

Authorisation procedures under PSD2

link:

<https://www.mnb.hu/penzforgalom/psd2-gyakori-kerdesek-es-valaszok/engedelyezes>

No.	Question	Answer	Last update:
E/1	If in my opinion, based on the provisions of Section 6 (4) k) of the Credit Institutions Act, the payment services rendered by my company do not qualify as payment services within the meaning of point 87 of Section 6 (1) of the Credit Institutions Act or as electronic money within the meaning of point 16 of Section 6(1) of the Credit Institutions Act, in what way should I make the notification specified in Section 289/A (1) of the Credit Institutions Act?	For detailed information on the notification under Section 289/A (1) of the Credit Institutions Act see the document at: https://www.mnb.hu/letoltes/tajekoztato-2.pdf	19.02.2018
E/2	If in my opinion, based on the provisions of Section 6 (4) l) of the Credit Institutions Act, the payment services rendered by my company do not qualify as payment services within the meaning of point 87 of Section 6 (1) of the Credit Institutions Act or as electronic money within the meaning of point 16 of Section 6 (1) of the Credit Institutions Act, in what way should I make the notification specified in Section 289/A (4) of the Credit Institutions Act?	For detailed information on the notification under Section 289/A (4) of the Credit Institutions Act see the document at: https://www.mnb.hu/letoltes/tajekoztato-2.pdf	19.02.2018

E/3	Where do I find detailed information on the licensing of the activity of payment institutions and electronic money institutions, and on the registration of the payment institutions rendering account information services only?	<p>For the licensing guides related to the licensing of the activity of payment institutions and electronic money institutions, and to the registration of payment institutions rendering account information services only, see:</p> <p>https://www.mnb.hu/letoltes/penzforgalmi-intezmeny-tevekenysegenek-engedelyezese.pdf https://www.mnb.hu/letoltes/elektronikuspenz-kibocsato-intezmeny-tevekenysegenek-engedelyezese.pdf https://www.mnb.hu/letoltes/kizarolag-szamlainformacios-szolgalatast-vegzo-penzforgalmi-intezmeny-bejelentese.pdf</p>	19.02.2018
E/4	Is it necessary for a credit institution payment provider to apply for a licence, if it also wishes to render the payment services specified in sub-points g) and h) of point 87 of Section 6 (1) of the Credit Institutions Act?	If the credit institution already holds a licence for rendering the payment services specified in Section 3 (1) d) of the Credit Institutions Act, it does not need to apply for a separate licence for the services stipulated in sub-points g) and h) of point 87 of Section 6 (1) of the Credit Institutions Act. Naturally, when rendering such services, credit institutions must comply with the statutory requirements related to the pursuance of the activity (e.g. Credit Institutions Act, Payments Services Act, Payment Services MNB Decree), which is controlled by the Supervisory Authority.	02.05.2018
E/5	What conditions should the professional liability insurance, mentioned in Section 13/A (1) and (2) of the Payment Service Providers Act satisfy?	The MNB expects payment service providers to take out the professional liability insurance under Section 13/A (1) and (2) of the Payment Service Providers Act considering the provisions of MNB Recommendation 5/2018 (II. 19.) on the Criteria applicable to the minimum amount of the professional liability insurance or other similar guarantees.	27.02.2018
E/6	Based on Section 92/A (3) e) of the Payment Service Providers Act, which data and certificates does the MNB require to be submitted by the already operating payment and electronic money institutions or by those the authorisation of which is pending?	According to Section 92/A (3) e) payment institutions and electronic money institutions existing, or the authorisation of which is pending on 13 January 2018 may apply to the MNB - until 28 February 2018, at the latest - for authorisation to continue the provision of already authorised payment services also after 13 July 2018 in accordance with the application for the certificate of compliance submitted. In addition, a description of the principles and definitions applied for the collection of statistical data on performance, transactions and fraud must be attached to its application initiating the procedure aimed at the issuance of the certificate of compliance. In our opinion, the purpose of this provision is for the payment institutions and electronic money institutions existing or the authorisation of which is	02.05.2018

