

## **LICENSING THE ACTIVITY OF ELECTRONIC MONEY INSTITUTIONS**

(in accordance with the requirements effective since 13 January 2018)

Pursuant to the provisions of Section 9(1)a aa) an b) of Act CCXXII of 2015 on the General rules of trust services and electronic transactions, Sections 17 (1) and 19 (1) of Government Decree 451/2016. (XII. 19.) on the Detailed rules of electronic services, and Section 3 (1) of MNB Decree 36/2017. (XII. 27.) on the Rules of electronic communication in official matters in progress before the Magyar Nemzeti Bank (“Decree”), the legal representative of the enterprise and the applicant (client) obliged, pursuant to Article 58(2) of Act CXXXIX Of 2013 on the Magyar Nemzeti Bank (MNB Act), to apply electronic communication, shall submit its application, notification or other petition by using the prescribed form available in the information system supporting the electronic administration of the MNB (“ERA System”) and introduced for the procedure related to the submission in question, in the manner and with content specified therein, simultaneously uploading the annexes specified by the law and other documents required by the MNB.

In the licensing procedures, the applications and notifications must be submitted by using the prescribed electronic form available in the *E-administration / Licensing* service on the ERA interface on the MNB's website, attaching the certified electronic copies of the appendices. The resolutions, requests for clarification, notices and other communications of the MNB are delivered to the financial institutions or their legal representatives by sending them to the delivery storage space.

The website of the MNB includes information materials related to the electronic administration and the submission of annexes to be attached in the licensing procedure (electronic documents) at:

<https://www.mnb.hu/letoltes/tajekoztatas-az-e-ugyintezesrol-az-mnb-elotti-engedelyezesi-eljarasokban-1.pdf>

For further information related to certain aspects of the licensing procedures see the following menu item:

<https://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/engedelyezes/tajekoztatok>

### **I. GENERAL RULES**

The electronic money institution is an enterprise licensed to pursue the business of electronic money issuance in accordance with the provisions of the Act. (*Section 7 (1)a) of Act CCXXXV of 2013 on Payment Service Providers (Payment Providers Act)*)

The electronic money institution may receive licence for the provision of all payment services.

Unless the law provides otherwise, the business of electronic money issuance may only be pursued based on the licence issued by the Magyar Nemzeti Bank (**MNB**), acting within its scope of activity related to the supervision of the financial intermediary system, on the basis of the Payment Providers Act and Act CCXXXVII of 2013 on Credit Institutions and Financial Enterprises (**Credit Institutions Act**) (*Section 4 (1) of the Payment Providers Act and Section 3 (3) of the Credit Institutions Act*).

The establishment of the electronic money institution is not subject to a foundation licence, only the activity it wishes to pursue requires a licence.

### **II. ACTIVITIES THAT MAY BE PURSUED BY ELECTRONIC MONEY INSTITUTIONS**

#### **2.1. Payment services**

The electronic money institution may receive licence for the provision of all payment services. See Section I. If the electronic money institution pursues payment services, in respect of this activity – unless the law provides otherwise – it shall apply the provisions applicable to payment institutions and payment services (*Section 7 (2) of the Payment Providers Act*).

Payment services defined by Section 6 (1)87a)-h) of the Credit Institutions Act:

- services facilitating cash deposit on payment accounts, and all activities necessary for the keeping of payment accounts,

- services facilitating cash withdrawal from payment accounts, and all activities necessary for the keeping of payment accounts,
- execution of payment transactions between payment accounts,
- the service specified in the previous point, if the payment transaction is executed to the debit of the credit facility available to the client using the payment services,
- issuance of cash substitute payment instrument – other than cheques and e-currency – and acceptance of payment transactions,
- money or value transfer service,
- payment initiation service,
- account information services,

## **2.2. Other activities requiring a supervisory licence**

In connection with the electronic money issuance activity or payment services activity, the electronic money institution is entitled to render other supplementary services connected and closely related to the operation of the electronic money issuance and payment services, including the ensuring of the execution of payment transactions, the conversion of currencies being the subject of the payment transaction, the safe custody services, as well as storage and processing of data, and it may also receive a licence for the activity related to the operation of payment systems (*Section 4 (7) of the Payment Providers Act*).

The electronic money institution may receive a licence for the granting of credits and loans only in relation to its payment services listed below, subject to the restrictions specified in Section 8 of the Payment Providers Act.

