

## **Translation from Finnish**

### **Legally binding only in Finnish and Swedish**

#### **Ministry of Finance, Finland**

### **Act on Payment Institutions**

*(297/2010; amendments up to 630/2018 included)*

## **Chapter 1**

### **General provisions**

#### **Section 1**

##### **Scope of application**

This Act shall apply to business activity providing payment services. The provisions of this Act on payment services and payment institutions shall also apply to electronic money issuance and an electronic money institution unless otherwise provided for below. (899/2011)

This Act shall apply to the following payment services:

- 1) services enabling a cash deposit on a payment account or cash withdrawal from the payment account as well as the operations relating to operation and provision of a payment account;
- 2) execution of a payment transaction as a credit transfer referred to in the Payment Services Act (290/2010), transfer of funds on a payment account of a service provider, direct debit or through a payment card or other payment device;
- 3) issuing of a payment instrument;
- 4) acceptance and processing of a payment transaction, based on a contract made with the payee, that results in a transfer of funds to the payee; (890/2017)
- 5) services where the service provider receives from the payer funds without creating a payment account in the name of the payer or the payee for the sole purpose of transferring a corresponding amount to a payee or to another payment service provider acting on behalf of the payee or where the service provider receives the funds on behalf of the payee and makes them available to him (*money remittance*); (890/2017)
- 6) payment initiation services; (890/2017)
- 7) account information services; (890/2017)

Section 40 of the Act shall be applied to an organisation and undertaking referred to in section 2, subsection 1 providing payment service.

## **Section 2 (890/2017)**

### **Services outside the scope**

With the exception of the account switch service referred to in section 9, subsection, 1 paragraph 1 and section 9, subsection 2, this Act shall not apply to services provided by:

- 1) a credit institution referred to in the Act on Credit Institutions (610/2014);
- 2) the State Treasury or another State authority, the province of Åland, a municipality, a joint municipal authority or some other regional or local authority;
- 3) the Social Insurance Institution of Finland or another independent public-law institution;
- 4) the European Central Bank, the Bank of Finland or another national central bank;
- 5) an organisation which has been granted the authorisation referred to in the Postal Act (415/2011);
- 6) a company referred to in the Act on the State-Owned Specialized Financing Company (443/1998) or a company referred to in the Act on the Finnish Fund for Industrial Cooperation Ltd. (291/1979).

This Act shall not apply to the following services:

- 1) transport of money;
- 2) service where cash is provided by the payee to the payer as part of a payment transaction upon the acquisition of goods, services or other commodities;
- 3) service to withdraw cash by means of an automated teller machine if the service provider acts on behalf of one or more payment card issuers without being party to the framework contract on payment cards concluded with the customer withdrawing cash and the service provider does not provide other payment services.

Notwithstanding the provisions of subsection 1, the provisions of section 36a shall apply to the electronic money issued by the service providers referred to therein.

With the exception of section 8a, this Act shall not apply to services based on specific payment instruments that can be used only in a limited way if:

- 1) the instruments can be used to acquire goods, services or other commodities only in premises used by the issuer or within a limited network of commodity providers under direct agreement with the issuer;
- 2) the instruments can only be used to acquire a very limited range of commodities; or
- 3) the instruments, provided at the request of an undertaking or a public sector entity and valid only in a single EEA Member State, are regulated for specific social or tax purposes to acquire specific commodities from suppliers having an agreement with the issuer.

### **Section 3**

#### **Payment transactions not within the scope**

This Act shall not be applied to the following payment transactions:

- 1) intermediation of a payment relating to a contract on sale or purchase of goods, services or other commodities negotiated or concluded on behalf of a principal by a commercial representative or other corresponding representative referred to in the Act on Commercial Representatives and Salesmen (417/1992) when the representative only acts on behalf of the payer or the payee (890/2017);
- 2) a payment transaction based on paper cheques, paper-based drafts, traveller's cheques, promissory notes or postal money orders drawn on the service provider with a view to placing funds at the disposal of the payee;
- 3) payment transactions carried out within a payment or securities settlement system between the service providers and settlement agents, central counterparties, clearing houses or central banks as well as between other participants of the system;
- 4) payment transactions relating to asset management or redemption or sale of securities carried out by investment firms, credit institutions, and collective investment undertakings, fund management companies and alternative investment fund managers that provide an investment service referred in chapter 1, section 15 of the Act on Investment Services (747/2012) as well as persons referred to in paragraph 3 of this section or by other undertakings allowed to have the custody of securities; (1088/2017)
- 5) payment transactions and related services between a parent company and its subsidiary or between subsidiaries of the same parent company if the payment service intermediary belongs to the same group. (890/2017)

With the exception of section 8a, this Act shall not apply to payment transactions charged to the user by a telecommunications operator referred to in the Information Society Code (917/2014) in the context of its invoicing based on the use of a communication service when the payment transactions

have a value or no more than EUR 50 per single transaction and a cumulative value of no more than EUR 300 per month per use when the following are concerned:

- 1) payment transactions for the purchase of digital content or voice-based services; or
- 2) payment transactions performed from or via an electronic device and charged to the related invoice within the framework of a charitable activity, to pay car parking charges, or to purchase travel or entry tickets or other similar tickets.

(890/2017)

## **Section 4**

### **Supervision**

Compliance with this Act and the provisions and regulations issued thereunder shall be supervised by the Financial Supervisory Authority as provided for in the Act on the Financial Supervisory Authority (878/2008) and in this Act.

The Financial Supervisory Authority shall work together with the competent authorities of other EEA Member States and with the European supervisory authorities in compliance with the Act on the Financial Supervisory Authority and this Act. Where a disagreement between the Financial Supervisory Authority and the competent authority of another EEA Member State concerning exchange of information, application of the freedom of establishment or the freedom to provide services, or the supervision of payment institutions exercising these freedoms, measures implemented in consequence of non-compliance with the provisions issued pursuant to the Payment Services Directive or the reasoning and notification of such measures is subject to the procedure laid down in Article 19 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, hereinafter EBA Regulation, the Financial Supervisory Authority shall defer its decisions until the case has been resolved in accordance with the said Article. (890/2017)

## **Section 5**

### **Definitions**

For the purposes of this Act:

- 1) *payment service user* means a person who, under a contract concluded with a service provider, can make use of a payment service in the capacity of either payer or payee;
- 2) *payment institution* means a limited company, a cooperative, a limited partnership, a general partnership, a European company referred to in the Act on European Companies (742/2004) or a

European cooperative society referred to in the Act on European Cooperative Societies (906/2006) that has been granted an authorisation in accordance with this Act to provide payment service;

2a) *an electronic money institution* means a payment institution whose authorisation in accordance with this Act includes a permission to issue electronic money; (899/2011)

2b) *an electronic money issuer* means an electronic money institution or another natural or legal person which issues electronic money; (899/2011)

3) *payment system* means a system based on rules where monetary obligations are determined or executed or payment transactions settled;

4) *payment account* means an account which may be used for payment transactions;

5) *payment transaction* means an act of transferring, withdrawing or placing funds;

6) *funds* mean cash, scriptural money and electronic money; (899/2011)

6a) *electronic money* means monetary value stored electronically or magnetically on receipt of funds paid to the issuer of electronic money for the purpose of making payment transactions and which one or several persons have committed to accept as payment; (890/2017)

7) *agent* means a natural or legal person which acts on behalf of a payment institution in providing payment services;

8) *group* means a group of undertakings consisting of a parent company and the parent company's subsidiaries as referred to in the Accounting Act (1336/1997) or undertakings as referred to in Commission Delegated Regulation (EU) No 241/2014 of 7 January 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for Own Funds requirements for institutions which are linked to each other by a relationship referred to in Article 10(1) or in Article 113(6) or (7) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012; (890/2017)

9) *the Payment Services Directive* means Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC; (890/2017)

10) *payment initiation service* means a service in which a service provider at the request of the payment service user initiates a payment order concerning a payment account held at another payment service provider; (890/2017)

11) *account information service* means an online service in which a service provider provides consolidated information on one or more payment accounts held by the payment service user with either another payment service provider or with more than one payment service provider; (890/2017)

12) *European Banking Authority* means the European Supervisory Authority referred to in Regulation (EU) No 1093/2010 of the European Parliament and of the Council establishing a European Supervisory Authority; (890/2017)

13) *payment instrument* means a payment card or another personalised device or set of procedures or a combination thereof agreed between the payment service user and the payment service provider to be used in order to initiate a payment order; (890/2017)

## **Section 5a (58/2016)**

### **Regulation on interchange fees for card-based payment transactions**

Card-based payment transactions shall be governed by the provisions of this Act as well as the Regulation of the European Parliament and of the Council on interchange fees for card-based payment transactions (EU) 2015/751, hereinafter referred to as the *Regulation on interchange fees for card-based payment transactions*.

## **Chapter 2**

### **Right to provide payment service**

## **Section 6**

### **Requirement of authorisation for the provision of payment service**

Payment service may be provided only if an authorisation granted for the European Economic Area referred to in this Act has been granted for the activity. The authorisation of an electronic money institution shall separately indicate the right to issue electronic money. (890/2017)

The right of a foreign payment institution to provide payment services in Finland shall be governed by the Act on the Activities of Foreign Payment Institutions in Finland (298/2010).

## **Section 7 (890/2017)**

### **Exemption from the requirement of authorisation for the provision of other payment service than the issue of electronic money**

Notwithstanding the provisions of section 6, a natural person whose permanent residence is in Finland and a legal person whose head office is situated in Finland may provide the payment service referred to in section 1, subsection 2, paragraphs 1–5 without an authorisation under the conditions laid down in this section. Electronic money may not be issued without an authorisation.

Payment service may be provided without an authorisation if the average of the preceding 12 months' total amount of the payment transactions executed by the legal person does not exceed EUR 3 million per month. A natural person may provide payment service without an authorisation if the average of the preceding 12 months' total amount of the payment transactions executed by him does not exceed EUR 50,000 per month.

