the report subject to disclosure to the Financial Supervision Authority for its disclosure on the website of the Financial Supervision Authority.

(2) A branch of a foreign payment institution of foreign e-money institution shall disclose the annual report which has been prepared according to the legislation of the country of the seat of the payment institution or e-money institution and translated into Estonian.

(3) The annual report shall be disclosed within six months after the end of the financial year.

(4) The list of information subject to additional disclosure, the formats of reports, methods of preparation and the terms for the disclosure of reports of payment institutions and e-money institutions may be established by a regulation of the Minister of Finance.

§ 84. Audit

(1) The annual accounts of a payment institution, e-money institution or a company exercising the right provided for in subsection 11 (1) or subsection 12 (1) of this Act shall be audited.

(2) In the course of auditing a payment institution or e-money institution, an auditor shall audit the following areas and submit to the payment institution or e-money institution and the Financial Supervision Authority an opinion on these areas:
1) the compliance of the results of valuation of assets with the actual value of the assets;
2) the compliance with the requirements established with regard to own funds;
3) the sufficiency and efficiency of the internal control measures;
4) the security of the information systems.

(3) In addition to the provisions of subsection (2) of this section, the payment institution shall submit to the Financial Supervision Authority the special report of the auditor concerning the payment services and the provision of the services specified in subsection 5 (2) of this Act, in particular the payment volume, amount and fees. The report shall be submitted to the Financial Supervision Authority together with the annual report.

§ 85. Appointment of auditor

(1) A trustworthy person with adequate expertise and experience to audit payment institutions or e-money institutions may be appointed auditor.

(2) The auditor of a payment institution or e-money institution may be appointed to conduct a single audit or for a specific term which shall not exceed five years. It is prohibited to appoint an auditor appointed for five years for an immediately subsequent period.

(3) An auditor shall be appointed by a court of the seat of the payment institution or e-money institution on the basis of a petition of the Financial Supervision Authority if:
1) the general meeting has not appointed an auditor;
2) the auditor appointed by the general meeting refuses to conduct an audit;
3) in the opinion of the Financial Supervision Authority, the auditor is no longer trustworthy.

(4) The authority of a court-appointed auditor shall continue until appointment of a new auditor by the general meeting.

§ 86. Notification obligation of auditor

(1) An auditor is required to notify the Financial Supervision Authority immediately in writing of any circumstances of which he or she becomes aware in the course of conducting an audit of a payment institution or e-money institution and which result or may result in:
1) material violation of legislation regulating the activities of payment institutions or e-money institutions;
2) interruption of the activities of the payment institution or e-money institution or a subsidiary thereof;
3) an adverse report by the auditor or a qualified report by the sworn auditor concerning the annual accounts;
[RT I 2010, 9, 41 - entry into force 08.03.2010]
4) a situation or the risk of a situation arising, in which the payment institution or e-money institution is unable to perform its obligations;
5) an act by a manager or employee of the payment institution or e-money institution causing significant proprietary damage to the payment institution or e-money institution or to a client thereof.

(2) An auditor is required to notify the Financial Supervision Authority immediately in writing of any circumstances of which he or she becomes aware in the course of conducting an audit of a person which has a close link with a payment institution or e-money institution and which result or may result in the circumstances provided for in subsection (1) of this section.

(3) Communication of information to the Financial Supervision Authority according to subsection (1) of this section shall not violate the confidentiality requirement which is imposed on the auditor by legislation or a contract.

Chapter 11

DISSOLUTION OF PAYMENT INSTITUTION AND E-MONEY INSTITUTION

§ 87. Dissolution

(1) A payment institution or e-money institution or a company exercising the right provided for in subsection 11 (1) or subsection 12 (1) of this Act (hereinafter in this section *payment institution or e-money institution*) shall be dissolved pursuant to the procedure provided for in the Commercial Code, unless otherwise provided by this Act.

(2) A payment institution or e-money institution may be compulsorily dissolved on the basis of a petition of the Financial Supervision Authority by a court ruling if the Financial Supervision Authority has revoked an activity licence or authorisation issued to the payment institution or e-money institution pursuant to §§ 13 or 22 of this Act.

(3) Evidence concerning circumstances provided for in §§ 13 or 22 of this Act shall be submitted to the court together with a petition.