- a) execution of payment transaction between payment accounts to the debit of the credit facility available to the client,
- b) issuance of cash substitute payment instrument, other than cheques and e-currency (*Section 7(3) of the Payment Providers Act*).

According to Section 8 of the Payment Providers Act, the electronic money institution may grant credits and loans to its client in connection with the payment services performed by it subject to the following conditions:

- a) the loan is granted solely from the electronic money institution's own funds and it may be related only to the execution of a payment transaction,
- b) no loan shall be granted from funds received or held by the electronic money institution for the purpose of executing the payment transaction,
- c) the tenor of the loan may be twelve months at the most, and
- d) the own funds of the electronic money institution complies with the requirements set forth in the Payment Providers Act (*Section 8 (1) of the Payment Providers Act*).

The credits and loans granted by the electronic money institution shall be governed by the provisions of Section 65 of the Payment Providers Act and Act CLXII of 2009 on Consumer Loans (*Section 8 (2) of the Payment Providers Act*).

Unless it is provided otherwise by the law, electronic money institutions may also pursue other business activity subject to the restriction that they may not pursue financial services and supplementary financial services other than those defined above (*Section 7(1)b of the Payment Providers Act*).

## **III. ORGANISATIONAL RULES RELATED TO ELECTRONIC MONEY INSTITUTIONS / SUBSCRIBED CAPITAL**

### **3.1. Organisational rules**

Electronic money institutions may operate as joint stock company, limited liability company, cooperative society or as the branch office of an electronic money institution with registered office in another EEA state (*Section 10 (1) of the Payment Providers Act*).

The electronic money institutions operating in the form of joint stock company, limited liability company or cooperative society shall be governed by the provisions of Act V of 2013 on the Civil Code (**Civil Code**), while the electronic money institutions operating in the form of branch office shall be governed by the provisions of Act

CXXXII of 1997 on Hungarian Branch Offices and Commercial Representative Offices of Companies with Registered Office Abroad, with the derogations specified in the Payment Providers Act (*Section 10 (3) of the Payment Providers Act*).

### **3.2. Amount of the start-up capital**

The electronic money institution shall have a minimum start-up capital of HUF 100 million for the electronic money issuance activity. (*Section 11 (4) of Payment Service Providers Act*)

The start-up capital for the foundation of the electronic money 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 (*Section 11 (6) of the Payment Providers Act*).

## **IV. GENERAL REQUIREMENTS RELATED TO THE ELECTRONIC MONEY INSTITUTION**

### **4.1. Personnel and infrastructure requirements**

The electronic money institution may commence and pursue the financial services activity and the supplementary financial services activity only when the following conditions are satisfied:

- accounting and registration policy complying with the laws,
- internal regulations complying with prudent operations,
- personnel conditions necessary for the performance of financial services activity and supplementary financial services activity,
- IT, technical and security equipment and premises suitable for the performance of the activity,
- audit procedures and systems,
- property insurance (*the declaration should be made on the standard form*)
- information and audit system for the mitigation of operational risks,
- and transparent organisational structure (**personnel and material conditions**).

The personnel and material conditions must be also satisfied upon changing the registered office or the business site as well as upon amending the financial services activity or the supplementary financial services activity.

The IT system operated by the electronic money institution shall comply with the statutory security requirements. (*Section 12 (1)-(3) of the Payment Providers Act*)

Electronic money institutions licensed to keep payment accounts may only pursue their activity with the use of an IT system, which ensures the integrity of system components, prevents unauthorised access or undetected modification. The IT system must also comply with the general information security and system integrity requirements. To this end, payment and electronic money institutions shall implement administrative, physical and logical measures to satisfy compliance with overall information security integrity requirements. Compliance with such requirements shall be confirmed by a certificate issued by an external expert (certification organisation) (*Section 12/A (1)-(2) of the Payment Providers Act*).

Electronic money institutions rendering payment initiation services shall hold a professional liability insurance or comparable guarantee, which ensures that the electronic money institution can comply with the compensation obligation specified in Sections 44, 49, 50, 52/A and 54 of Act LXXXV of 2009 on the Pursuit of the Business of Payment Service (**Payment Services Act**) (*Section 13/A (1) of the Payment Providers Act*).

The electronic money institution rendering account information services shall have professional liability insurance or other comparable guarantee that ensures that the electronic money institution can discharge its outstanding liabilities to the payment provider keeping the payment account or to the clients in the event of unauthorised or fraudulent access to or use of the information related to the payment account (*Section 13/A (2) of the Payment Providers Act*).