		<p>pending to demonstrate that they are able to comply with the reporting requirements with broader content than before, i.e. they comply with the provisions of the data supply MNB Decree. With a view to fulfilling these reporting requirements the payment institutions and electronic money institutions existing or the authorisation of which is pending also have to collect statistical data related to more severe operational or security incidents, authentication and exception handling, and fraud. During the authorisation procedure, the principles, definitions and processes applied upon collecting these relevant statistical data must be presented in a separate descriptive document, providing the information detailed in Section 4.7.10 of the MNB's licensing guide issued on 13 January 2018 (for the guide see: https://www.mnb.hu/letoltes/penzforgalmi-intezmeny-tevekenysegenek-engedelyezese.pdf).</p>	
E/7	<p>May a payment service provider rendering payment initiation or account information services, or issuing card-based cash substitute payment instrument - except for electronic money - use the services of a technical provider in order to connect to the payment service provider keeping the payment account of its clients, and do these technical providers need to obtain an activity licence?</p>	<p>The activities qualifying as payment service are determined by sub-points a-h) of point 87 of Section 6 (1) of the Credit Institutions Act. Pursuant to Section 3(3) of the Credit Institutions Act, the issuance of cash substitute payment instruments, other than cheques and electronic money, falling within sub-point e) of point 87 of Section 6 (1) of the Credit Institutions Act, the acceptance of payment transactions and the payment initiation services falling within sub-point g) are subject to an MNB licence. Pursuant to the provisions of Section 20/A (1) of Payment Service Providers Act, the institution rendering solely account information services is subject to preliminary registration. Pursuant to Section 6 (4) j) of the Credit Institutions Act, the (ancillary) technical services supporting payments services do not qualify as payment services, if the provider of those cannot dispose over the funds being the subject of the payment transaction, nor can it possess the funds being the subject of the payment transaction, including the processing, storage and authentication, fiduciary services and services related to the protection of privacy, the authentication of data and persons, provision of information technology equipment, and - with the exception of payment initiation services and account information services - the provision and maintenance of terminals and devices used for the payment services. The laws governing payments contain restrictions with regard to the use of ancillary technical providers supporting payment services only in respect of payment service providers rendering payment initiation services and</p>	11.09.2018

		account information services; namely, in their case the provision and maintenance of the terminals and equipment used for the payment services do not qualify as (ancillary) technical services supporting payment services. The technical providers do not need to obtain an activity licence and certificate, if the activity performed by them does not extend beyond those specified in Section 6 (4) j) of the Credit Institutions Act, or if the activity genuinely qualifies as technical service, as the service provider cannot dispose over the clients' funds nor can it possess the clients' funds, and its activity does not qualify as payment initiation services or account information service specified in sub-points g) and h) of point 87 of Section 6 (1) of the Credit Institutions Act.	
E/8	What rules do apply to the payment service provider using the services of the technical provider and to the technical provider?	"The payment service provider shall comply with the payment rules applicable to the activity it pursues, irrespective of whether or not relies on an (ancillary) technical provider for rendering its services. In respect of the technical services it must be examined whether it complies with the provisions of Section 6 (4) j) of the Credit Institutions Act. If yes, then the activity of the technical provider does not qualify as payment services, i.e. the payment legislation shall not apply to the technical providers. The content of the technical services rendered shall be examined individually whether other rules, e.g. the outsourcing rules specified in Section 68 of the Credit Institutions Act or in Section 14 of Payment Service Providers Act, are applicable to the respective technical provider. The specific conditions of rendering technical services not falling within the payment legislation and not qualifying as outsourcing may be freely determined in the contract concluded between the financial service provider and technical provider. "	11.09.2018
E/9	How should the payment initiation and account information service provider, or the payment service provider issuing card-based cash substitute payment instruments - not including electronic money - identify itself for the payment service provider keeping the	Section 38/A (2) c), Section 38/B (3) d) and Section and Section 38/C (3) c) of the Payment Services Act prescribe for the payment service provider (credit institution, payment institution, electronic money institution) that it has to identify itself for the payment service provider keeping the payment account of its client before each request for confirmation / initiation of payment order / establishment and maintenance of connection. In the course of this identification, the payment service provider shall proceed in accordance with the provisions prescribed in Article 34 of the Strong Customer Authentication (SCA) Regulation for certificates.	11.09.2018

	client's payment account, when it uses a technical provider?	The aforementioned provisions of the Payments Services Act prescribe for the payment service provider rendering payment services to the client to identify itself for the payment service provider keeping the payment account irrespective of whether or not it uses a technical provider for the connection.	
E/10	May the start-up capital of the payment institution rendering only payment initiation services be consumed prior to the commencement of its operation?	<p>According to Section 11 (3) of Payment Service Providers Act, when - of the payment services - the payment institution performs payment initiation services only, it shall have a start-up capital of at least fifteen million forint. Based on Section 11 (6) of the Payment Service Providers Act, the start-up capital for the foundation of the payment institution may be contributed in cash only. The start-up capital may only be paid up and held until the commencement of the operations in a credit institution that does not participate in the foundation, in which the founder has no ownership share and which has no ownership share in the founder.</p> <p>Based on the aforementioned provisions, when - of the payment services - the payment institution performs solely payment initiation services, it must have a start-up capital of minimum fifteen million forints and until the commencement of the operations it must be held on a payment account kept by a credit institution. The Payment Service Providers Act provides no authorisation for the use of the start-up capital prior to the commencement of the operation.</p> <p>After the commencement of the operation, the start-up capital may be used for developments, investments and for operating expenses with the proviso that the equity - within the meaning of Section 35 (2) of the Accounting Act: subscribed capital less the subscribed but yet unpaid capital, the capital reserve, retained earnings, appropriated reserves, revaluation reserve, after-tax profit of the current year - of the payment institution rendering payment initiation services may not fall below the amount of the lowest start-up capital prescribed in Section 11 (3) of the Payment Providers Act.</p>	11.09.2018
E/11	Is it necessary to maintain any contractual relationship between the payment service provider rendering payment initiation services and the beneficiary?	According to Section 38/B (2) of the Payment Services Act the use of the payment initiation service shall not be made conditional upon a contractual relationship between the payment provider rendering the payment initiation services and the payment service provider keeping the payment account. Accordingly, the payment service provider rendering the payment initiation	11.09.2018