(4) A court shall decide on the compulsory liquidation of a payment institution or e-money institution within three working days after submission of the corresponding petition.

(5) A ruling on compulsory dissolution is subject to immediate execution, and the filing of and proceedings regarding an appeal do not suspend the activities of liquidators.

(6) The provisions of subsection 366 (3) of the Commercial Code do not apply in the case specified in subsection (2) of this section.

§ 88. Bankruptcy

(1) A bankruptcy petition against a payment institution or e-money institution may be filed by:
1) the Financial Supervision Authority;
2) the liquidators;
3) the creditors.

(2) An operating payment institution or e-money institution which is a debtor may file a bankruptcy petition only with the written consent of the Financial Supervision Authority.

(3) A payment institution or e-money institution shall immediately notify the Financial Supervision Authority of a bankruptcy petition filed against the payment institution or e-money institution.

(4) In the bankruptcy proceedings of a payment institution or e-money institution, claims shall be satisfied according to the rankings provided for in the Bankruptcy Act, unless otherwise provided for in this section.

(5) In the event of the bankruptcy of a payment institution to which the provisions of subsection 79 (3) of this Act apply or in the event of the bankruptcy of an e-money institution, the claims of the creditors shall be satisfied in the following rankings:
1) accepted claims secured by a pledge which were filed within the specified term, to the extent provided for in subsection 153 (2) of the Bankruptcy Act;
2) accepted claims from clients which were filed within the specified term;
3) other accepted claims which were filed within the specified term;
4) claims which were not filed within the specified term but were accepted.

(6) Accepted claims of a payment institution or e-money institution which arise from own funds provided for in clause 68 (1) 1) of this Act shall be satisfied after satisfaction of claims which were not filed within the specified term, but which were accepted.

Chapter 12 SUPERVISION

§ 89. Bases and exercise of supervision

(1) The Financial Supervision Authority exercises supervision over compliance of the activities of a payment institution or e-money institution and persons who have a qualifying holding in the payment institution or e-money institution with the requirements provided for in this Act and other Acts and legislation established

on the basis thereof. The Financial Supervision Authority shall not exercise supervision over the services and activities of a payment institution which are not provided for in subsection 3 (1) and clause 5 (2) 1).

(2) The purpose of supervision is to ensure that the foundation, activities, including the provision of payment services and e-money services, and dissolution of payment institutions and e-money institutions comply with Acts and other legislation, with particular attention to protection of the interests and rights of the clients of payment institutions and e-money institutions.

(3) The Financial Supervision Authority has all the rights established in this Act and in the Financial Supervision Authority Act in exercising supervision over compliance with this Act and legislation established on the basis thereof.

(4) For the purposes of this Chapter, a company to which an authorisation provided for in § 13 of this Act has been granted shall also be deemed to be a payment institution or e-money institution.

§ 90. Scope of supervision

(1) The supervision activities of the Financial Supervision Authority cover:
1) all payment institutions and e-money institutions whose registered seat is in Estonia, including their agents and distributors;
2) branches of Estonian payment institutions or e-money institutions founded in foreign states, if they are not supervised by foreign financial supervision authorities or if correspondingly agreed with the corresponding foreign financial supervision authority;
3) branches of payment institutions or e-money institutions of foreign states founded in Estonia, unless otherwise agreed with the financial supervision authority of the corresponding foreign state;
4) companies to which an authorisation provided for in § 13 of this Act has been granted;
5) companies belonging to the same consolidation group as a payment institution or e-money institution.

(2) The Financial Supervision Authority shall exercise supervision upon verifying the liquidity and reporting of a branch of a payment institution or e-money institution of a Contracting State in cooperation with the financial supervision authority of the home state of the payment institution or e-money institution.

§ 91. Functions of Financial Supervision Authority

In the exercise of supervision, the Financial Supervision Authority shall:
1) decide on the grant, amendment and revocation of authorisations provided for in this Act;
2) verify everything relating to the acquisition, increase or reduction of holdings;
3) grant permission or consent in the cases provided for in this Act or perform the registrations and approvals provided for in this Act;
4) monitor, upon verification of the reports and other documents and upon performance of on-site inspections, whether the activities of the payment institution or e-money institution comply with law;
5) issue mandatory precepts and issue orders when necessary;
6) perform other functions arising from this Act and legislation issued on the basis thereof.