In calculating the total amount of payment transactions also the payment transactions executed by an agent acting on behalf of the payment service provider shall be taken into account. Upon commencement of the activity, the total amount of payment transactions shall be assessed on the projected total amount of payment transactions in the business plan unless the Financial Supervisory Authority, for a special reason, reviews the business plan.

The right to provide payment service referred to in this section shall not exist if any natural person participating in or in charge of the management or the provision of the service is not reliable in the manner referred to in section 13a or if the payment service provider does not comply with its obligations under the Act on Preventing Money Laundering and Terrorist Financing (444/2017).

The service provider referred to in this section shall not be governed by the provisions of this Act except for the provisions of sections 4 and 9, section 10, paragraphs 1 and 2 as well as sections 19a, 19b, 22, 24, 26 and 39 on payment institutions. However, the provisions of section 8, subsection 2, section 16 and section 18, subsection 2 concerning registration of activities shall be applied to the service provider. The provisions of section 26 on the safeguarding of client funds shall be applied to a service provider referred to in this section also when it provides only services referred to in section 9, subsection 1. The service provider referred to in this section may not establish a branch in or provide payment services to another EEA Member State.

In the event of exceeding the limit referred to in subsection 2, the service provider shall apply for the authorisation referred to in this Act within 30 calendar days, otherwise bring its activities to comply with the Act, or cease its activities.

The Financial Supervisory Authority shall notify the Commission of the number of persons referred to in this section and, annually, the total value of the payment transactions referred to in subsection 2, on the 31st of December of each calendar year.

Payment service may be provided without an authorisation if the average of the preceding 12 months' total amount of the payment transactions executed by the legal person does not exceed EUR 3 million per month. A natural person may provide payment service without an authorisation if the average of the preceding 12 months' total amount of the payment transactions executed by him does not exceed EUR 50,000 per month.

In calculating the total amount of payment transactions also the payment transactions executed by an agent acting on behalf of the payment service provider shall be taken into account. Upon commencement of the activity, the total amount of payment transactions shall be assessed on the projected total amount of payment transactions in the business plan unless the Financial Supervisory Authority, for a special reason, reviews the business plan.

The right to provide payment service referred to in this section shall not exist if any natural person participating in or in charge of the provision of the service is not reliable in the manner referred to in section 13a or if the payment service provider does not comply with its obligations provided for it in the Act on Preventing Money Laundering and Terrorist Financing (444/2017). (451/2017)

The service provider referred to in this section shall not be governed by the provisions of this Act notwithstanding the provisions of sections 4 and 9, section 10, paragraphs 1 and 2 as well as sections 16, 24 and 26 on payment institutions. The provisions of section 26 on safeguarding of client funds shall be applied to a service provider referred to in this section also when it provides only services referred to in section 9, subsection 1. A service provider referred to in this section may not establish a branch or provide payment services to another State belonging to the European Economic Area.

In the event of exceeding the limit referred to in subsection 2, the service provider shall seek authorisation referred to in this Act within 30 calendar days, bring its activities to otherwise comply with the Act or cease its activities.

### **Section 7a (890/2017)**

#### **Exemption from the requirement of authorisation for the issue of electronic money**

Notwithstanding the provisions of sections 6 and 7, a natural person whose permanent residence is in Finland and a legal person whose head office is situated in Finland may issue electronic money without an authorisation if the amount of outstanding money calculated in accordance with section 30a does not exceed 5 million euros. If the amount of outstanding electronic money cannot be calculated in a reliable manner, it shall be estimated in compliance with section 30a, subsection 4. The electronic money issuer referred to in this section shall be governed by the provisions of section 7, subsections 3–6 on a payment service provider, however excluding application of sections 19a and 19b. Section 10, subsection 2 on the ban to grant credit from funds received for the issue of electronic money, section 28a on recording of business transactions relating to electronic money and section 36a on issue and redemption of electronic money shall also be applied to the issuer.

### **Section 7b (890/2017)**

#### **Exemption from the requirement of authorisation for the provision of account information service**



Notwithstanding the provisions of section 6, account information service may be provided without authorisation. A person intending to provide account information service shall notify the Financial Supervisory Authority thereof. Sections 4, 11, 19a, 19b and 26b shall apply to account information service providers. Account information service providers shall also be governed by sections 11–15; section 22, subsection 1; section 25a; section 53, subsection 1; and section 54, subsection 1 as well as sections 82a, 82b, 85b and 85c of the Payment Services Act. In addition, the Decree of the Ministry of Finance issued pursuant to section 11, subsection 1 of this Act shall apply to account information service providers. Section 22, subsection 2 shall furthermore apply to persons providing account information services only outside the European Economic Area.

The Financial Supervisory Authority shall list the account information services provider in the payment institutions register as provided in section 16. On the grounds provided in section 18, the Financial Supervisory Authority may restrict the account information service provision of a person acting without an authorisation or revoke its decision to allow the account information service provision. The Financial Supervisory Authority shall list any decision revocation in the payment institutions register referred to in section 16 and notify the European Banking Authority without delay of the decision revocation and the grounds therefor. The notification to the European Banking Authority shall comply with the Commission's implementing technical standards issued pursuant to Article 15 of the Payment Services Directive.

When the account information service is provided on a cross-border basis, sections 42, 42a and 43-37 shall also apply to it. If the account information service provider intends to outsource operational functions of payment service to other units in the host EEA Member State, it shall inform the Financial Supervisory Authority accordingly.

## **Section 8 (899/2011)**

### **Duty to notify upon providing payment services without an authorisation**

A person who intends to provide payment service in the manner referred to in section 7 or section 7a without an authorisation shall notify the Financial Supervisory Authority thereof. The notification shall comprise a business plan indicating the payment services to be provided and the scale of the envisaged activities as well as an account of the natural persons participating in or in charge of the management or the provision of the business. The service provider shall, in addition, without delay, notify the Financial Supervisory Authority of cessation of activity, significant changes in the scale of the activity as well as of changes in the circumstances referred to in section 7, subsections 2-4 and section 7a, subsection 1. (890/2017)

The Financial Supervisory Authority shall, within one month of receipt of the notification or, should the notification be incomplete, from the date on which the person issuing the notification has

submitted the documents and accounts required for deciding the issue, decide whether the person meets the conditions for carrying out the activities. The Financial Supervisory Authority shall, without delay, withdraw the decision if the activities no longer fulfil the conditions set in section 7, subsections 2-4 or in section 7a, subsection 1. The Financial Supervisory Authority, on the grounds provided in section 18, may restrict the payment service provision of a person acting without authorisation or revoke its decision to allow payment service provision without authorisation. The Financial Supervisory Authority shall list any decision revocation in the payment institutions register referred to in section 16 and notify the European Banking Authority without delay of the decision revocation and the grounds therefor. The notification to the European Banking Authority shall comply with the Commission's implementing technical standards issued pursuant to Article 15 of the Payment Services Directive. (890/2017)

A party providing payment services without an authorisation under section 7 or 7a shall annually notify the Financial Supervisory Authority of the total amount of payment transactions executed. In addition, the Financial Supervisory Authority shall have the right to obtain from the said service provider other information necessary with regard to the application of this section.

The Financial Supervisory Authority shall issue further regulations, necessary for supervision, on the fulfilment of the duty to notify referred to in this section.

### **Section 8a (890/2017)**

#### **Duty to notify of services excluded from the scope of this Act**

A party providing a service referred to in section 2, subsection 4, paragraph 1 or 2 above shall submit to the Financial Supervisory Authority a description of the service and notify under which grounds referred to in paragraph 1 or 2 the service shall be exempt from this Act. The description shall be submitted and the notification given when the total value of the payment transactions executed with the instrument in the preceding 12 months exceeds EUR 1 million per month. Upon receipt of the description, the Financial Supervisory Authority shall decide whether the condition of limited network is met and if not, notify the person concerned of its decision.

A party providing the service referred to in section 3, subsection 2 above shall notify the Financial Supervisory Authority of the activity. The person shall annually submit to the Financial Supervisory Authority an audit opinion testifying that the activity complies with the limits laid down in the said subsection.

The Financial Supervisory Authority may order a person to fulfil the duty provided in subsections 1 and 2 under penalty of a fine as referred to in section 33a of the Act on the Financial Supervisory Authority, provided that the negligence is not negligible.

The Financial Supervisory Authority shall inform the European Banking Authority of the services referred to in subsections 1 and 2 that have been notified to it and the grounds on which the service is exempt from this Act. The Financial Supervisory Authority shall make the service descriptions publicly available in the payment institution register referred to in section 16 and shall notify these to the European Banking Authority as provided in the said section.

## **Section 9 (1056/2016)**

### **Permitted business activity**

Apart from the payment services stated in the authorisation, a payment institution may also:

- 1) provide foreign exchange services, an account switch service referred to in chapter 15a of the Act on Credit Institutions and other similar or ancillary operational services or services closely related to payment services; and
- 2) maintain and provide payment systems.

A payment institution may also engage in other business activities unless otherwise provided for in section 19, subsection 2. When a payment institution provides an account switch service referred to in subsection 1 of this section, it shall be governed by the provisions of chapter 15a sections 2–7 of the Act on Credit Institutions.

A payment institution may only provide payment accounts used exclusively for the execution of payment transactions. The funds received by a payment institution from payment service users shall not constitute deposits or other repayable funds as referred to in the Act on Credit Institutions nor electronic money. (890/2017)

## **Section 9a (1056/2016)**

### **Account switch service**

A payment institution that provides payment accounts shall provide an account switch service to consumers and report on it as laid down in chapter 15a, sections 2–7 of the Act on Credit Institutions.

