

Issuer:	Governor of Eesti Pank
Type:	regulation
In force from:	19.06.2015
In force until:	20.11.2022
Translation published:	16.06.2015

# Terms and Conditions for the Opening and Using of Accounts of Credit Institutions in Eesti Pank

Passed 12.06.2015 No. 4

This decree is based on subsection 87 (1) of the Credit Institutions Act.

## § 1. General provisions

(1) The present terms and conditions for opening and using credit institution accounts in Eesti Pank (hereinafter *general conditions*) regulate the relationship between Eesti Pank as the account manager and a credit institution applying for opening an account at Eesti Pank (hereinafter *applicant*) or a credit institution holding an account with Eesti Pank regarding the opening and usage of one or several accounts held with Eesti Pank for the purpose of conducting transactions on behalf of the credit institution (hereinafter *account*).

(2) The currency of the account is euro.

(3) Eesti Pank allows the account holders to make cash deposits to and to withdraw cash or to make bank transfers to and from the account (hereinafter *payment transaction*) and keeps the funds belonging to or received in favour of the credit institution on the account.

(4) Upon processing payment transactions and keeping funds, Eesti Pank follows the law, the general conditions, contracts and agreements in force between Eesti Pank and the credit institution, and the credit institution's orders.

(5) If any special conditions established by Eesti Pank or agreed between Eesti Pank and the credit institution regarding the holding of certain accounts or regarding transactions conducted through the credit institution's account are in conflict with the general conditions, the special conditions will apply.

## § 2. Persons entitled to apply to open an account

Estonian credit institutions, Estonian branches of foreign credit institutions and credit institutions founded in Estonia can apply to open an account with Eesti Pank.

## § 3. Applying for opening an account

(1) An application for opening an account must be submitted to Eesti Pank using the relevant online form published on the website of Eesti Pank. Documents certifying the applicant's legal status and the authorisation of its representative(s) must be submitted along with the application. If the application or the supplementary documents contain deficiencies, Eesti Pank will give the applicant a reasonable time limit for eliminating the deficiencies.

(2) Normally, a credit institution may have one account at Eesti Pank. If the credit institution wishes to open more accounts with Eesti Pank, it may submit a relevant well-grounded application to Eesti Pank. Such an application will be processed in accordance with the general procedure and time limits applicable for opening accounts. Upon making a decision, Eesti Pank shall be governed, first and foremost, by the need to avoid risks and to treat applicants or credit institutions equally. Eesti Pank may request that an applicant or credit institution additionally submit data or documents required for clarifying the following circumstances:

- 1) the reliability of the information presented about the legal status of the applicant or the credit institution;
- 2) the validity and scope of the authorisation and right of representation of the managers or representatives of the applicant or credit institution;
- 3) the structure of holdings and control of the applicant or credit institution as a legal person;
- 4) the purposes of the transactions to be conducted via the account to be opened or held with Eesti Pank, and the role of those transactions in the activities of the applicant or credit institution.

#### **§ 4. Taking a decision on opening an account and drawing up the requisite documents**

(1) Eesti Pank shall make a decision about opening an account or refusing to open an account within 45 calendar days of the date of the handing over of an application for opening an account to Eesti Pank, which is dependent on the application complying with all the requirements in force and being supplemented with all the required documents. If, according to the estimate of Eesti Pank, additional actions need to be taken in order to make a decision, Eesti Pank may extend the time allowed for decision-making by up to 14 calendar days, informing the applicant thereof before the expiry of the initial term for making the decision.

(2) The opening of an account is formalised as a decision of Eesti Pank or as a contract between the credit institution and Eesti Pank.

(3) If an account is opened on the basis of a decision of Eesti Pank, Eesti Pank may at any time request and the credit institution must allow for the drawing up of a contract between the two parties that sets out the conditions of the holding of the account.

(4) If the credit institution wishes to use the account for making payment transactions via a payment system administered by Eesti Pank and the credit institution complies with the requirements established for participants in the relevant payment system, the credit institution may submit an application for joining the payment system in accordance with the rules of the relevant payment system. The joining will take place on the basis of the payment system joining contract.

#### **§ 5. Use of the account**

(1) The credit institution may use the account for the following purposes:

- 1) depositing euros;
- 2) making payment transactions;
- 3) enforcing payment obligations;
- 4) holding the required minimum reserves in Eesti Pank.