§ 92. Supervision over payment institutions and e-money institutions which have branches in foreign states and payment institutions and e-money institutions providing cross-border services

(1) If a payment institution or e-money institution which has founded a branch in a foreign state or which provides cross-border services in a foreign state violates the requirements of legislation established in a foreign state, the Financial Supervision Authority shall immediately apply measures for termination of the violation on the proposal of the foreign financial supervision authority. The Financial Supervision Authority shall inform the foreign financial supervision authority of the applied measures.

(2) The Financial Supervision Authority shall immediately inform the financial supervision authority of the foreign state where the branch of the payment institution or e-money institution is founded or where the payment institution or e-money institution provides cross-border services of revocation of an activity licence of the payment institution or e-money institution or an authorisation for the foundation of a branch in a foreign state, or precepts specified in subsections 29 (9) and 30 (8) of this Act.

(3) A branch of a payment institution or e-money institution or a payment institution or e-money institution which provides cross-border services shall, at the request of a foreign financial supervision authority, submit information which is necessary for the exercise of supervision over the activities of the branch, payment institution or e-money institution in the state.

§ 93. Supervision over branches of foreign payment institutions and e-money institutions founded in Estonia and payment institutions and e-money institutions providing cross-border services in Estonia

(1) The Financial Supervision Authority may demand that a foreign payment institution or e-money institution which provides services in Estonia submit reports, additional information and documents necessary for the exercise of supervision over the payment institution or e-money institution to the extent provided by this Act, and also data necessary for collection of statistical information.

(2) A payment institution or e-money institution which provides services in Estonia and whose activity licence has been suspended or revoked by a foreign financial supervision authority shall not continue to operate or provide cross-border services in Estonia.

(3) If a payment institution or e-money institution of a third country which provides services in Estonia violates the requirements provided for in this Act or other legislation, the Financial Supervision Authority may apply measures and sanctions necessary for the termination of the violation or revoke the authorisation for the foundation of a branch or for the provision of cross-border services.

(4) The Financial Supervision Authority may demand that a payment institution or e-money institution of a Contracting State which has founded a branch is Estonia or provides cross-border services in Estonia terminate violation of the requirements provided for in Acts or legislation established on the basis thereof.

(5) If a payment institution or e-money institution of a Contracting State specified in subsection (4) of this section continues to violate the requirements provided for in legislation, the Financial Supervision Authority shall inform the financial supervision authority of the Contracting State thereof.

(6) If the measures applied by a financial supervision authority of a Contracting State are insufficient and a payment institution or e-money institution of the Contracting State continues to violate the requirements provided for in legislation, the Financial Supervision Authority may in turn, by its precept, apply measures provided for in this Act for the termination of the violation or prohibit the activities of or provision of cross-border services by the payment institution or e-money institution of the Contracting State in Estonia and shall inform the financial supervision authority of the Contracting State thereof beforehand.

(7) The Financial Supervision Authority shall inform the foreign payment institution or e-money institution of the measures applied pursuant to this section. A complaint against measures applied by the Financial Supervision Authority may be filed through a branch of the foreign payment institution or e-money institution with a court of its location.

(8) In exceptional cases, the Financial Supervision Authority may, in order to protect clients and creditors of a payment institution or e-money institution, and the public interest, apply measures provided by law with regard to a payment institution or e-money institution of a Contracting State without informing the financial supervision authority of the Contracting State of the measures beforehand.

(9) The Financial Supervision Authority shall immediately inform the European Commission and the financial supervision authority of a Contracting State of application of the measures specified in subsections (6) or (8) of this section.

§ 94. Rights and obligations of participant in proceedings in supervision proceedings

(1) If necessary, the Financial Supervision Authority shall explain the rights and obligations of a participant in proceedings in supervision proceedings to the participant in proceedings.

(2) Participants in proceedings have the right to access information concerning themselves which is collected by the Financial Supervision Authority and to copy or make extracts of such information. The Financial Supervision Authority has the right to refuse to provide such information to participants in proceedings if this damages or may damage the justified interests of third parties, or if examining the information damages attainment of the objectives of the supervision or ascertainment of the truth in criminal proceedings.