## **Section 10**

### **Granting of credit**

A payment institution may grant credit related to payment services only if:

- 1) the credit is ancillary to the payment services referred to in section 1, subsection 2, paragraphs 2–4 and granted exclusively in connection with the execution of the said payment service; (890/2017)

2) the credit is granted from funds other than those received or held for the purpose of executing payment transactions; as well as

3) the credit shall, in accordance with the contract terms, be repaid within at most 12 months if the payment institution provides the credit from a branch established in another EEA State or in another EEA State without establishing a branch or if it is provided by an agent established in such State.

An electronic money institution may not grant credit from funds received for the issue of electronic money. (899/2011)

## **Chapter 3**

### **Granting and withdrawal of an authorisation**

#### **Section 11**

##### **Application for authorisation**

The Financial Supervisory Authority shall grant the authorisation of a payment institution on application. The accounts to be appended to an application for authorisation shall be provided for by a Decree of the Ministry of Finance. The Financial Supervisory Authority may issue further regulations on the accounts to be appended to an application for authorisation. (890/2017)

The payment institution shall, without delay, notify the Financial Supervisory Authority of any matters or changes affecting the accuracy of information submitted in the application for authorisation.

#### **Section 12**

##### **Decision on the authorisation**

The application shall be decided on within three months from receipt of the application or, if the application has been incomplete, from the date on which the applicant has submitted the documents and accounts necessary for deciding the issue.

The authorisation shall indicate the payment services which the payment institution may provide. The Financial Supervisory Authority may, after granting the authorisation, amend the authorisation on request of the payment institution with regard to the services referred to therein and permitted to the payment institution.

If the decision on the authorisation has not been issued within the period of time provided for in subsection 1, the applicant may file a complaint. The complaint shall be filed and handled in the same manner as a complaint relating to the rejecting of an application. A complaint may be filed until the decision has been issued. The Financial Supervisory Authority shall notify the appeal authority of the issue of the decision if the decision is issued after the complaint has been filed. The filing and

handling of a complaint referred to in this subsection shall otherwise be governed by the provisions of the Administrative Judicial Procedure Act (586/1996).

## **Section 13 (890/2017)**

### **Requirements for the granting of an authorisation**

An authorisation shall be granted if, on the basis of the information received, it can be ascertained that the owners and founders of the payment institution meet the requirements provided for in section 13a and the payment institution meets the requirements for the activity and financial position of a payment institution laid down in this Act. An authorisation may only be granted to a legal person whose registered office is in Finland.

## **Section 13a (764/2012)**

### **Reliability of a payment institution's major shareholders and founders**

A party that directly or indirectly owns at least 10 per cent of the share capital, participations or monetary partnership-capital contribution of a payment institution, or a share that provides at least 10 per cent of the voting rights provided by its shares or participations or of the company's voting rights shall be reliable, as shall the founder of the payment institution.

A person shall not be deemed reliable if he has:

- 1) been sentenced to imprisonment within the last five years prior to the assessment or to a fine within the last three years prior to the assessment for a crime which can be deemed to show that he is manifestly unsuitable to establish or own a payment institution; or
- 2) otherwise with his earlier activity shown that he is manifestly unsuitable to establish or own a payment institution.

If the sentence referred to in subsection 2, paragraph 1 did not gain legal force, however, the sentenced person may continue to exercise the authority of an owner in a payment institution if it can be considered manifestly justified based on an assessment of his previous activity, the circumstances leading to the sentence and other relevant factors.

## **Section 14**

### **Granting of an authorisation to a European company and a European Cooperative Society**

An authorisation shall also be granted to a European company referred to in Council Regulation (EC) No 2157/2001 on the Statute for a European company (SE), hereinafter the *SE Regulation*, which has been granted a corresponding authorisation in another State belonging to the European Economic Area and which is aiming to transfer its registered office to Finland in accordance with Article 8 of the Regulation. The Financial Supervisory Authority shall request an opinion of the authority supervising

the payment-service markets of the State in question corresponding to the Financial Supervisory Authority on the application for authorisation. The same shall apply to the establishment of a European company by merger so that the receiving company whose registered office is in another State will be registered as a SE in Finland.

The provisions of this section on a European company shall correspondingly apply to a European Cooperative Society referred to in Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society (SCE), hereinafter the *SCE Regulation*.

## **Section 15**

### **Registration of the authorisation**

The Financial Supervisory Authority shall declare the authorisation to the Trade Register for registration.

The authorisation granted to a payment institution to be established and to a SE and a SCE transferring its registered office to Finland shall be registered simultaneously with the registration of the undertaking.

## **Section 16**

### **Payment institution register**

In order to identify those authorised to provide payment service, the Financial Supervisory Authority shall keep a public register of payment institutions, their branches and agents, persons referred to in sections 7 and 7b and their branches and agents, and companies referred to in section 2, subsection 1, paragraph 6 (*payment institution register*). The providers of payment services subject to authorisation and the persons carrying out activity subject to notification referred to in sections 7 and 7b shall be separately listed in the register. The register shall indicate the payment services for the provision of which the payment institution is authorised or for which the person is registered. The register shall also indicate the full name of a natural person, his residence and the address of the place of business where the activity is carried out. Of legal persons, the register shall indicate its name, business ID, place of registered office and the address of the place of business where the activity is carried out. Withdrawal of authorisation, revocation of the decision referred to in sections 7b and 8, and the service descriptions referred to in section 8a shall also be entered in the register. The register shall be accessible in the Internet and any changes in the information shall be recorded in the register without delay. (890/2017)

The personal data included in the payment institution register shall be kept as long as the activity is carried out.

The Financial Supervisory Authority shall notify the European Banking Authority without delay of the authorised payment institutions and their agents and branches, the persons referred to in sections 7 and 7b and their agents and branches, and the companies referred to in section 2, subsection 1, paragraph 6. The Financial Supervisory Authority shall also notify the payment services for which the payment institution is authorised or for which the person has been registered. The Financial Supervisory Authority shall also notify of withdrawal of authorisation and the decision referred to in sections 7b and 8 and its revocation, and the service descriptions referred to in section 8a. The notification shall comply with the Commission's implementing technical standards issued pursuant to Article 15 of the Payment Services Directive. (890/2017)

## **Section 17**

### **Commencement of activities**

Unless otherwise provided in the terms of the authorisation, a payment institution may commence its activity as soon as the authorisation is granted and the payment institution has submitted the information referred to in subsection 2 to the Financial Supervisory Authority as well as, if the authorisation is granted to an undertaking to be established, after the undertaking has been registered.

A payment institution may not commence its activity before it has submitted to the Financial Supervisory Authority:

- 1) a complete extract from the Trade Register on the payment institution containing the Articles of Association or rules; as well as
- 2) the names of the members and deputy members of the Supervisory Board and the Board of Directors, the Managing Director and Deputy Managing Director, the general partner, the partner as well as of the auditors and deputy auditors.

A payment institution which carries out the other business activities referred to in section 9, subsection 2 shall also declare the names of the persons in charge of the payment service activity.

## **Section 18 (890/2017)**

### **Restriction of activities and withdrawal of the authorisation**

The restriction of activities and the withdrawal of the authorisation shall be governed by sections 26 and 27 of the Act on the Financial Supervisory Authority. The Financial Supervisory Authority may also restrict the activities or withdraw the authorisation of a payment institution if the payment institution fails to inform the Financial Supervisory Authority of a negative development that is material to the fulfilment of the conditions of the authorisation or if, by continuing its payment service activity, the payment institution poses a threat to the stability of or the trust in the payment system.

The Financial Supervisory Authority may also withdraw an authorisation if the payment institution states that it wishes to renounce the authorisation.

The Financial Supervisory Authority shall notify withdrawal of authorisation and restriction of activities and the reasons thereto to the persons concerned. The Financial Supervisory Authority shall notify withdrawal of authorisation and the grounds therefor without delay to the European Banking Authority. The notification shall comply with the Commission's implementing technical standards issued pursuant to Article 15 of the Payment Services Directive. The Financial Supervisory Authority shall declare the withdrawal of the authorisation for registration and enter it in the payment institution register referred to in section 16.

## **Section 19**

### **Arrangement of activities**

A payment institution shall arrange its activities in a reliable manner taking into account the nature and scale of its business activities. A payment institution may not incur a risk that fundamentally endangers the solvency or the liquidity of the payment institution. The payment institution shall have administration enabling efficient risk-management as well as internal control and risk management systems adequate vis-à-vis its activities.

If a payment institution, which in addition to the provision of the payment services referred to in section 1, subsection 2, also carries out other business activities referred to in section 9, subsection 2, is unable to otherwise to arrange its activities and risk management in an adequately reliable manner, the Financial Supervisory Authority may restrict the carrying out of the other business activities or require that the payment institution, in addition to payment services, does not provide other services than those referred to in section 9, subsection 1.

The Financial Supervisory Authority shall issue further provisions on the arrangement of activities necessary for the implementation of the payment service directive.

## **Section 19a (890/2017)**

### **Management of operational and security risks**

Payment institutions, persons providing payment services pursuant to the exemption referred to in section 7 and account information service providers as referred to in section 7b shall create an adequate risk management system of appropriate mitigation measures and control mechanisms to manage the operational and security risks relating to the payment services provided. They shall establish and maintain effective incident management procedures and they must be capable of detecting and classifying major operational and security incidents.



Payment institutions and the service providers referred to in subsection 1 shall provide the Financial Supervisory Authority annually with an annual assessment of the operational and security risks relating to the payment services provided and on the adequacy of their mitigation measures and control mechanisms. The Financial Supervisory Authority may require the assessment be provided more frequently.

The Financial Supervisory Authority may issue further regulations on the contents of the risk management system referred to in subsection 1 and the assessment referred to in subsection 2. The provisions above of this section shall not be applied to electronic money institutions.

## **Section 19b (890/2017)**

### **Reporting of incidents and fraud**

Payment institutions, persons providing payment services pursuant to the exemption referred to in section 7 and account information service providers as referred to in section 7b shall report to the Financial Supervisory Authority without undue delay any operational or security incidents detected by them. Where the incident has or may have an impact on the financial interests of payment service users, the payment service provider shall, without undue delay, inform the payment service users of the incident. At the same time, the payment service users shall be informed of all measures that they can take to mitigate the adverse effects of the incident. The Financial Supervisory Authority may issue further regulations on the classification of operational and security incidents as referred to in this subsection and on the content and form of reports and the procedure for reporting.