### **4.2. Requirements pertaining to the owner of electronic money institution**

The owner of the electronic money institution (applicant) with qualifying holding may only be a person,

- who is independent of any influence jeopardising the prudent, careful and reliable (hereinafter together: prudent) operation of the electronic money institution, has good business reputation, and is able to ensure reliable and prudent owner's governance and control of the electronic money institution, and
- the business relations and ownership structure of whom (which) are transparent, and thus they do not prevent the exercise of efficient oversight of the electronic money institution (*Section 13 a-b) of the Payment Providers Act*).

#### **4.3. Documents to be submitted as annexes to the activity licence application**

The applicant shall attach the following documents to its application aimed at the issuance of the activity licence:

- the applicant's programme of operations, which also contains the precise definition of the financial services activity and supplementary financial services activity it intends to perform,
- the medium-term business plan, related to the first three years, also containing a preliminary budget and the facts related to the fulfilment of the personal and material conditions necessary for the operation,
- proof of the availability of the full amount of the start-up capital,
- with a view to protecting the clients' funds, a description of how the conditions stipulated in Section 51 of Payment Providers Act are ensured, including the detailed description of the IT system suitable for keeping a separate register of clients' funds and the auditor's confirmation of the suitability of the system,
- the description of the applicant's corporate governance and internal audit systems, including the administrative, risk management and accounting procedures, presenting the proportionality, appropriateness and reliability of such corporate governance and audit procedures,
- the name of the applicant's external auditor,
- the policies and procedures related to the prevention and combating of money laundering and terrorist financing, and to the implementation of the financial and asset restricting measures ordered by the European Union and the UN's Security Council,
- the presentation of the applicant's organisational structure and scope of responsibilities, organisational and operational rules as well as the regulations containing the general terms and conditions,
- if the applicant intends to commission an agent to perform the payment services activity or, in its capacity as an electronic money institution, an electronic money distributor, or plans to establish branch offices or outsource the operation of its activity, the presentation of this, including the applicant's commitment to inspect the agent, distributor, branch office and the entity performing the outsourced activity at least annually,
- if the applicant joins any payment system, the declaration on the accession (*on the Standard Form*) and the description of its participation in the payment system,
- the identification data of the applicant's senior executive, specified in Annex 1 of the Payment Providers Act, and the documents confirming the fulfilment of the conditions stipulated in Section 29 of the Payment Providers Act,
- the applicant's articles of incorporation,
- the applicant's documentary confirmation, not older than thirty days, that it has no outstanding debt to the tax authority, customs authority, health insurance organisation and the pension insurance administrative body having competence based on its personal law,
- the applicant's declaration that its other business activity does not jeopardise the functioning of the electronic money institution (*on Standard Form*),
- the applicant's documentary confirmation, not older than thirty days, that it has been registered based on its personal law, it is not under bankruptcy, liquidation or dissolution proceeding, and there is no disqualifying reason against its senior executive,
- when the application relates to the granting of credits and loans specified in Section 8 of the Payment Providers Act or to the issuance of cash substitute means of payments, a statement on joining the central credit information system defined by the Act on the Central Credit Information System,
- a declaration on the applicant's contingent and future liabilities, as specified in Act C of 2000 on Accounting (*on Standard Form*),

- the description of the procedures used for the monitoring, management and follow-up of security incidents and security-related customer complaints, including the incident reporting procedure elaborated in accordance with the notification obligation stipulated in Section 55/B of the Payment Services Act,
- the description of the procedure used for registering, monitoring, tracking and limiting access to sensitive payment data,
- the description of the measures aimed at ensuring business continuity, which contains the clear identification of the critical operations, efficient standby plans, and the procedures for the regular testing and review of the suitability and efficiency of such plans,
- the description of the principles and definitions applied during the collection of statistical data related to performance, transactions and frauds,
- the description of the security principles, and particularly of the detailed risk assessment related to the payment services, and the security audit and risk mitigation measures that serve the proper protection of customers against the identified risks, including fraud and the illegal use of sensitive and personal data,
- its complaint management policy, and
- applicant's statement executed in a private document providing full evidence, consenting to the verification of the authenticity of the content of the documents attached to the licence application by the administrative bodies commissioned by the MNB (*on the Standard Form*). (*Paragraphs a)-x) of Section 17 (1) of Payment Service Providers Act*)

The applicant shall attach the description of the audit system and organisational measures necessary for taking all reasonable measures to protect the interest of the users of the financial services and supplementary financial services and to ensure the continuity and reliability of the financial services activity and supplementary financial services activity (*Section 17 (2) of the Payment Providers Act*).