(3) In supervision proceedings, a participant in proceedings has the right to submit questions to witnesses through the Financial Supervision Authority. The Financial Supervision Authority has the right to refuse to forward questions to witnesses with good reason if the questions are irrelevant or in order to prevent violation of the rights or interests of witnesses.

(4) If, in the course of administrative proceedings, a participant in the proceedings fails to appear upon a summons by the Financial Supervision Authority without a legal impediment, the Financial Supervision Authority has the right to:
1) impose penalty payment on the participant in proceedings;
2) apply compelled attendance by a police escort.

§ 95. Rights of Financial Supervision Authority upon receipt of information

(1) In order to exercise supervision, the Financial Supervision Authority has the right to demand information, documents and oral or written explanations without charge concerning facts which are relevant in the exercise of supervision from the following persons:
1) payment institutions and e-money institutions, managers and employees of payment institutions and e-money institutions;

2) managers and employees of companies belonging to the same consolidation group as payment institutions or e-money institutions;
3) shareholders of payment institutions and e-money institutions;
4) in case of justified need, third parties;
5) liquidators and trustees in bankruptcy of payment institutions and e-money institutions;
6) state and local government agencies, general national registers, national registers and the chief processors and authorised processors of state databases.

(2) For the purposes of supervision activities, the Financial Supervision Authority has the right to:
1) carry out on-site inspections of companies belonging to the same consolidation group as a payment institution or e-money institution in order to verify information submitted to the Financial Supervision Authority, and to demand submission of information and documents necessary for the exercise of supervision;
2) demand submission of any information from a payment institution or e-money institution necessary for verification of compliance with prudential requirements;
3) receive information from internal auditors of payment institutions and e-money institutions and cooperate with them.

(3) If necessary, the Financial Supervision Authority may require that a person appear at the offices of the Financial Supervision Authority at the time designated by the Financial Supervision Authority in order to provide explanations.

(4) For the purposes of supervision, the Financial Supervision Authority has the right to receive information related to a payment institution or e-money institution from a third party without informing the payment institution or e-money institution of communication of the information. The third party is required not to inform the payment institution or e-money institution of communication of such information.

(5) If necessary, the Financial Supervision Authority may issue an order whereby the Financial Supervision Authority designates a term for the performance of obligations provided for in subsections (1)–(3) of this section.

(6) In order to exercise supervision, the Financial Supervision Authority has the right to receive from credit institutions information which contains banking secrets concerning a payment institution, e-money institution and the clients thereof, and a third party to whom the duties of a payment institution or e-money institution have been transferred.

§ 96. Grounds for refusal to provide explanations

A person obligated to provide explanations may refuse to provide explanations to the Financial Supervision Authority on the bases provided for in §§ 71 or 73 of the Code of Criminal Procedure.

§ 97. On-site inspection

(1) In order to exercise supervision, the Financial Supervision Authority has the right to carry out on-site inspections of a payment institution or e-money institution and a company belonging to its consolidation group (hereinafter in this Chapter *person being inspected*) at their seat or place of business.

(2) An on-site inspection shall be carried out if:
1) it is necessary to verify the submitted information;
2) the Financial Supervision Authority suspects that the provisions provided by or on the basis of other legislation specified in this Act or subsection 2 (1) of the Financial Supervision Authority Act have been violated;
3) it is necessary based on a request by a financial supervision authority of a Contracting State;
4) it is necessary to execute supervisory duties.

(3) In order to carry out an on-site inspection, the Financial Supervision Authority shall issue an order which sets out the purpose, extent, duration of the period and time of the inspection. The order shall be delivered to the person being inspected at least three working days before the on-site inspection is commenced, unless giving such notice damages attainment of the objectives of the inspection. An on-site inspection shall be carried out by an employee authorised by the Financial Supervision Authority (hereinafter in this Chapter *inspector*), unless otherwise prescribed in this Act.

(4) In the course of an on-site inspection, inspectors have the right to:
1) enter all premises and take possession of data, in compliance with the security requirements in force with regard to the person being inspected;
2) request existence of necessary working conditions and use a separate room necessary for their work;
3) study documents and media necessary for exercising supervision, make excerpts and copies thereof and monitor the work processes without restrictions;
4) obtain oral and written explanations from the managers and employees of the person being inspected. Minutes shall be taken of the explanations when necessary or at the request of the person providing the explanations.