Account-keeping payment institutions and persons providing payment services pursuant to the exemption referred to in section 7 shall notify the Financial Supervisory Authority if they detect any unauthorised or fraudulent use of a payment account by an account information services provider or payment initiation service provider and the account-keeper for that reason prevents the account information service provider's or payment initiation service provider's access to the payment account. The notification shall contain sufficient information on the incident and the measures taken in consequence thereof. The Financial Supervisory Authority shall assess the case and take the necessary measures.

Upon receipt of the notification referred to in subsection 1, the Financial Supervisory Authority shall, without undue delay, report the incident to European Banking Authority and to the European Central Bank. The Financial Supervisory Authority shall, in cooperation with the European Banking Authority and the European Central Bank, assess the relevance of the incident to the national authorities of EEA Member States and of other States. When necessary, the Financial Supervisory Authority shall also report the incident to other relevant Finnish authorities.

Payment institutions, persons providing payment services pursuant to the exemption referred to in section 7 and account information service providers as referred to in section 7b shall provide, at least on an annual basis, statistical data on fraud relating to different means of payment to the Financial Supervisory Authority, which shall provide the European Banking Authority and the European Central Bank with such data in an aggregated form. The Financial Supervisory Authority may issue further regulations on the reporting obligation referred to in this subsection.

The provisions laid down above in this section shall not apply to electronic money institutions.

## **Section 20**

### **Record-keeping**

A payment institution shall keep the records on the application for authorisation and related thereto for at least five years.

## **Chapter 4**

### **Activity of a payment institution**

#### **Section 21 (612/2014)**

##### **Close link of a payment institution**

A close link may not exist between a payment institution and a natural or legal person that is governed by acts, decrees or administrative provisions of a State not belonging to the European Economic Area that prevent the effective supervision of the payment institution, or between a payment institution and another party if the close link is otherwise likely to prevent the effective supervision of the payment institution.

*Close link* shall refer to a close link referred to in article 4(1)(38) of the Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, hereinafter referred to as the *EU Regulation on prudential requirements*.

#### **Section 21a (426/2013)**

##### **Duty to notify relating to the acquisition and transfer of shares and participations of an electronic money institution**

Anyone planning to directly or indirectly acquire shares or participations in an electronic money institution, or a share of the company's basic capital or partnership-capital, shall notify the Financial Supervisory Authority thereof in advance, if his shareholding due to the acquisition would:

1) amount to at least 20 per cent of the share capital, cooperative share capital, basic capital or partnership-capital contribution of an electronic money institution;

2) be so large as to correspond to at least 20 per cent of the votes provided by all shares or participations; or

3) otherwise entitle to exert influence equivalent to the shareholding referred to in paragraph 2 or otherwise significant influence in the management of the electronic money institution.

If the shareholding referred to in subsection 1 is intended to be increased such that the shareholding due to the acquisition would amount to at least 30 or 50 per cent of the share capital, cooperative share capital, basic capital or partnership-capital contribution of an electronic money institution or if the shareholding would correspond to a similar percentage of the votes provided by all shares or participations or if the electronic money institution would become a subsidiary, the Financial Supervisory Authority shall also be notified of the acquisition in advance.

In the calculation of the shareholding and voting rights referred to in subsections 1 and 2, the provisions laid down in chapter 2, section 4 and chapter 9, sections 4–7 of the Securities Markets Act (746/2012) shall apply. However, shares and participations which the party liable to notify has acquired for a period of up to one year in connection with securities issue organised by himself or based on market-making and based on which the person liable to notify is not entitled to exercise voting rights in the institution or otherwise influence the activities of the management of the institution.

A notification referred to above in subsection 1 or 2 shall also be made if the number of owned shares or participations decreases below any of the shareholding limits laid down in subsection 1 or 2 or if the electronic money institution ceases to be a subsidiary of a party liable to notify.

An electronic money institution shall notify the Financial Supervisory Authority at least once annually of the owners of the shareholdings referred to in subsections 1 and 2 and the scale of their shareholding as well as notify without delay of changes in shareholdings of which it receives information.

Provisions shall be issued by Government decree regarding the information to be included in the notification referred to in this section.

### **Section 21b (899/2011)**

#### **Restriction relating to the acquisition of shares and participations of an electronic money institution**

The right of the Financial Supervisory Authority to forbid the acquisition of a holding referred to in section 21a shall be provided for in section 32a of the Act on the Financial Supervisory Authority and the procedure relating to the issuing of an injunction in section 32b of the said Act.

A party liable to notify may not acquire the shares or participations referred to in section 21a before the Financial Supervisory Authority has made the decision referred to in subsection 1 or the deadline provided for the decision in section 32b of the Act on the Financial Supervision Authority has expired unless otherwise ordered in the handling of the matter.

### **Section 21c (890/2017)**

#### **Duty to notify relating to the acquisition and transfer of holding in a payment institution**

Anyone planning to directly or indirectly acquire a holding of at least 10% of the capital or voting rights of a payment institution, or if the holding will allow the exercise of significant influence in the management of the payment institution, shall notify the Financial Supervisory Authority thereof in advance in writing.

If the holding referred to in subsection 1 is planned to be increased so that the proportion of the capital or of the voting rights held would reach or exceed 20%, 30% or 50%, or so that the payment institution would become the subsidiary of the party liable to notify, the Financial Supervisory shall be notified also thereof in advance in writing.

Notification shall be given also if the holding or voting rights fall below a threshold laid down in subsection 1 or 2 of if the payment institution ceases to be a subsidiary of the party liable to notify.

The notification shall indicate the size of the planned holding. The notification shall also provide sufficient information to assess the effects of the acquisition on the management of the payment institution. Chapter 3, section 1 of the Act on Credit Institutions shall furthermore be applied to the notification.

The provisions laid down above shall not apply to electronic money institutions.

### **Section 21d (890/2017)**

#### **Restriction relating to acquisition of holding and exercise of voting rights in a payment institution**

The right of the Financial Supervisory Authority to prohibit the acquisition of a holding referred to in section 21c shall be provided for in section 32a of the Act on the Financial Supervisory Authority and the procedure relating to the issuing of an injunction in section 32b of the said Act.

A party liable to notify may not acquire the holding referred to in section 21c before the Financial Supervisory Authority has made the decision referred to in subsection 1 or the deadline provided for the decision in section 32b of the Act on the Financial Supervision Authority has expired, unless otherwise ordered in the handling of the matter.

If the holding is acquired in contravention of an injunction issued by the Financial Supervisory Authority or prior to the decision or expiration of deadline referred to in subsection 2, the Financial Supervisory Authority shall order the exercise of voting right to be suspended or order that the votes shall be invalid or may be invalidated.

The provisions laid down above shall not apply to electronic money institutions.

## **Section 22**

### **Place of business and head office**

A payment institution shall have at least one permanent place of business for its activity. It may carry out its activities also at other places of business.

The head office of the payment institution shall be located in Finland. The payment institution shall carry out at least part of its payment services activity in Finland. (890/2017)

## **Section 23**

### **Outsourcing of functions related to the provision of payment services (890/2017)**

A payment institution may outsource a function important with regard to the provision of payment services if the outsourcing does not materially impair the internal control of the payment institution or the ability of the Financial Supervisory Authority to supervise.

A function shall be regarded as important to the activities of a payment institution if a defect or failure therein could materially impair the compliance with the acts and the provisions or regulations issued thereunder on the activities of the payment institution or with the conditions of its authorisation or the financial performance of the activities of the payment institution or the soundness or continuity of its payment service provision.

A written agreement shall be drafted on the outsourcing of a function important with regard to the payment services indicating the contents of the assignment and the period of validity of the agreement.

A payment institution shall exercise due diligence upon outsourcing a function important with regard to the provision of payment services.

The payment institution shall notify the Financial Supervisory Authority in advance of the outsourcing of a payment service function and changes therein. The provisions of section 42 on the establishment of a branch in another EEA Member State shall furthermore apply to a cross-border outsourcing. The payment institution shall ensure that it continuously receives from the party carrying out the function the necessary information required by supervision by the authorities, risk management and internal control of the payment institution and that it has the right to convey the information further to the

Financial Supervisory Authority. The payment institution shall also ensure that the party attending to the service informs the clients that it acts under the responsibility of the payment institution (890/2017).

The Financial Supervisory Authority shall issue further provisions necessary for the implementation of the payment service directive on the requirements under which a function may be outsourced.

## **Section 24**

### **Agent**

A payment institution may provide payment services through an agent. The agent acts on behalf and under the responsibility of the payment institution. The issue of electronic money may not, in its entirety, be entrusted to be handled by an agent. (899/2011)

The payment institution shall, with all available means, ensure that the agent is of good repute and possesses appropriate professional knowledge for the activity. The payment institution shall ensure that the agent informs the clients that he is acting on behalf of the payment institution.