As a condition for the issuance of the licence to perform financial services and supplementary financial services activity, the applicant shall make a declaration that the governance of the electronic money institution takes place in the principal office established in the territory of Hungary (*Section 17 (4) of the Payment Providers Act*).

The applicant shall declare that it has disclosed to the MNB all important facts, data and information required for the issue of the licence (*on the Standard Form*) (Article 59 (2) of Act CXXXIX of 2013 on the Magyar Nemzeti Bank (**MNB Act**)).

#### **4.4. Documents related to the owner, with qualifying holding, of the electronic money institution**

If the applicant has an owner with qualifying holding<sup>1</sup> – as specified in point 36 of Article 4 of Regulation 575/2013/EU of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms and amending Regulation 648/2012/EU (**CRR**) – applicant shall attach, in addition to the documents listed in Section 4.3, to the application for the licence to pursue financial services activity and supplementary financial services activity:

- the identification data of the owner, stipulated in Annex 1 to the Payment Providers Act,
- the confirmation of the legal origin of the financial resources necessary for acquiring qualifying holding,
- documentary confirmation, not older than thirty days, that the owner has no outstanding debt to the tax authority, customs authority, health insurance organisation and the pension insurance administrative body having competence based on its personal law,
- the owner's declaration that its other ownership interest and activity does not jeopardise the functioning of the electronic money institution (*on Standard Form*),
- for natural person owners an extract from the judicial record, or equivalent document under the personal law of the applicant, not older than thirty days,
- for legal entity owners, the articles of association effective at the time of submitting the application, the applicant's documentary confirmation, not older than thirty days, that it has been registered based on its personal law, it is not under bankruptcy, liquidation, dissolution or compulsory strike-off proceeding, and there is no disqualifying reason against its senior executive,

<sup>1</sup> 136. "Qualifying holding": a direct or indirect holding in an undertaking which represents 10% or more of the capital or of the voting rights or which makes it possible to exercise a significant influence over the management of that undertaking.

- for legal entity owners, the detailed description of its ownership structure, supported by documents, and the detailed presentation of its beneficial owners, and – if the applicant is subject to consolidated supervision – the detailed description of these circumstances,
- for legal entity owners, a statement of its contingent and future liabilities as specified in Act C of 2000 on Accounting,
- the declaration of the person being in close relationship with the applicant that the closely related person, or the legislation of the third country applicable to the closely related person permits the fulfilment of the oversight duties, and
- the owner's statement executed in a private document providing full evidence, consenting to the verification of the authenticity of the content of the documents attached to the licence application by the administrative bodies commissioned by the MNB. *(Paragraphs a)-j) of Section 17 (3) of Payment Service Providers Act)*

When describing the security audit and risk mitigation measures stipulated in Section 17 (1)v) of the Payment Providers Act, the applicant shall present how those ensure high quality technical security and data protection, including the software and IT systems applied by the applicant or the outsourcing provider performing any part or the entirety of applicant's operation as outsourced activity. Such measures shall also include the security measures stipulated in Section 55/A of the Payment Services Act. *(Section 17 (2a) of the Payment Providers Act)*

#### **4.5. Practical guide related to the documents to be submitted as annex to the application for activity licence**

- the medium-term business plan must be broken down into balance sheet, profit and loss account and cash flow, with a brief justification that presents which business concepts underlie the individual target figures included in the plan,
- the operating plan shall describe the business processes necessary for the execution of the activity, the range of data processed during the execution of the business processes, the IT solutions that support the functioning of the respective processes, as well as the fulfilment of the personnel and material conditions prescribed for the rendering of the financial services,
- with a view to safeguarding the funds of clients, in order to support the conditions stipulated in Section 51 (3) of the Payment Providers Act, the applicant shall submit the contract(s) concluded between the electronic money institution and the credit institution with registered office in an EEA state related to the custody account for funds received in lieu of electronic money and not re-exchanged or to the placement thereof in safe, low-risk instruments,
- if the applicant directly joins a payment system, it shall attach the confirmation of the operator of the system that the applicant is well-prepared to fulfil the obligations entailed by the membership in the system (GIRO, RTGS),
- the description of the Applicant's accounting procedures shall cover the Accounting Policy and the annexes thereto, prescribed by the Accounting Act, i.e. the assets and liabilities inventory compilation and stocktaking regulation, the asset and liability valuation regulation, the internal regulation related to the calculation of prime cost, cash management regulation, and
- the regulation pertaining to the segregation prescribed in Section 17/A (4)a)-b) of Government Decree 327/2009 (XII.29) on the Special features applicable to the compilation of annual accounts and bookkeeping obligations of certain other enterprises also pursuing money and capital market services, and to the management, registration, accounting and verification of vouchers and documents subject to strict tracking requirements,
- if in relation to the issuance of electronic money or independently of that the electronic money institution also pursues other financial services stipulated in the Payment Providers Act,
  - it is necessary to present in the segregation regulation the way it segregates in its records the assets, liabilities, incomes, expenses and expenditures incurred in connection with the issuance of electronic money, and
  - the method it applies for the division of the items that may be allocated both to the issuance of electronic money and the rendering of related services, and to activities differing from those,
- the detailed presentation of how the organisational solution chosen for the performance of the electronic money issuance activity ensures the segregation of the accounting records and registers from other business activity performed by the institution.