(2) Orders for using the account that the credit institution has submitted and that Eesti Pank has accepted are binding upon Eesti Pank.

(3) The credit institution may use the account solely via a representative or representatives who are properly authorised by the credit institution or have the legal right to represent the credit institution.

(4) In order to verify the existence of the authorisation to use the account, Eesti Pank may at any time request that the credit institution's representative present a personal identity document, power of attorney, a document proving the right of signature, a specimen signature or other similar documents. In the case of changes in the representatives authorised to use the account or in the scope of their right of representation, the credit institution must promptly submit to Eesti Pank the data required to ensure the legal certainty of the transactions of Eesti Pank and the credit institution.

#### **§ 6. Orders of the credit institution**

(1) The credit institution submits its orders, including payment instructions, to Eesti Pank electronically. If the electronic submission of orders is hindered or entails an excessive risk, orders may be submitted in any form that allows for reliable reproduction of the orders in writing and that is accepted by Eesti Pank. If the processing of payment instructions given in an unconventional form is not automated in Eesti Pank, Eesti Pank will not be required to process more than five such payment instructions of the credit institution per day.

(2) Eesti Pank has the right to assume that the content of an order given by the credit institution fully corresponds to the credit institution's intent.

(3) Eesti Pank shall only accept such orders from the credit institution that are in conformity with the agreement between the credit institution and Eesti Pank, are properly, lawfully and unambiguously drawn up and clearly express the credit institution's intent. A payment instruction must at least contain the following information or allow Eesti Pank to unambiguously establish the following:

- 1) the payer's name;
- 2) the payer's account number;
- 3) data required for identifying the payer (registration number; registry code, personal identification code or address);
- 4) the beneficiary's name;
- 5) the beneficiary's account number;
- 6) the payment amount and currency;
- 7) the date on which Eesti Pank is required to start executing the payment instruction (value date);
- 8) where necessary, a worded explanation of the payment's purpose or a reference number of the payment;
- 9) where necessary, the registered information of the payment intermediary used by the credit institution (a correspondent bank of the beneficiary's credit institution).

## **§ 7. Terms and conditions of acceptance of the credit institution's orders**

(1) Settlement days are all days except Saturdays, Sundays, Estonian national and public holidays and Easter Monday. Eesti Pank has the right to change a day that has been excluded from the settlement days specified in the preceding sentence into a settlement day by way of exception.

(2) Eesti Pank accepts the credit institution's orders between 9:00 and 17:00 on settlement days. Orders received after working hours on a settlement day are deemed as received on the next settlement day.

(3) Eesti Pank accepts the credit institution's order if the credit institution has forwarded all data to Eesti Pank that Eesti Pank considers necessary for executing the order. Eesti Pank accepts the payment instruction contained in an order if the balance of the credit institution's account at the time the instruction has to be fulfilled is sufficient and if the due date of fulfilment of the payment instruction set by the credit institution allows for timely fulfilment of the payment instruction.

(4) If the credit institution's order does not comply with the requirements of subsection 6 (3) of the general conditions, Eesti Pank shall have the right to request that the credit institution specify in more detail the order or that the credit institution provide additional information by no later than the end of the next settlement day. If the credit institution does not clarify the order or does not provide the requested additional information within the time limit, Eesti Pank shall have the right to refuse to execute the order.

(5) Eesti Pank has the right to record all the orders submitted by the credit institution or other information related to the use of the account, and to use the recordings to prove the content, form or other circumstances related to the credit institution's orders.

## **§ 8. Execution of credit institution's orders**

(1) Eesti Pank executes the credit institution's orders in accordance with the law in force and the contracts or arrangements agreed upon in writing between Eesti Pank and the credit institution.

(2) If the account balance is not sufficient for executing an order, Eesti Pank shall only execute the order if this has been agreed beforehand and if the credit institution has provided Eesti Pank with security or a deposit that is sufficient to compensate the amount required for executing the order.

(3) Eesti Pank is not required to execute a conditional order of the credit institution.

(4) Eesti Pank debits the transaction amount from the account on the value date designated by the credit institution.