The payment institution shall notify the Financial Supervisory Authority of the payment services for which it has given the agent a mandate. The payment institution shall additionally notify the full name and personal identity code of the natural person acting as an agent, his residence and the address of the place of business where the activity is carried out. If the agent is a legal person, the Financial Supervisory Authority shall be notified of its name, business ID, place of registered office and the address of the place of business where the activity is carried out. The payment institution shall, in addition, communicate the names of the persons responsible for the management of the agent and an account of their reliability and suitability. The payment institution shall notify the Financial Supervisory Authority without delay of any change in the agent or the use of the agent. (890/2017)

The payment institution shall notify the Financial Supervisory Authority of the internal control mechanisms used by the agent in order to comply with the obligations provided for in the Act on Preventing Money Laundering and Terrorist Financing and thereunder. (451/2017)

Within two months of receipt of the information referred to in subsections 3 and 4, the Financial Supervisory Authority shall inform the payment institution of whether the agent has been listed in the payment institution register. The Financial Supervisory Authority may verify the information notified prior to listing the agent in the register if it has reason to suspect the information to be incorrect. The Financial Supervisory Authority may not list the agent in the register if, after verification, it is not satisfied that the information is correct. The Financial Supervisory Authority shall notify the payment institution without delay of its refusal to list the agent. An agent may not provide payment services before it has been listed in the register. (890/2017)

## **Section 25**

### **Management of a payment institution**

The Board of Directors, the Managing Director and the other senior management of a payment institution shall manage the payment institution with professional skill as well as in accordance with sound and prudent business principles. The members and deputy members of the Board of Directors as well as the Managing Director and Deputy Managing Director as well as another member of senior management shall be trustworthy persons who are not bankrupt and whose capacity has not been restricted. They shall also possess such general knowledge of payment service activity as is deemed necessary with regard to the nature and scale of the activities of the payment institution.

The provisions of subsection 1 regarding other members of senior management shall apply to persons in charge of payment service activities in a payment institution that practices other business activities referred to in section 9, subsection 2.

A person shall not be deemed reliable if he has:

- 1) been sentenced to imprisonment within the last five years prior to the assessment or to a fine within the last three years prior to the assessment for a crime which can be deemed to show that he is manifestly unsuitable to be a member or deputy member of the Board of Directors, Managing Director or Deputy Managing Director or another member of senior management of a payment institution; or
- 2) otherwise with his earlier activity shown that he is manifestly unsuitable for a position referred to in paragraph 1.

If the sentence referred to in subsection 3, paragraph 1 did not gain legal force, however, the sentenced person may continue in a position referred to in subsection 1 if it can be considered manifestly justified based on his previous activity, the circumstances leading to the sentence and other relevant factors, assessed as a whole.

## **Section 26 (899/2011)**

### **Safeguarding of client funds**

A payment institution which provides a payment service referred to in section 1, subsection 2, paragraphs 1–5 shall safeguard, in the manner provided for in this section, the funds received from the payment service users or from another payment service provider for the execution of payment transactions and for the issue of electronic money. (890/2017)

A payment institution shall hold the funds referred to in subsection 1 so that there is no danger of their commingling with the funds of another payment service user, payment service provider or

payment institution. The payment institution shall deposit the funds in an account in the central bank, a deposit bank or in a credit institution authorised in another State and entitled to receive deposits or in low-risk and liquid securities or other investment targets if the funds have not been delivered to the payee or transferred to another payment service provider on the business day following the day of receipt of the funds. Funds which the service provider credits to an electronic money institution on the basis of the use of electronic money shall be deposited or invested in accordance with this subsection as soon as the funds are available to the electronic money institution, however, at the latest on the fifth business day following the issue of the electronic money. The Financial Supervisory Authority shall issue regulations on when a security or other investment target may be deemed low-risk and liquid.

A payment institution may safeguard the funds referred to in subsection 1 also so that, in the event of insolvency of a payment institution, the funds received by the payment institution are paid to the payment service users from an insurance policy or guarantee from an insurance company or a credit institution which does not belong to the same group as the payment institution.

The provisions of this section shall also be applied to funds received by a payment institution used to cover future payment transactions where portion of the funds is used for future payment transactions and a portion to other services than payment services. This subsection shall be applied also when the portion of the funds regarding future payment transactions is variable or unknown in advance and the portion of funds to be used to payment services can be reasonably estimated on the basis of the historical data of executed payment transactions. The determination of the amount of funds received in exchange for an issue of electronic money shall be governed by the provisions of section 30a.

The payment institution shall notify the Financial Supervisory Authority in advance of any significant changes in the measures taken by the payment institution to comply with this section.

## **Section 26a (890/2017)**

### **Coverage of liabilities arising from payment initiation services**

Payment initiation service providers shall have an insurance policy or other comparable guarantee to cover the liabilities arising from payment initiation services.

The Financial Supervisory Authority may issue further regulations on the insurance policy or other comparable guarantee required.



## **Section 26b (890/2017)**

### **Coverage of liabilities arising from account information services**

Account information service providers shall have an insurance policy or other comparable guarantee to cover the liabilities arising from account information services.

The Financial Supervisory Authority may issue further regulations on the insurance policy or other comparable guarantee required.

## **Chapter 5**

### **Financial operating conditions of payment service provision**

#### **Section 27**

##### **Minimum capital**

A payment institution shall hold Common Equity Tier 1 items as referred to in Article 26(1)(a–e) of the EU Capital Requirements Regulation at least as follows:

- 1) EUR 20,000 if the payment institution provides only money remittance;
- 2) EUR 50,000 if the payment institution provides only payment initiation service;
- 3) EUR 125,000 if the payment institution provides a payment service referred to in section 1, subsection 2, paragraphs 1–4. (890/2017)

The share capital, cooperative share capital, basic fund or partnership-capital contribution of an electronic money institution shall be at least EUR 350,000. (899/2011)

The capital shall be fully subscribed when the authorisation is granted. (899/2011)

#### **Section 28**

##### **Own funds**

The own funds of a payment institution mean, in accordance with Article 4(1)(118) of the EU Capital Requirements Regulation, the sum of Tier 1 capital and Tier 2 capital such that at least 75% of the Tier 1 capital shall be Common Equity Tier 1 capital as provided in Article 50 and Tier 2 capital shall be equal to or less than one third of Tier 1 capital. The provisions of the said Regulation on share capital and cooperative share capital shall also apply to a monetary partnership-capital contribution. (890/2017)

The amount of own funds of a payment institution engaged in other business activity referred to in section 9, subsection 2 shall be deducted with an amount of the shares, participations, monetary

partnership-capital contributions and capital loans corresponding to the share of the payment services of the turnover of the payment institution.

## **Section 28a (899/2011)**

### **Recording of business transactions**

In order to calculate the requirements provided for in this chapter and to supervise their compliance, a payment institution shall record, in a reliable manner, the business transactions relating to electronic money, other payment services as well as to services referred to in section 9, subsections 1 and 2 separate from each other group of business transactions so that their number and share of the turnover of the payment institution as well as, to the extent that the business transactions relate to electronic money, the share of the outstanding electronic money of the balance sheet total of the payment institution may be continuously monitored with adequate accuracy. The Financial Supervisory Authority may issue further technical regulations on the recording of business transactions.

## **Section 29**

### **Methods of calculation of own funds**

One of the methods referred to in this section shall be applied when calculating the own funds of a payment institution.

*Charge-based method* means a method where the amount of own funds is at least 10 percent of the fixed overheads of the preceding year. The Financial Supervisory Authority may adjust this requirement in the event of a material change in a payment institution's business since the preceding year. If the payment institution has been engaged in the activity for less than 12 months, the amount of own funds shall be at least 10 per cent of the fixed overheads as projected in the business plan. The Financial Supervisory Authority may, for a special reason, require that the business plan is adjusted. (890/2017)

*Payment-transaction-based method* means a method where the amount of own funds is a proportionate share of the total amount of payment transactions executed by the payment institution in the preceding year.

*The sum method* means a method where the amount of own funds is a proportionate share of the interest income, interest expenses, commissions and fees received and other operating income. The sum shall be calculated at a 12-month interval over the previous financial period. The amount of the own funds calculated by using the sum method shall not fall below 80 percent of the average of the previous three financial periods or, if the activity has not been carried out that long, of the business estimates. (890/2017)

Subsection 5 was repealed by Act 899/2011.

Subsection 6 was repealed by Act 899/2011.

## **Section 30**

### **Minimum amount of own funds**

In order to cover its risks, a payment institution shall hold own funds at least an amount calculated in accordance with a method referred to in section 29 and approved by the Financial Supervisory Authority. The amount of own funds of a payment institution shall, however, at all times be at least equal to the minimum capital. The provisions laid down in this section and in section 29, with the exception of the requirement that own funds shall at all times be at least equal to the minimum capital, shall not apply to a payment institution which only provides payment initiation services, account information services or both. (890/2017).

A payment institution shall have adequate own funds in relation to the total amount of credits granted. If the Financial Supervisory Authority deems that the own funds of a payment institution determined in accordance with subsection 1 are not adequate in relation to the risks relating to the credits it has granted and that the adequacy of the own funds in relation to the total risk cannot otherwise be ensured, the Financial Supervisory Authority may require the payment institution to hold a higher amount of own funds for a period not exceeding three years. However, the Financial Supervisory Authority cannot require a payment institution to hold a higher amount of own funds than is required of a credit institution to cover the risks referred to in article 92(3)(a) of the EU Regulation on prudential requirements. (612/2014)

The Financial Supervisory Authority shall approve the method for calculating the own funds on application by the payment institution. The Financial Supervisory Authority may approve a method provided that the method will safeguard the solvency and reliability of activities of the payment institution. The Financial Supervisory Authority may order the method to be changed if the own funds calculated on the basis of the method do not to a sufficient degree safeguard the solvency and reliability of activities of the payment institution. The payment institution may not change the method for calculating the own funds during a calendar year except for a special reason. (890/2017)

Subsection 4 was repealed by Act 899/2011.

## **Section 30a (899/2011)**

### **Minimum own funds of an electronic money institution**

In addition to the amount provided for in section 30, an electronic money institution shall continuously hold own funds at least in an amount corresponding to the average amount of electronic money in issue by the electronic money institution.

The average outstanding electronic money referred to in subsection 1 shall be calculated as an average total amount of repayment liabilities related to electronic money in issue at the end of each calendar day over the preceding six calendar months.

The electronic money institution shall calculate the average referred to in subsection 2 on the first business day of each calendar month and notify the Financial Supervisory Authority thereof. The Financial Supervisory Authority shall issue further regulations on the contents of the duty to notify.