(5) The management board of a person being inspected is required to appoint a competent representative in whose presence the inspection is carried out and who shall provide the inspector with documents and other information necessary for the performance of his or her duties, including the sworn auditor's report concerning the reports of the person being inspected and the special reports of the auditor, and provide necessary explanations with regard to such documents and information.
[RT I 2010, 9, 41 - entry into force 08.03.2010]

(6) In the case specified in clause (2) 3) of this section, the Financial Supervision Authority may authorise a financial supervision authority of a Contracting State or an auditor or expert appointed by it to perform on-site inspections.

§ 98. Report concerning on-site inspection

(1) An inspector is required to prepare a report concerning the results of an on-site inspection within two months after completion of the inspection and the Financial Supervision Authority shall immediately deliver the report to the person being inspected.

(2) A person being inspected has the right to provide written explanations within one month after the date of delivery of the report.

(3) After reviewing the written explanations of the person being inspected, but not later than within four months after the on-site inspection is completed, the Financial Supervision Authority shall prepare a final report which is delivered to the person being inspected.

(4) The person being inspected has the right to append a written dissenting opinion to the report.

(5) If, after the on-site inspection or the written explanations of the person being inspected, additional circumstances become evident or the Financial Supervision Authority obtains additional information, the term for preparation of the report of the Financial Supervision Authority or a final report specified in subsection (3) of this section may be extended by up to two months, and the new term for preparation of the report or the final report shall be communicated to the person being inspected and the reason for extension of the initial term shall be indicated.

§ 99. Assessment and special audit in supervisory proceedings

(1) The Financial Supervision Authority may involve experts in proceedings in the cases where expertise is required to ascertain facts which are relevant to the matter.

(2) The Financial Supervision Authority has the right to demand a special audit if:
1) there is reasonable doubt that the reports or information submitted to the Financial Supervision Authority or the public are misleading or inaccurate;
2) transactions have been concluded which may result or have resulted in significant damage to the payment institution or e-money institution, a company belonging to the consolidation group of the payment institution or e-money institution or clients;
3) other issues relevant to the financial situation of a payment institution or e-money institution or a company belonging to the consolidation group of the payment institution or e-money institution need additional clarification in the supervision proceedings.

(3) The Financial Supervision Authority shall involve an expert or, for a special audit, an auditor on its own initiative or at the request of a participant in the proceeding. The name of an expert or auditor and the reasons for involvement of the expert or auditor shall be communicated to a participant in the proceeding before involvement of the expert or auditor, unless proceedings regarding the matter need to be conducted quickly or communication of the information may impede attainment of the objectives of the assessment or special audit.

(4) If an expert or an auditor who performs a special audit ascertains facts relevant in the supervision proceedings and the Financial Supervision Authority did not directly assign the task of ascertaining these facts to the expert or auditor, the expert or auditor shall also provide his or her opinion or assessment with regard to the facts.

(5) An expert or an auditor who performs a special audit has the right to exercise the rights provided for in subsection 97 (4) of this Act only for the purpose of performance of the tasks assigned to him or her and make proposals to the Financial Supervision Authority and participants in proceedings for the submission of additional information and documents. The expert or auditor who performs the special audit may exercise the right provided for in subsection 97 (4) of this Act only with the permission or in the presence of the person being inspected. The expert is required to maintain the confidentiality of any confidential information which becomes known to him or her in connection with performance of the tasks specified in this section.

(6) Costs related to the conduct of an assessment or a special audit shall be covered by the Financial Supervision Authority. If an expert or auditor is involved at the request of a participant in the proceeding, costs related to the conduct of an assessment or a special audit shall be covered by the participant in the proceeding.

§ 100. Precepts

(1) The Financial Supervision Authority has the right to issue a precept if:
1) violations of the requirements of Acts and legislation established on the basis thereof are discovered as a result of supervision;
2) there is a need to prevent the offence specified in clause 1) of this subsection;
3) the risks assumed by a payment institution or e-money institution have increased significantly or if other circumstances emerge which endanger or may endanger the activities of the payment institution or e-money institution, the interests of the clients thereof or the soundness of the financial system or currency circulation.

(2) The recipient of a precept shall, immediately after being notified of the precept, commence compliance with the precept.