Pursuant to the provisions of Section 4.3 of the European Banking Authority's (EBA) *Guidelines on the information to be provided for the authorisation of payment institutions and e-money institutions and for the registration of account information service providers under Article 5(5) of Directive (EU) 2015/2366 (Guidelines PSD2)* the applicant shall submit true, complete, accurate and up-to-date information and comply with all provisions prescribed in the guidelines applicable to it. The details of the information provided by the applicant shall be proportionate to the size and internal organisation of the applicant as well as to the nature, range, complexity and risks of the specific services that the applicant wishes to render. In accordance with Directive 2015/2366/EU, the senior executives and the persons responsible for the management of the institution must be of good reputation and possess appropriate knowledge and experience to perform payment services, regardless of the institution's size, internal organisation and the nature, scope, complexity and risks of its activities and the rights and responsibilities of the specific position.

**Requirements specified in the Guidelines with regard to the content of the documents to be submitted as annexes to the Application:**

**4.5.1. Identification data**

The identification data to be provided by the applicant shall contain the following information: a) the applicant's corporate name and, if different, trade name;

- b) an indication whether the applicant is already incorporated or is in the process of incorporation;
- c) the applicant's national identification number, if applicable;
- d) the applicant's legal status and (draft) articles of association and/or constitutional documents evidencing the applicant's legal status;
- e) the address of the applicant's registered office and business site;
- f) the applicant's electronic address and website, if available;
- g) the name(s) of the person(s) in charge of submitting the application and of the licensing procedure, and their contact details
- h) an indication whether or not the applicant has ever been, or is currently being subject to the supervision of the competent authority in the financial services sector;
- i) any trade association(s) that the applicant plans to join, where applicable, in relation to the electronic money or payment services;
- j) the registered certificate of incorporation or, if applicable, negative certificate of the commercial register that the name used by the company is available;
- k) evidence of the payment of any fees or of the deposit of funds to file an application to be licensed as an electronic money issuing institution, where applicable under national law.

**4.5.2. Programme of operations**

The programme of operations to be provided by the applicant shall contain the following information:

- a) an indication of the type of electronic money services that the applicant wishes to render: issuance, redemption, distribution;
- b) if applicable, a step-by-step description of the type of payment services envisaged, including an explanation of how the activities and the operations to be provided are identified by the applicant as fitting into any of the legal categories of payment services listed in Annex I to PSD2, and an indication of whether these payment services would be provided in addition to electronic money services or whether they are linked to the issuance of electronic money;
- c) a declaration whether or not the applicant possesses the clients' funds at any time;
- d) if applicable, a description of the execution of the different e-money services and, if applicable, payment services, providing the data of all parties involved, for each e-money service and, if applicable, each payment service provided;
  - i. diagram of the cash flows;
  - ii. settlement rules;
  - iii. draft contracts between all parties involved in the provision of payment services including those with payment card schemes, if applicable;
  - iv. the processing times;

- e) copy of the draft contract between the electronic money issuer and the electronic money holder and the draft framework contract, as defined in Article 4(21) of PSD2 if the applicant also intends to provide payment services in addition to e-money services;
- f) the number of different business sites where the applicant intends to provide services, if applicable;
- g) a description of any ancillary services to e-money services and, if applicable, to payment services;
- h) when the applicant intends to provide payment services in addition to e-money services, a declaration of whether or not the applicant intends to grant credit and, if so, within which limits;
- i) a declaration whether or not the applicant plans to provide electronic money services also in other Member States or third countries after receiving the licence;
- j) an indication whether or not the applicant intends, in the next three years, to provide or already provides the business activities, other than electronic money services, referred to in Article 11(5) of Directive 2015/2366/EU, including a description of the type and expected volume of the activities;
- k) the information specified in the EBA Guidelines on the criteria of how to define the minimum amount of the professional liability insurance or other comparable guarantee under Article 5(4) of Directive (EU) 2015/2366 (EBA/ GL2017/ 08) where the applicant also intends to provide services 7 and 8 (payment initiation services and account information aggregation services).