If an electronic money institution cannot, without unreasonable costs, calculate the average outstanding electronic money in the manner referred to in subsection 2, the Financial Supervisory Authority may, on application by the electronic money institution, grant a permission to estimate the amount of outstanding electronic money on the basis of prudently estimated historical data. The Financial Supervisory Authority shall grant the permission if the average outstanding electronic money can be continuously estimated in a reliable manner. The amount of electronic money in issue over the 12 months following the granting of the authorisation may be estimated in accordance with the estimate presented in the business plan appended to the application for authorisation and approved by the Financial Supervisory Authority.

### **Section 31 (899/2011)**

#### **Derogation from the minimum amount of own funds**

The provisions of sections 30 and 30a shall not apply to a payment institution which satisfies the conditions for derogation from the required minimum amount of own funds provided in Article 7 of the EU Capital Requirements Regulation. However, a payment institution shall at all times hold own funds at least equal to the minimum amount of own funds provided in section 27. (890/2017)

The Financial Supervisory Authority may, where deemed necessary based on an evaluation of the risk-management processes, risk-bearing ability or internal control mechanisms of the payment institution, require the payment institution to hold, for a period not exceeding three years, an amount of own funds which is up to 20 percent higher than the amount calculated in accordance with section 30 or 30a. The Financial Supervisory Authority may correspondingly lower the amount of own funds required with up to 20 percent for at most three years.

### **Section 31a (899/2011)**

#### **Adoption of further provisions and regulations on the minimum amount of own funds**

For the implementation of the payment-service directive, the methods used to calculate the amount of own funds referred to in section 29 shall be further provided for by a Decree of the Ministry of Finance. The Financial Supervisory Authority shall issue additional further regulations required for the implementation of the Payment-Service Directive as well as of 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 on the calculation of the minimum amount of own funds referred to in sections 29, 30, 30a and 31.

## **Chapter 6**

### **Procedures**

#### **Section 32**

##### **Marketing**

In its marketing, a payment institution shall provide the customer with all the information on the payment service being marketed that may be of significance when the customer makes decisions concerning the service.

A payment institution may not provide false or misleading information in its marketing nor otherwise use a procedure that is unfair from the point of view of the customer or contrary to good practice. A practice that is unfair from the point of view of the customer or contrary to good practice shall also be governed by chapter 2 of the Consumer Protection Act (38/1978).

Marketing which does not convey the information necessary from the point of view of the financial security of the customer shall always be deemed unfair.

#### **Section 33**

##### **Contractual terms**

In its payment-service activities a payment institution may not apply a contract term which does not fall within the scope of payment service activities or which is deemed unreasonable to the customer with regard to its contents or the positions or circumstances of the parties. A contract term shall always be deemed unreasonable if the validity of a contract or other contract terms are made dependent on the acquisition or use of goods, services or other commodities falling outside the scope of the payment service activities to an extent that is inappropriate from the point of view of the customer on the whole or if the right of the customer to conclude contractual relations with another entrepreneur is restricted.

The payment institution shall submit to the Financial Supervisory Authority the terms of standard contracts applied in the payment service activity.

#### **Section 34**

##### **A person under guardianship**

A person under guardianship who has attained the age of fifteen may conclude a payment-account contract with a payment institution in respect of funds which he has the right to dispose of under

section 25, subsection 1 of the Guardianship Act (442/1999) or under another ground as well as make cash deposits in and cash withdrawals from the payment account and otherwise dispose of the payment account. With the consent of the guardianship authorities, the guardian may, however, take charge of the funds in the payment account if the interests of the person under guardianship so require.

If there are funds in a payment account in the name of a person under guardianship who has attained the age of fifteen on condition that only he is authorised to withdraw the funds, the funds in the payment account shall be disposed of jointly by the person under guardianship and his guardian. Such a term may, however, be derogated from with the permission of the court.

## **Section 35**

### **Limitation of the obligation to pay interest**

Unless otherwise provided for in the account terms, the obligation of the payment institution to pay interest on the funds in the account shall cease when ten years have lapsed from the end of the calendar year during which the payment account was last used.

## **Section 36**

### **Set-off**

A payment institution may not use the funds in the payment account of or payable to a private person to set off its counter-claim where the said funds may not be distrained under the law. Prior to set-off, the payment institution shall ascertain whether the funds can be distrained. The account holder shall be informed of a claim for set-off. A set-off in violation of this subsection shall be null and void.

Where it is not possible without an unreasonable amount of work to ascertain whether the funds may be distrained, the payment institution may, however, present a claim for set-off provided that, in conjunction with the notification of the claim for set-off, it notifies the account holder in writing of the restriction for set-off laid down in subsection 1 as well as of the cancellation of set-off laid down in this subsection. The set-off shall lapse if, within 14 days of receipt of the notification of the claim for set-off, the account holder proves that the funds may not be distrained. In the absence of other proof as to the date of receipt of the notification of the claim for set-off, the account holder shall be deemed to have been notified of the claim on the seventh day after the notification of the claim was sent. If the account holder is not provided with the information laid down in this subsection, the set-off shall be null and void.

The provisions of subsection 1 shall not apply to a charge against the funds in an account based on an express authorisation of the account holder. The account holder may withdraw such authorisation

at any time. A contract restricting the rights of the account holder under this section shall be null and void.

### **Section 36a (899/2011)**

#### **Issuance and redeem ability of electronic money**

Electronic money may be issued and redeemed only at par value.

The funds received in exchange for an issue of electronic money shall be immediately converted into electronic money.

No interest or other benefit related to the length of time during which the electronic money is held shall be paid on electronic money.

The electronic money issuer shall be liable to redeem the electronic money upon request by the electronic money holder and held by him if the holder requests redemption during the contract period or, at the latest, within one year from the termination of the contract. If the request is made during the contract period or if electronic money may be used also for such payment falling outside the scope of application of the Act and it is unknown in advance what portion of electronic money is to be used for such payment, the holder may also require the issuer to redeem only the portion of the electronic money subject to the request and held by the holder.

The contract between the electronic money issuer and the electronic money holder shall clearly and prominently state the conditions of redemption and any fees relating to redemption. The electronic money holder shall be informed of the conditions before the contract is concluded.

Redemption may be subject to a fee only if stated in the contract in accordance with subsection 5 and only in any of the following cases:

- 1) where redemption is requested before the termination of the contract;
- 2) where the contract provides for a termination date and the electronic money holder terminates the contract before that date;
- 3) where redemption is requested more than one year after the date of termination of the contract.

Any contract term which derogates from the provisions of this section to the detriment of an electronic money holder shall be void towards the consumer.

### **Section 37**

#### **Secrecy obligation**

Anyone who, in the capacity of a member or deputy member of a body of a payment institution or an undertaking belonging to the same group with it or of an agent of a payment institution or of another undertaking operating on behalf of the payment institution or as their employee or representative, in performing his duties, has obtained information on the financial position or private personal circumstances of a customer of the payment institution or an undertaking belonging to the same group with it or of another person connected with its activities or on a business secret shall be liable to keep it confidential unless the person in whose benefit the secrecy obligation has been provided for consents to its disclosure. Confidential information may neither be disclosed to a General Meeting of the Shareholders, a General Meeting of a Co-operative or a General Meeting of the Delegates or to a shareholder or member attending the meeting. (630/2018)

A payment institution and an undertaking belonging to the same group with it shall, notwithstanding the provisions on secrecy obligation, be liable to disclose the information referred to in subsection 1 to a prosecuting and pre-trial investigation authority for the investigation of a crime as well as to another authority entitled to this information under the law.

The provisions of chapter 7, section 14 of the Act on Co-operatives (421/2013) shall not apply to a payment institution or to an undertaking belonging to the same group with it. (426/2013)

## **Section 38**

### **Disclosure of information to an undertaking of the same consolidation group or financial and insurance conglomerate**

A payment institution and an undertaking belonging to the same consolidation group, as referred to in the Act on Credit Institutions or in the Act on Investment Services (747/2012), with it shall, notwithstanding the provisions on secrecy obligation, have the right to disclose the information referred to in section 37 of this Act to an organisation belonging to the same group, consolidation group or a financial and insurance conglomerate referred to in the Act on the Supervision of Financial and Insurance Conglomerates for the purpose of customer service and other customer-relationship management, marketing as well as for the risk management of the group, consolidation group or financial and insurance conglomerate, provided that the recipient of the information is subject to the secrecy obligation laid down in this Act or a corresponding secrecy obligation. The provisions of this subsection on disclosure of information shall not apply to the disclosure of sensitive data referred to in section 11 of the Personal Data Act (523/1999) nor to data based on the registration of payment data between a customer and an undertaking other than one belonging to the conglomerate. (764/2012)

In addition to the provisions of subsection 1, a payment institution and an undertaking belonging to the same consolidation group with it may disclose information in its customer register necessary for marketing as well as customer service and other customer-relationship management to an



organisation which belongs to the same financial consortium as the payment institution if the recipient of the information is subject to the secrecy obligation laid down in this Act or to a corresponding secrecy obligation. The provisions of this subsection on disclosure of information shall not apply to the disclosure of sensitive data referred to in section 11 of the Personal Data Act.

## **Section 39**

### **Customer due diligence**

A payment institution shall know its customers. The payment institution shall identify the actual beneficiary of the customer and the person acting on behalf of the customer and, if necessary, confirm their identity. The payment institution shall not provide its customers with anonymous accounts. In fulfilling the requirement provided for in this subsection, the systems referred to in subsection 2 may be utilised. (409/2018)

A payment institution shall have adequate risk-management systems for assessing risk exposures to customers in their activities.

Customer due diligence shall also be governed by the provisions of the Act on Preventing Money Laundering and Terrorist Financing.

The Financial Supervisory Authority may issue further provisions on the procedures to be complied with in customer due diligence referred to in subsection 1 and on risk management referred to in subsection 2.

## **Section 40**

### **Participation in the payment system**

The party maintaining the payment system may not, in the rules of the payment system, impose unfounded, non-proportionate or discriminatory requirements for participation in the payment system by the payment service provider. The requirements relating to safeguarding against risks as well as protecting the financial and operational stability of the payment system shall be necessary and proportionate.