(3) The filing of an appeal against a precept and proceedings regarding the appeal do not suspend the requirement to comply with the precept, unless otherwise provided by the Financial Supervision Authority.

§ 101. Rights upon issue of precepts

(1) The Financial Supervision Authority has the right, by issuing a precept, to:
1) prohibit certain transactions or activities from being conducted or to establish restrictions on their volume;
2) prohibit, wholly or partially, payments from the profit of a payment institution or e-money institution;
3) demand restrictions on the operating expenses of a payment institution or e-money institution;
4) demand amendment of the internal rules of a payment institution or e-money institution;
5) demand removal of the manager of a payment institution or e-money institution;
6) propose to the general meeting of a payment institution or e-money institution for the change of auditor of the payment institution or e-money institution;
7) demand suspension of an employee of a payment institution or e-money institution from work;
8) demand that the right to provide services granted to an agent or distributor by a payment institution or e-money institution be withdrawn;
9) demand that the ratio of liquid assets and current liabilities be brought into compliance with this Act or legislation issued on the basis thereof;
10) make other demands for compliance with legislation regulating the operation of payment institutions or e-money institutions.

(2) In addition to the provisions of § 106 of this Act, if the addressee of the precept fails to comply with the precept of the Financial Supervision Authority, the Financial Supervision Authority may apply other measures prescribed by this Act, including:
1) revocation of the activity licence of a payment institution or e-money institution;
2) revocation of the authorisation for the foundation of a branch;
3) demand removal of the manager of a payment institution or e-money institution by a court.

§ 102. Calling meeting of managing bodies

(1) The management board of a payment institution or e-money institution shall notify the Financial Supervision Authority of a general meeting or a meeting of the supervisory board at least two weeks in advance. Notice of a special general meeting shall be given at least one week in advance, if possible.

(2) The Financial Supervision Authority has the right to issue a precept:
1) to call a meeting of the management board or supervisory board of a payment institution or e-money institution or to call the general meeting of a payment institution or e-money institution;
2) to include an issue on the agenda of a meeting of the management board or supervisory board or the general meeting if this is necessary in the opinion of the Financial Supervision Authority.

(3) The Financial Supervision Authority has the right to send representatives to a meeting who have the right to present positions and make proposals and demand the recording thereof in the minutes of the meeting.

§ 103. Declaration of resolution of managing body invalid on basis of petition of Financial Supervision Authority

On the basis of a petition of the Financial Supervision Authority, a court of the seat of a payment institution or e-money institution may declare invalid a resolution of the general meeting, supervisory board or management board which is in conflict with an Act, legislation issued on the basis thereof or the articles of association, if the petition is submitted within three months after adoption of the resolution.

§ 104. Obligation to notify Financial Supervision Authority

(1) A payment institution or e-money institution is required to notify the Financial Supervision Authority immediately of any changes to information or circumstances which constituted the basis for issue of the

activity licence of the payment institution or e-money institution and to submit the following information and documents:
1) the business name or address of the seat of the payment institution or e-money institution or, in the case of changes in details, a new business name, address of the seat and new details;
2) upon changes in the articles of association, the amendments to and the amended text of the articles of association;
3) upon changes in the procedure or rules determined by the internal rules, the amended internal rules;
4) upon a change of managers, information specified in clause 15 (1) 14) of this Act;
5) upon a change of auditors, information specified in clause 15 (1) 16) of this Act;
6) circumstances which affect or may significantly affect the financial situation of the payment institution or e-money institution;
7) other information if prescribed by this Act.

(2) At the request of the Financial Supervision Authority, a payment institution or e-money institution shall immediately disclose the information and documents specified in subsection (1) of this section, except those specified in clauses 3) and 6).

(3) The Financial Supervision Authority shall publish the information specified in clause (1) 1) of this section on its website.

§ 105. List

(1) The Financial Supervision Authority shall maintain a list of:
1) payment institutions and e-money institutions which are registered in Estonia and hold a valid activity licence;
2) persons having a qualifying holding in payment institutions or e-money institutions registered in Estonia;
3) agents and distributors;
4) managers of the persons specified in clause 1) of this subsection;
5) branches founded abroad by payment institutions or e-money institutions registered in Estonia;
6) branches founded in Estonia by foreign payment institutions or e-money institutions;
7) payment institutions and e-money institutions providing cross-border services in Estonia;
8) mergers of payment institutions and mergers of e-money institutions;
9) companies to which an authorisation provided for in § 13 of this Act has been granted by the Financial Supervision Authority.