		<p>services does not need to have a contractual relationship with the payment service provider that keeps the payment account.</p> <p>The Payment Services Act does not prescribe that a contractual relation must exist between the payment service provider rendering payment initiation services and the beneficiary.</p>	
E/12	<p>To which of the payment services defined in point 87 of Section 6 (1) of the Credit Institutions Act does the request to pay, specified in point 5 of Section 2 (1) of the MNB Decree, does correspond?</p>	<p>Based on point 5 of Section 2 (1) of the MNB Decree, the request to pay is a message addressed by the payee to the payer concerning the initiation of payment, which is standardised in the payment system processing instant credit transfers, and includes at least all data required for the initiation of an instant credit transfer order.</p> <p>Based on the foregoing, the request to pay within the meaning of point 5 of Section 2 (1) of the MNB Decree is a special message - connected to instant credit transfers - and thus it does not correspond to any of the payment services specified in point 87 of section 6 (1) of the Credit Institutions Act.</p>	11.09.2018
E/13	<p>Are the credit institution payment service providers operating as branch offices automatically entitled - as provided for in answer E/4 - to render payment initiation or account information services?</p>	<p>Pursuant to CRD IV, a credit institution with registered office in an EEA state may pursue, through its branch office in another member state, the activities authorised by the supervisory authority having competence based on the country of registration, provided that it has reported its intention to establish a branch office in another member state (together with the activities to be pursued) to the authority in the country of its registered office, and that authority has forwarded the notification to the competent supervisory authority of the host country. In our view it primarily belongs to the competence of the supervisory authority of the country of the registered office to assess the type of payment service activities covered by the payment service licence of an EU credit institution payment service provider operating as a branch office, and accordingly which activities it may pursue in the host country, and thus it depends on its activity licence obtained in the member state of its registered office. The branches of credit institutions with registered office in a third country may pursue the activities authorised by the activity licence issued to the branch office by the competent supervisory authority of the host member state. It belongs to the competence of the supervisory authority of the host country to assess the type of payment service activities covered by the payment service licence of the branch office, and accordingly which activities it may pursue in the host country.</p>	27.03.2019

E/14	How the application for the exemption from the contingency mechanism, specified in Article 33(6) of the SCA Regulation may be submitted?	The application may be submitted via the ERA E-administration system operated by the MNB on the form entitled "Other applications and notifications" within the "Licensing Service". It must be indicated at the description of the application or notification (Section III of the form) that it is an application submitted in relation to the exemption from the contingency mechanism provided by Article 33 (6) of Commission Delegated Regulation 2018/389/EU.	24.03.2020
E/15	What is covered by the account information services, i.e. which services qualify as account information service?	<p>Based on point 101a of Section 6 (1) of the Credit Institutions Act, account information service includes the online services the purpose of which is to provide aggregated information on one or several payment accounts opened by the user of the payment services at another or at several payment service providers. This provision of the Credit Institutions Act is based on point 16 of Article 4 of PSD2. Although the directives, and thus PSD2 too, are not directly effective in the member states, upon the interpretation of the Hungarian legislation adopting the provisions of the Directive, the preamble and the normative text of the Directive may be used as reference.</p> <p>In view of the foregoing, preamble paragraph (28) of PSD2 provides the following explanation with regard to account information services: "these services provide the payment service user with aggregated online information on one or more payment accounts held with one or more other payment service providers and accessed via online interfaces of the account servicing payment service provider."</p> <p>Accordingly, in view of preamble paragraph (28) of PSD2, the MNB interprets point 101a of Section 6 (1) of the Credit Institutions Act as follows: when rendering account information services, the payment service provider rendering this service needs to have access to its client's payment account and download data related to the account, and process such data in some way (e.g. by systematising), and then "return" the result of the processing to its client (e.g. make it available to its client or send it to him through a digital channel). Obviously, when accessing the data the provider of the account information services must comply with the provisions of - among other things - the Payment Services Act and the SCA Regulation.</p>	26.03.2020
E/16	Is it permitted to share the data obtained through the account	Based on answer to question E/15, the account information services last until such time as the payment service provider rendering the account information	26.03.2020

	<p>information services with a third party, other than the client and the payment service provider rendering the account information services?</p>	<p>service transfers the data requested by the client to him or make them available to him. Naturally, after this the client can freely dispose above the data received within the framework of the account information services, e.g. he may instruct the account information service provider to transfer the data to another third party (not rendering account information services) (e.g. to an accountant, or lender financial institution). However, in the MNB's interpretation such data transfer may no longer be regarded as a service rendered as part of the account information service stipulated in point 101a of Section 6 (1) of the Credit Institutions Act.</p> <p>However, it should be noted that during the data transfer outside the account information service, the payment service provider rendering account information services should pay attention - in addition to the data protection laws, and particularly the provisions of GDPR - to the provisions of the Credit Institutions Act related to bank secret and of the Payment Services Act related to the secrecy of payments.</p>	
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