The rules of the payment system may not restrict the participation of the payment service providers, payment service users and other payment systems in other payment systems. The rights, obligations, benefits or restrictions relating to participation in the payment system may not be based on the legal form or status of the payment service providers, payment service users or other payment systems.

If the party maintaining the payment system refuses an applicant access to the payment system, it shall inform the applicant of the reason for the refusal. (890/2017)

## **Section 41 (890/2017)**

### **Exemption from the right of access to the payment system**

The provisions of section 40 shall not apply to:

- 1) a payment system designated under the Act on Certain Conditions of Securities and Currency Trading as well as Settlement Systems (1084/1999);
- 2) a payment system composed exclusively of payment service providers belonging to the same group.

If a party to a designated payment system allows a payment services provider which does not belong to the payment system to pass transfer orders through the system, it shall provide the same service also to other payment services providers in the manner referred to in section 40.

## **Section 41a (612/2014)**

### **Preparedness obligation**

A payment institution shall ensure that the performance of its duties is as undisturbed as possible by participating in preparedness planning of financing markets and by preparing in advance for activities under special circumstances and through other actions.

The provisions laid down in subsection 1 regarding a payment institution shall also apply correspondingly to a Finnish branch of a foreign payment institution.

## **Section 41b (612/2014)**

### **Compensation for costs incurred by preparedness**

If duties arising from section 41 a require actions that clearly deviate from activities considered normal for a payment institution and which cause material additional costs, such costs may be compensated by the Security of Supply Fund referred to in the Act on the Measures Necessary to Secure Security of Supply (1390/1992).

## **Section 41c (1056/2016)**

### **Resolution of some disputes**

Individual disputes related to openness and comparability of fees charged for the services of a payment institution, a basic payment account or services related thereto, electronic identification services or account switching shall be governed by chapter 15a, section 7 of the Act on Credit Institutions.

## **Section 41d (890/2017)**

## **Access to accounts maintained by credit institutions**

In providing payment accounts services, credit institutions shall provide these to payment institutions and to the persons referred to in sections 7 and 7b on an objective, non-discriminatory and proportionate basis. The payment accounts services provided by a credit institution to a payment institution shall allow the payment institution to provide payment services in an unhindered and efficient manner.

If a credit institution refuses to provide payment accounts services to a payment institution, it shall inform the Financial Supervisory Authority of the refusal and the grounds therefor.

### **Section 41e (890/2017)**

#### **Financial statements and annual report**

The provisions of chapter 12, sections 1–11 of the Act on Credit Institutions shall apply to the financial statements and annual report of a payment institution and to the issuing of instructions, opinions and exemptions concerning these.

### **Section 41f (890/2017)**

#### **Audit, special audit and auditor**

The provisions of chapter 12, sections 13–15 concerning the audit of a credit institution shall also apply to the audit of a payment institution.

The auditor shall notify the Financial Supervisory Authority without delay if in carrying out an assignment as referred to in chapter 1, section 1, subsection 1 of the Auditing Act (1141/2015) the auditor finds that a decision or another circumstance may:

- 1) materially infringe a provision of this Act or the provisions issued pursuant thereto concerning the conditions for a payment institution's authorisation and pursuit of activity or pursuit of the activity of a payment services provider;
- 2) affect the continuity of the activity of the payment institution; or
- 3) result in a qualified or adverse opinion in the auditor's report.

The auditor shall also notify the Financial Supervisory Authority if the auditor learns of the circumstance or decision referred to in subsection 2 when carrying out an assignment referred to in the said subsection in a company which has a close link with the payment institution which the assignment concerns.

Chapter 10, section 9 of the Auditing Act concerning an auditor's liability for damages shall not apply to an auditor who has disclosed the information referred to in subsection 2 in good faith.

## **Chapter 7**

### **Establishment of a branch**

#### **Section 42 (890/2017)**

##### **Establishment of a branch in another EEA Member State**

A payment institution which intends to establish a branch in another EEA Member State shall notify the Financial Supervisory Authority thereof in advance. The notification shall contain the information referred to in section 45, subsection 1 as well as information on the branch's business plan, governance arrangements and internal control mechanisms, its organisational structure and the names of the persons responsible for the activity of the branch. The payment institution shall notify the Financial Supervisory Authority without undue delay of any changes in this information.

The Financial Supervisory Authority shall, within one month of receipt of the notification referred to in subsection 1, forward the information referred to in subsection 1 to the competent authority of the host EEA Member State. The Financial Supervisory Authority shall, within three months of receipt of the information referred to in subsection 1, assess whether establishment of the branch, taking into account the financial condition and governance of the payment institution, satisfies the conditions imposed for the establishment of a branch, and notify its decision to the competent authority of the host EEA Member State and to the payment institution. If the Financial Supervisory Authority's decision is a refusal, the branch may not be listed in the payment institution register referred to in section 16. A branch may not launch its activity before it has been listed in the payment institution register referred to in section 16. If the decision of the Financial Supervisory Authority differs from the assessment of the competent authority of the host EEA Member State, the Financial Supervisory Authority shall inform it of the grounds for its decision.

The payment institution shall notify the Financial Supervisory Authority of the date on which it will commence the provision of payment services through its branch. The Financial Supervisory Authority shall communicate this date to the competent authority of the State where the branch is located.

In its cooperation and exchange of information with the competent authority of another EEA Member State, the Financial Supervisory Authority shall comply with the regulatory technical standards issued pursuant to Articles 28 and 29 of the Payment Services Directive.

## **Section 42a (890/2017)**

### **Non-compliance on the part of a branch**

If the competent authority of the host EEA Member State informs the Financial Supervisory Authority of non-compliance on the part of a payment institution providing payment services through a branch, the Financial Supervisory Authority shall evaluate the information received by it and take all necessary measures to ensure the cessation of the non-compliant activities. The Financial Supervisory Authority shall communicate the measures taken to the supervisory authority of the State concerned and, depending on the case, also to the authorities of other EEA Member States. The payment institution concerned shall also be informed of the measures taken and the reasons therefor.

## **Section 43**

### **Use of an agent established in another EEA Member State**

If a payment institution intends to use an agent established in another EEA Member State, the payment institution shall notify to the Financial Supervisory Authority the information referred to in section 24, subsections 3 and 4, and in section 45, subsection 1. The agent shall also be governed by the provisions of sections 42 and 42a on a branch, where applicable.

## **Section 44**

### **Establishment of a branch in a State outside the European Economic Area**

A payment institution that intends to establish a branch in a State outside the European Economic Area shall apply for an authorisation from the Financial Supervisory Authority. The authorisation shall be granted if adequate supervision of the branch can be arranged and if, taking into account the management and financial status of the payment institution, the establishment is not likely to endanger the activities of the payment institution. After hearing the applicant for the authorisation, the Financial Supervisory Authority may include in the authorisation restrictions and terms relating to the activities of the branch and necessary for supervision.

The accounts to be attached to the application for authorisation shall be provided for by a Decree of the Ministry of Finance.

## **Section 45 (890/2017)**

### **Provision of services to another EEA Member State**

A payment institution that intends to provide payment services in the territory of another EEA Member State without establishing a branch or using an agent shall notify the Financial Supervisory Authority in advance of the name, address and authorisation number of the payment institution, the EEA Member State in which it intends to operate and the payment services which it intends to

provide. The payment institution shall notify the Financial Supervisory Authority of any material changes in this information without undue delay.

The Financial Supervisory Authority shall, within one month of receipt of the notification referred to in subsection 1, forward the information referred to in subsection 1 to the competent authority of the host EEA Member State. The Financial Supervisory Authority shall, within three months of receipt of the information referred to in subsection 1, assess whether the service provision meets the requirements of this Act, and notify its decision to the competent authority of the host EEA Member State and to the payment institution. If the decision of the Financial Supervisory Authority differs from the assessment of the competent authority of the host EEA Member State, the Financial Supervisory Authority shall inform it of the grounds for its decision.

Section 42, subsection 4 on the Financial Supervisory Authority's cooperation and exchange of information with the competent authority of another EEA Member State shall furthermore apply.

## **Section 46**

### **Transfer of the registered office to another EEA Member State**

If a payment institution intends to transfer its registered office to another EEA Member State as provided for in Article 8 of the European Company Regulation or in Article 7 of the European Cooperative Society Regulation, the payment institution shall submit to the Financial Supervisory Authority a copy of the transfer proposal and report referred to in Article 8 (2) and (3) of the European Company Regulation or in Article 7 (2) and (3) of the European Cooperative Society Regulation immediately after the payment institution has declared the proposal for registration.

If the payment institution intends to continue payment service activity in Finland after the transfer of the registered office, it shall be governed by the provisions of the Act on the Operations of a Foreign Payment Institution in Finland.

The registration authority may not issue a certificate referred to in section 9, subsection 5 of the Act on European Companies or in section 9, subsection 5 of the Act on European Cooperative Societies if the Financial Supervisory Authority has notified the registration authority prior to the granting of the permission referred to in section 9, subsection 2 of the Act on European Companies or in section 9, subsection 3 of the Act on European Cooperative Societies that the payment institution has not complied with the provisions on the transfer of the registered office or the continuance or termination of activities in Finland. The certificate may be granted before one month has passed from the due date referred to in chapter 16, section 6, subsection 2 of the Limited Liability Companies Act (624/2006) or in chapter 20, section 6, subsection 2 of the Act on Cooperatives only if the Financial Supervisory Authority has notified that it does not oppose the transfer of the registered office. (426/2013)

## **Section 47**

### **Merger and division in another EEA Member State**

If a payment institution which is a SE or a limited liability company participates in cross-border merger or cross-border division in the European Economic Area, the registration authority may not issue a certificate relating to merger referred to in section 4, subsection 3 of the Act on European Companies or in chapter 16, section 26 of the Limited Liability Companies Act or a certificate relating to division referred to in chapter 17, section 25 of the latter Act if the Financial Supervisory Authority has notified the registration authority prior to the granting of the permission that the payment institution has not complied with the provisions on merger or division or on the continuance or termination of activities in Finland. The permission may be granted before one month has passed from the due date referred to in chapter 16, section 6, subsection 2 or in chapter 17, section 6, subsection 2 of the Limited Liability Companies Act only if the Financial Supervisory Authority has notified that it does not oppose the merger, the division or the transfer of the registered office relating to the establishment of a SE.