## **§ 9. Revoking an order**

(1) The credit institution may revoke an order given to Eesti Pank by submitting the relevant application to Eesti Pank in a form that allows for reliable reproduction in writing.

(2) An order cannot be revoked if Eesti Pank has already fulfilled its obligations resulting from the order or has become unable to independently dispose of the funds constituting the object of the order, or the order cannot be revoked due to the conditions of the transaction.

## **§ 10. Erroneous transactions**

(1) If Eesti Pank has erroneously (incl. without legal grounds) credited the account, the credit institution must inform Eesti Pank thereof immediately after discovering the erroneous transaction and return the erroneously credited amount.

(2) Eesti Pank has the right to block, without the credit institution's consent, amounts with which the credit institution's account has been erroneously credited and that have not been refunded by the credit institution, or to debit the credit institution's account to the respective extent.

(3) If Eesti Pank has erroneously debited the account, Eesti Pank must, immediately after discovering the erroneous transaction, credit the account to the extent of the amount erroneously debited from it.

## **§ 11. Verifying the legal status or the lawfulness of the activities of the credit institution**

(1) If Eesti Pank receives information that casts doubt on the compliance of the credit institution as a legal person with the prescribed requirements or the lawfulness of the activities of the credit institution, Eesti Pank may request that the credit institution submit data or documents required to eliminate such doubt, or may take one or several of the following measures:

- 1) verify the credit institution's legal status, the information submitted by the credit institution or the right of representation of the credit institution's representative on the basis of additional documents or data originating from a trustworthy independent source;
- 2) take steps to ascertain the authenticity of the documents submitted by the credit institution and the correctness of the information contained therein, including verifying the lawfulness of the form of the documents, or make a request that the person who issued the document also confirm the authenticity of the document;
- 3) contact the credit institution or other persons in order to obtain data about the credit institution's legal status, business relationships or transactions.

(2) Eesti Pank has the right to delay the execution of the credit institution's orders or to suspend the credit institution's payments until identifying the credit institution's legal status or until verifying the lawfulness of the credit institution's activities on the basis of the data, documents or measures specified in subsection (1).

## **§ 12. Suspension of payments**

(1) Suspension of payments means that Eesti Pank refuses to perform the credit institution's orders for disposing of the funds on the credit institution's account. Eesti Pank has the right to suspend the credit institution's payments in the case of reasonable doubt regarding one or more of the following circumstances specified below:

- a) the identity of the credit institution's representative;
- b) the validity of the authorisation of the credit institution's representative;
- c) the lawful origin of the funds in the account;
- d) the lawfulness of the credit institution's transactions;
- e) the credit institution's ability to perform the assumed obligations.

(2) Eesti Pank does not bear liability for any direct or indirect damages caused to the credit institution as a result of suspending payments.

## **§ 13. Closure of the account**

(1) Unless otherwise provided by law, Eesti Pank has the right to close the credit institution's account with Eesti Pank at any time without advance notice and to demand that the credit institution pay all its debts that are related to the use of the account or that are to be debited from the account pursuant to law or a contract. Eesti Pank's right to close the account is not contingent on any limiting conditions such as a prior violation of the general conditions or law by the credit institution. If the credit institution does not pay its debts within the time limit set by Eesti Pank, Eesti Pank shall have the right to use, without advance notice, the collateral provided by the credit institution to Eesti Pank in order to settle the relevant debts, unless otherwise provided by the terms of the collateral agreement.

(2) The credit institution has the right to close its own account by sending a relevant order to Eesti Pank in writing or in a form that allows for reliable reproduction in writing. Before closing the account, the credit institution must pay all its debts that are related to the use of the account or that are to be debited pursuant to law or a contract.

(3) The closure of the account does not have any impact on any prior monetary claims falling due or being settled.

(4) Before closing the account, Eesti Pank shall credit the interest payable to the credit institution to the account and debit the interest and charges payable to Eesti Pank and the credit institution's debts from the account. Eesti Pank shall make a payment equal to the balance of the account to the credit institution or to a third party designated by the credit institution or transfer it to an account indicated by the credit institution.