(2) The information specified in this section shall be disclosed pursuant to the provisions of subsection 53 (4) of the Financial Supervision Authority Act.

§ 106. Penalty payment

(1) In the event of failure to comply or inappropriate compliance with a precept of the Financial Supervision Authority issued pursuant to this Act or another administrative act, the Financial Supervision Authority has the right to impose a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act.

(2) In the event of failure to comply or inappropriate compliance with an administrative act, the upper limit for a penalty payment is:
1) in the case of a natural person, up to 1200 euros for the first occasion and altogether up to 6000 euros to enforce the performance of the same obligation.
[RT I 2010, 22, 108 - entry into force 01.01.2011]
2) in the case of a legal person, up to 3200 euros for the first occasion and altogether up to 52,000 euros to enforce the performance of the same obligation.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

Chapter 13
LIABILITY

§ 107. Failure to submit information

(1) Refusal to submit or failure to submit on time reports, documents, explanations or other information necessary for supervision, or submission of incorrect or insufficient information or violation of the obligation to disclose information or submission of information in a manner which does not permit exercise of supervision is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 108. Violation of procedure for acquisition of qualifying holding

(1) Acquisition or transfer of a holding in a payment institution or e-money institution or turning a payment institution or e-money institution into a controlled company without giving prior notification to the Financial Supervision Authority according to this Act or in violation of the precept specified in subsection 42 (2) of this Act, and exercise of the right to vote or other rights enabling control in the payment institution or e-money institution in violation of the precept of the Financial Supervision Authority, is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 109. Violation of requirements for internal rules and internal control

Violation by a payment institution or e-money institution of the requirements for internal rules and internal control established by this Act is punishable by a fine of up to 32,000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 110. Violation of obligations concerning provision of information and explanations and transfer of activities related to services

Violation by a payment institution or e-money institution of the obligations provided for in this Act concerning the provision of information and explanations to clients and transfer of activities related to payment services and e-money services is punishable by a fine of up to 32,000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 111. Violation of obligations of manager of payment institution and e-money institution

Violation by a manager of a payment institution or e-money institution of the obligations provided for in § 47 of this Act resulting in failure or danger of failure to provide protection to the interests of the payment institution or e-money institution or clients thereof is punishable by a fine of up to 300 fine units.

§ 112. Violation of prudential requirements

Violation of the prudential requirements provided for in Chapter 8 of this Act and legislation established on the basis thereof is punishable by a fine of up to 32,000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 113. Violation of procedure for settlements

(1) Violation by a payment institution or e-money institution of the requirements for maintenance of payment accounts or settlement of payments is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 113^{1}. Violation of obligations of payment service provider

(1) Failure by a manager or employee of a payment service provider or a manager or employee of a paying agent or a paying agent who is a natural person to identify, verify or communicate the information related to the payer or violation of other obligations of payment service providers established by the Regulation (EC) No 1781/2006 of the European Parliament and of the Council on information on the payer accompanying transfers of funds (OJ L 345, 8.12.2006, p. 1–9) is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

§ 113^{2}. Violation of technical and business requirements for credit transfers and direct debits in euro

(1) Violation of the requirements provided for in Articles 3–9 of Regulation (EU) No 260/2012 of the European Parliament and of the Council establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.03.2012, p. 22–37) is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I, 26.04.2013, 2 - entry into force 06.05.2013]

§ 114. Violation of requirement for safekeeping and protection of assets of clients

Failure by a payment institution or e-money institution to perform the obligations related to the safekeeping and protection of assets of clients provided for in Chapter 9 of this Act is punishable by a fine of up to 32,000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 115. Violation of name protection requirements

(1) Violation of the name protection requirements provided for in § 8 of this Act is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 116. Violation of requirements for activities of foreign payment institutions and e-money institutions

Violation of the requirements established with regard to the activities of foreign payment institutions or e-money institutions is punishable by a fine of up to 32,000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 117. Proceedings

(1) The provisions of the General Part of the Penal Code and the Code of Misdemeanour Procedure apply to the misdemeanours provided for in this Chapter.