If a payment institution which is a SCE or a cooperative participates in cross-border merger or cross-border division in the European Economic Area, the registration authority may not issue a certificate relating to merger referred to in section 4, subsection 3 of the Act on European Cooperative Societies or in chapter 20, section 27 of the Act on Cooperatives or a certificate relating to division referred to in chapter 21, section 26 of the latter Act if the Financial Supervisory Authority has notified the registration authority prior to the granting of the permission that the payment institution has not complied with the provisions on merger or division or on the continuance or termination of activities in Finland. The permission may be granted before one month has passed from the due date referred to in chapter 20, section 6 subsection 2 or in chapter 21, section 6, subsection 2 of the Act on Cooperatives only if the Financial Supervisory Authority has notified that it does not oppose the merger, the division or the transfer of the registered office relating to the establishment of a SCE.  
(426/2013)

If the acquiring company or cooperative to be registered in another State intends to continue providing payment services in Finland after the merger, it shall be governed by the provisions of the Act on the Right of a Foreign Payment Institution to Provide Payment Services in Finland.

## **Chapter 8**

### **Provisions on liability for damages and punishment**

#### **Section 48**

##### **Liability for damages**

Anyone who causes damage through a procedure in violation of this Act or the provisions issued thereunder shall be liable to compensate the damage he has caused to the person suffering from the damage.

The adjustment of damages as well as the division of liability among two or more persons liable for the damages shall be governed by the provisions of chapters 2 and 6 of the Tort Liability Act (412/1974).

#### **Section 48a (259/2013)**

##### **Penalty fee**

Provisions referred to in section 40 of the Act on the Financial Supervisory Authority, neglect or violation of which shall result in a penalty fee imposed on a payment institution, person referred to in section 7b, electronic money institution or foreign payment institution, include the following provisions of this Act:

- 1) Section 10 on granting of credit;
- 2) Section 19 on risk management and other arrangement of activities;
- 3) Section 26 on safeguarding and holding of client funds;
- 4) Section 26a on coverage of liabilities arising from payment initiation services;
- 5) Section 26b on coverage of liabilities arising from account information services;
- 6) Section 27 on minimum capital;
- 7) Section 32, subsection 2 on the prohibition on providing false or misleading information in the marketing of a payment service.

(890/2017)

In addition to the provisions laid down above in subsection 1, provisions referred to in section 40 of the Act on the Financial Supervisory Authority also include the further provisions concerning the provisions and paragraphs 1–7 of the said subsection and the provisions of Commission Regulations and decisions issued pursuant to 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. (890/2017)

Provisions on the penalty fees issued by virtue of the Regulation on Interchange Fees for Card-based Payment Transactions are laid down in section 40 of the Act on the Financial Supervisory Authority. (58/2016)

## **Section 49**

### **Payment institution offence**

Anyone who wilfully provides payment services in violation of section 6 without an authorisation or a decision referred to in section 8, subsection 2 shall, unless the act is minor or subject to a more severe punishment elsewhere in the law, be sentenced for a *payment institution offence* to a fine or to imprisonment not exceeding six months.

Also an agent who provides payment services in violation of section 24, subsection 5 before being listed in the register shall be sentenced for a payment institution offence.

Punishment for giving false evidence to an authority shall be governed by chapter 16, section 8 of the Criminal Code of Finland (39/1889).

## **Section 50**

### **Breach of the secrecy obligation**

Punishment for a breach of the secrecy obligation laid down in section 37 shall be sentenced in accordance with chapter 38 (578/1995), sections 1 and 2 of the Criminal Code of Finland unless the act is subject to a more severe punishment elsewhere in the law.

## **Chapter 9**

### **Provisions on entry into force and transitional provisions**

## **Section 51**

### **Entry into force**

This Act enters into force on 1 May 2010.

Measures necessary for the implementation of the Act may be undertaken prior to its entry into force.

## **Section 52**

### **Transitional provisions relating to the requirement of authorisation of a payment institution**

The Financial Supervisory Authority shall, without an application, grant the authorisation of a payment institution in accordance with this Act to a legal person that, upon the entry into force of this Act, holds the authorisation of a payment organisation in accordance with the Act on Credit Institutions but does not issue electronic money. The Financial Supervisory Authority shall, before granting the authorisation, notify the payment organisation of the granting thereof.

A legal person which, upon the entry into force of this Act, provides payment services without an authorisation of a payment organisation shall apply for an authorisation in accordance with this Act at the latest on 31 March 2011 or cease to provide payment services. The deadline provided for in this subsection shall also be applied to an agent of the legal person.

The handling of an application for the authorisation of a payment organisation which has not been decided on upon the entry into force of this Act shall be governed by this Act.

A financial institution referred to in the Act on Credit Institutions which, upon the entry into force of this Act, provides payment services and which is subject to the consolidated supervision of the credit institution acting as its parent company shall be granted an authorisation if it submits to the Financial Supervisory Authority the information which under section 11 of this Act and the Decree issued thereunder shall be included in the application for authorisation and the financial institution meets the requirements provided for in this Act.

A natural person or a legal person which has started the provision of payment services referred to in this Act prior to the entry into force of this Act and which meets the conditions referred to in section 7 shall, at the latest on 31 October 2012 apply from the Financial Supervisory Authority the decision referred to in section 8 or cease to provide payment services.

## **Section 53**

### **Transitional provision relating to reliability of money remittance provider**

Money remittance may be provided under section 52, subsection 2 provided exclusively that the person of the service provider referred to in section 13, subsection 2 and under section 52, subsection 5 provided exclusively that the natural person responsible for or participating in the service provision is reliable in the manner provided for in section 13, subsection 3.

## **Section 54**

### **Transitional provision relating to the provision of payment services and entry in the register of payment institutions**

Anyone who, upon the entry into force of this Act, provides payment services without an authorisation shall, within two months from the entry into force of this Act, notify the Financial Supervisory Authority if the service provider intends to continue the provision of payment services under section 52, subsections 2 or 5. The information referred to in section 16, subsection 1 shall be included in the notification. The notification need not be submitted if the service provider has applied for an authorisation or for a decision referred to in section 8. The Financial Supervisory Authority shall, without delay, be notified of any changes in the information notified or cessation of the provision of payment services.

The Financial Supervisory Authority shall enter the service providers referred to in subsection 1 separately in the register of payment institutions. The entry shall be made so that the service providers referred to in this section are clearly distinguishable from the service providers entered in the register under section 16.

890/2017:

This Act enters into force on 13 January 2018.

The provisions of law in force at the time of the entry into force of this Act apply until 13 July 2018 to legal persons who, at the time of this Act's entry into force, provide payment services by virtue of a payment institution authorisation. However, sections 19a and 19b of this Act shall also apply to such a legal person. A legal person shall provide the Financial Supervisory Authority with sufficient information to assess whether the legal person meets the requirements of this Act. The Financial Supervisory Authority shall make a decision on the authorisation by 13 July 2018. If the authorisation is refused, the legal person shall cease the provision of payment service. The Financial Supervisory Authority may grant the authorisation automatically if it is already in possession of proof that the conditions imposed for the granting of an authorisation are satisfied. If the Financial Supervisory Authority grants the authorisation automatically, it shall notify the payment institution of this in advance. The deadline provided in this subsection also applies to the agent of a legal person.

The provisions of law in force at the time of the entry into force of this Act apply until 13 January 2019 to natural persons and to legal persons who have commenced the provision of payment services referred to in this Act prior to this Act's entry into force by virtue of section 7. However, sections 19a and 19b of this Act shall also apply to such a person. The person shall provide the Financial Supervisory Authority with sufficient information to assess whether the person meets the

requirements of this Act. The Financial Supervisory Authority shall make a decision on the authorisation or on whether the person satisfies the conditions referred to in section 7 by 13 January 2019. If the authorisation is refused or the conditions referred to in section 7 are not satisfied, the person shall cease the provision of payment service. The Financial Supervisory Authority may automatically decide that the conditions referred to in section 7 of this Act are satisfied if it is already in possession of proof of this.

The Financial Supervisory Authority shall list the decisions referred to in subsections 2 and 3 in the payment institution register referred to in section 16 and notify these to the European Banking Authority in the manner provided for in the said section.

The provisions of law in force at the time of the entry into force of this Act apply until 13 January 2020 to a payment institution which at the time of the entry into force of this Act holds an authorisation to provide the payment service executed by means of a technical device referred to in section 1, subsection 2, paragraph 6 of the Act in force at the time of the entry into force of this Act. The payment institution shall provide the Financial Supervisory Authority with sufficient information so that the Financial Supervisory Authority can assess, by 13 January 2020, whether the payment institution meets the minimum capital requirement under section 27, subsection 1, paragraph 3 of this Act as well as the requirements under section 29, section 30, subsection 3, section 31, subsection 2 and section 31a concerning calculation and amount of own funds. If the requirements are met, the payment institution's authorisation to provide the payment service according to section 1, subsection 2, paragraph 2 remains in force.

The provisions of law in force at the time of the entry into force of this Act apply until 13 July 2019 to an electronic money institution that commenced its activity before 13 January 2018. The electronic money institution shall provide the Financial Supervisory Authority with sufficient information to assess whether the electronic money institution meets the requirements of this Act. The Financial Supervisory Authority shall make its decision on the authorisation by 13 July 2018 and record the decision in the register referred to in section 16.