(5) If the credit institution has not given Eesti Pank an order to pay out the balance of the account or to transfer that balance to another account, Eesti Pank will keep the funds that were in the credit institution's account in its own account and pay them out at the first request of the credit institution or deposit them with a notary on behalf of the credit institution. Eesti Pank shall calculate interest on funds left or ending up in the possession of Eesti Pank following the closure of the account only in case the obligation to calculate interest has been stipulated in a legal act issued by the European Central Bank.

(6) Eesti Pank has the right to reject any payment instruction to credit a closed account. Eesti Pank shall return all funds received in favour of a closed account to the initiator of the payment. Payments addressed to a closed account may only be forwarded by Eesti Pank to the credit institution that held that account or to a legal successor of the credit institution if the initiator of the payment does not request that the payment be returned and if Eesti Pank has reliable information about the identity of the credit institution or its legal successor and about the data necessary for forwarding the payment to such a person.

(7) Upon closing the account, Eesti Pank has the right to terminate the contracts and agreements between Eesti Pank and the credit institution concluded for the purpose of holding the account or whereby the existence of the account is an essential condition of validity.

(8) A closed account cannot be reopened. A new account in Eesti Pank can be opened for the credit institution in accordance with the procedure and rules set out in the general conditions.

#### **§ 14. Charges**

(1) Service charges for using the accounts shall be paid to Eesti Pank at the rates set out in § 15 of the general conditions.

(2) Eesti Pank and the credit institution may agree on charge rates other than those stated in § 15 of the general conditions or on free-of-charge transactions if this is justified by the circumstances and will not bring about significantly unequal treatment of credit institutions or other persons who hold accounts at Eesti Pank.

(3) Eesti Pank shall have the right to debit the charges from the credit institution's account in amounts that correspond to the charge rates, unless this is in conflict with the law or with a valid contract between Eesti Pank and the credit institution. The charges are debited on the tenth settlement day of the month following the month of incurring the payment obligation, unless otherwise agreed between Eesti Pank and the credit institution.

(4) If Eesti Pank does not debit the charges that have fallen due from the credit institution's account, the credit institution must transfer them to the account of Eesti Pank on the basis of an invoice submitted to the credit institution by Eesti Pank. The invoice must at least state the grounds for the charge, the amount payable and the due date of the charge.

(5) If the credit institution fails to pay a charge by the due date, Eesti Pank may request that the credit institution pay late interest on the overdue sum at the rate provided for in subsection 113 (1) of the Law of Obligations Act, which is calculated from the due date until the date of the actual performance of the payment obligation.

#### **§ 15. Charge rates**

(1) The charge for the execution of each payment instruction is 1 euro.

(2) The charge for the execution of each payment instruction revocation order is 5 euros.

#### **§ 16. Interest**

(1) Eesti Pank calculates interest on funds in the account in accordance with the procedure and at the rate provided by the legal acts and contracts in force, taking into account the common positions and decisions of the Eurosystem. An interest rate can be positive, zero per cent or negative.

(2) Eesti Pank calculates interest on funds kept in the accounts of Eesti Pank for the purpose of compliance with the minimum reserve requirements applicable to credit institutions in accordance with the procedure of and at the rate established by the European Central Bank.

(3) Unless otherwise provided by a legal act or a contract, Eesti Pank shall calculate interest on the sums not specified in subsection (2) of this section at zero per cent rate or at the European Central Bank deposit facility interest rate, by applying the lower of the two.

(4) Eesti Pank has the right to unilaterally amend the interest calculation procedure and/or interest rate. If the interest calculation procedure and/or interest rate is determined by a contract, they can only be amended by agreement between the parties, unless otherwise provided by the contract. Eesti Pank communicates changes regarding the interest calculation procedure and/or interest rate to the credit institution at least three calendar days before their entry into force.

(5) Unless otherwise provided by legislation, a contract or amendments to the procedure for the calculation of interest communicated by Eesti Pank in accordance with subsection (4) of this section, Eesti Pank shall calculate interest on the closing account balance of each settlement day, by using the interest rate effective on the settlement day and a reference year of 360 days. For non-business days, interest is calculated on each day using the account balance and interest rate of the last settlement day preceding the non-business day as the closing account balance and interest rate.

(6) Unless otherwise provided by legislation or a contract, Eesti Pank credits the interest amount payable for a calendar month to the account or debits it from the account no later than on the fifth settlement day of the following calendar month. If the credit institution is required to pay interest to Eesti Pank and the account balance is 0 before debiting, Eesti Pank shall debit the account and the account balance will turn negative.