(2) Extra-judicial proceedings concerning the misdemeanours provided for in this Chapter shall be conducted by the Financial Supervision Authority.

Chapter 14
AMENDMENTS OF ACTS

§ 118.–§ 127.[Omitted from this text]

Chapter 15
IMPLEMENTATION AND ENTRY INTO FORCE OF ACT

§ 128. [Repealed - RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 129. Repeal of Electronic Money Institutions Act

[Omitted from this text.]

§ 130. Implementing provisions

(1) Regardless of the provisions of subsection 728 (1) of the Law of Obligations Act, a payer and a payment service provider of the payer may agree on a different term for the execution of a payment order which shall not exceed three business days until 1 January 2012. If the payment order is initiated on paper, the term specified in the first sentence of this subsection may be extended by one more business day.

(2) Persons who provided payment services or services equal to payment services before entry into force of this Act and who intend to continue operating in the corresponding field after entry into force of this Act shall submit to the Financial Supervision Authority an application for an activity licence or for the exemption specified in § 13 of this Act not later than within nine months as of the entry into force of this Act. The provisions of the first sentence of this subsection shall not apply to persons specified in clauses 3 (6) 2)–6).
[RT I 2010, 34, 182 - entry into force 02.07.2010]

(3) Persons who provided payment services or services equal to payment services before entry into force of this Act and who intend to continue operating in the corresponding field after entry into force of this Act, including credit institutions, shall bring their activities and documents into compliance with the provisions of this Act within four months as of the entry into force of this Act. Until bringing into compliance with this Act, the activities and documents of persons specified in the first sentence of this subsection shall comply with the legislation in force until the entry into force of this Act.

(4) E-money institutions which hold a valid activity licence at the time this Act enters into force shall bring their activities and documents into compliance with the provisions of this Act within one month as of the entry into force of this Act. Until bringing into compliance with this Act, the activities and documents of e-money institutions shall comply with the legislation in force until the entry into force of this Act.

(5) Persons who provided payment services or services equal to payment services within the meaning of this Act before entry into force of this Act may continue to provide such services without holding an authorisation provided for in § 13 or an activity licence provided for in § 14 of this Act until 30 April 2011.
[RT I 2010, 34, 182 - entry into force 02.07.2010]

(6) The Financial Supervision Authority may grant an activity licence of a payment institution to a person provided for in subsection (5) of this section and add the person to the list of payment institutions provided for in § 105 of this Act without applying the procedure for application for an activity licence if the Financial Supervision Authority finds that the person complies with the requirements for application for an activity licence provided for in this Act.

§ 131. Bringing activities and documents of e-money institutions into compliance with version of this Act passed on 16 June 2011

(1) E-money institutions which issued e-money before 30 April 2011 and intend to continue operating in the corresponding field after this date shall bring their activities and documents into compliance with the requirements provided for in §§ 6, 7, 12, 63, 64, 71 and 80 of the version of this Act passed on 16 June 2011 (hereinafter *this version*) at the latest by 30 October 2011. Until bringing into compliance with this version, the activities and documents of e-money institutions shall comply with regard to the aforementioned requirements with the legislation in force until the entry into force of this version.

(2) The Financial Supervision Authority may add the e-money institution provided for in subsection (1) of this section to the list of e-money institutions provided for in § 105 of this Act without applying the procedure for application for an activity licence and the procedure for calculation of share capital and own funds provided by this version, if the Financial Supervision Authority finds that the e-money institution complies with the new requirements provided by this version.

(3) Companies which issued e-money before 30 April 2011 and on the basis of the exemption provided for in § 12 of the Payment Institutions and E-money Institutions Act in force until the entry into force of this version and which intend to continue operating in the corresponding field after the aforementioned date shall bring their activities and documents into compliance with the requirements of this version at the latest by 30 April 2012. Until bringing into compliance with this version, the activities and documents of companies shall comply with the legislation in force until the entry into force of this version.
[RT I, 08.07.2011, 6 - entry into force 18.07.2011]

[1]Directive 2007/64/EC of the European Parliament and of the Council 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. 1–36), last amended by Directive 2007/64/EC (OJ L 187, 18.07.2009, p. 5); Directive 2009/110/EC of the European Parliament and of the Council on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7–17). [RT I, 08.07.2011, 6 - entry into force 18.07.2011]