#### **§ 17. Collateral and deposits**

(1) The credit institution must ensure that there are sufficient funds in its account to execute all of its orders or to fulfil all of its payment obligations arising from other obligations or agreements.

(2) Eesti Pank has the right to debit from the credit institution's account all claims incurred on the basis of the general conditions or arising from other contracts or agreements between Eesti Pank and the credit institution.

(3) Eesti Pank has the right of pledge regarding all funds in the credit institution's account. These funds can be used as collateral that secure Eesti Pank's claims against the credit institution.

(4) The credit institution has the right to secure the fulfilling of its obligations with a deposit held with Eesti Pank, which is used in accordance with the law, the rules established by Eesti Pank or an agreement between the credit institution and Eesti Pank.

#### **§ 18. Notifying the credit institution**

(1) Eesti Pank keeps records of credit and debit entries on the credit institution's account.

(2) The credit institution may request that Eesti Pank provide information about the balance of the credit institution's account and about credit and debit entries on the account.

(3) Eesti Pank issues an account statement to the credit institution by no later than 9:00 on the working day following the settlement day, unless the account has not been debited or credited on the settlement day. The balance statement as of the last date of the year is sent free of charge by Eesti Pank by 15 January of the next year, unless agreed otherwise.

(4) Regarding entries on the account, the credit institution must be provided with at least the following information in a form that allows for reliable reproduction in writing:

- 1) data allowing for identifying the bank transfer;
- 2) the amount and currency of entry;
- 3) the amount of service charges and other expenses;
- 4) the value date.

(5) Eesti Pank must preserve account crediting or debiting information or information that proves the crediting or debiting of the account for a term of ten years following the making of the transfers.

#### **§ 19. Liability of Eesti Pank**

(1) Eesti Pank is not liable for any damages arising from errors of content or forwarding, ambiguity, abuse or mistakes contained in orders given by the credit institution to Eesti Pank.

(2) Eesti Pank is not liable for the non-execution or incorrect execution of an order if the order has been executed in accordance with the data submitted by the credit institution to Eesti Pank in accordance with subsection 6 (3) of the general conditions. The credit institution is responsible for the correctness of the data contained in an order.

(3) If the credit institution is unable to use the funds in its account due to a violation caused by the fault of Eesti Pank and meets the criteria described in subsection (4) of the general conditions, Eesti Pank shall, at the relevant request of the credit institution, credit the credit institution's account with the interest calculated on the amount blocked due to the violation for the duration of the violation. The interest rate is the latest interest rate applicable to the main refinancing operations of the European Central Bank before 1 January and 1 July of each year, unless otherwise provided for in an agreement between Eesti Pank and the credit institution.

(4) As a prerequisite for satisfying a request described in the previous subsection, the credit institution must prove the absence of circumstances that rule out the liability of Eesti Pank as stated in subsections (1) and (2) of this section and prove that Eesti Pank:

- 1) did not credit the account in due time with the amount that accrued to the credit institution;
- 2) incorrectly debited the credit institution's account;
- 3) failed to execute the credit institution's order by the specified time time.

#### **§ 20. Confidentiality**

(1) Eesti Pank and the credit institution shall treat each other's information and data media as confidential, precluding the disclosure thereof to third parties and limiting the circle of persons who have access to such information.

(2) The duty of confidentiality is not applicable where its performance is in conflict with law. The confidentiality duty may be restricted if such a restriction is permitted by the legal acts in force or provided by an agreement between Eesti Pank and the credit institution.

(3) The provisions of this section do not restrict Eesti Pank's right to forward information to the Financial Intelligence Unit if Eesti Pank suspects that the account is being used for money laundering or terrorist financing. Such information is communicated without notifying the credit institution.

(4) In the event of a breach of the confidentiality duty, the person in breach must compensate for the direct damage caused by the breach, regardless of whether the breach was wilful or not.

## **§ 21. Repeal of Decree**

Eesti Pank Governor Decree no. 3 of 24 April 2012 'General Conditions of Holding of Accounts in Eesti Pank' (RT I, 27.04.2012, 2) is repealed.