#### **4.5.3. Business plan**

The business plan submitted together with the application shall contain the following information:

- a) marketing plan containing the following information:
  - i. an analysis of the company's competitive position in the e-money market and, if applicable, payment market segment concerned;
  - ii. description of the payment service users and electronic money holders, marketing materials and distribution channels;
- b) audited annual accounts of the previous three years, if available, or a summary of the financial situation of the companies that have not yet produced annual accounts;
- c) forecast budget calculation for the first three financial years, which demonstrates that the applicant is able to apply appropriate and proportionate systems, resources and procedures necessary for its reliable operation. The planned budget shall include:
  - i. an income statement and balance-sheet forecast, including target scenarios and stress scenarios as well as their benchmark assumptions, such as volume and value of transactions, number of clients, pricing, average amount per transaction, expected increase in profitability threshold;
  - ii. explanations of the main components of income and expenses, the financial debts and the capital assets;
  - iii. diagram and detailed breakdown of the estimated cash flows for the next three years;
- d) information on own funds, including the amount and detailed breakdown of the composition of the start-up capital as set out in Article 57(a) and (b) of Directive 2006/48/EC;
- e) information on, and calculation of, minimum own funds requirements in accordance with method D, as referred to in Article 5.3 of Directive 2009/110/EC (the second E-Money Directive (EMD2), if the electronic money institution intends to provide e-money services only, or the method(s) referred to in Article 9 of Directive 2015/2366/EU (PSD2) as determined by the competent authority, if the applicant intends to provide payment services in addition to e-money services, including an annual projection of the breakdown of own funds for three years according to the method used and, if applicable, an annual projection of the own funds for three years according to the other methods used.

#### **4.5.4. Organisational structure**

The applicant shall submit the description of the company's organisational structure, and particularly:

- a) the detailed organisational chart, showing each division, department or similar structural unit, including the name of the person(s) responsible, in particular those in charge of internal audit functions; the chart shall be accompanied by descriptions of the functions and responsibilities of each division, department or similar structural unit;
- b) an overall forecast of the number of employees for the next three years;
- c) description of the relevant operational outsourcing schemes, particularly:
  - i. the identification data and geographical location of the outsourcing provider;

- ii. identification data of the persons responsible, within the electronic money institution, for the individual outsourced activities;
  - iii. clear description of the outsourced activities and their main characteristics;
- d) copy of draft outsourcing contract;
- e) description of the use of branches and agents, where applicable, including:
  - i. a statement of the offsite and onsite inspections that the applicant intends to perform in the branches, at the agents and distributors;
  - ii. the IT systems, processes and infrastructure used by the applicant's agents and distributors to perform activities on behalf of the applicant;
  - iii. in the case of agents and distributors the selection policy, monitoring procedures, agents' and distributors' training and, where applicable, the draft terms of engagement of agents and distributors;
- f) an indication of the national and/or international payment systems that the applicant will access, if applicable;
- g) list of all natural persons and legal entities that have close relation with the applicant, indicating their identification data and the nature of the relation.

#### **4.5.5. Proof of the start-up capital**

For the evidence of the start-up capital paid up by the applicant (EUR 350,000), the applicant should submit the following documents:

- a) for existing undertakings, a certified account statement or authentic register confirming the amount of the applicant's capital;
- b) for undertakings in the process of being incorporated, a bank statement issued by the applicant's account keeping bank showing that the funds are deposited on applicant's bank account.

#### **4.5.6. Measures to safeguard the funds of electronic money users and/or payment service users**

Where the applicant safeguards the electronic money users' and/or payment service users' funds through depositing funds on a separate account in a credit institution or through an investment in secure, liquid, low-risk assets, the description of the safeguarding measures should contain:

- a) a description of the investment policy to ensure that the assets chosen are liquid, secure and of low risk, if applicable;
- b) the number of persons with access to the accounts used to safeguard the clients' funds and their functions;
- c) a description of the administration and reconciliation process that – particularly in the event of insolvency – separates the users of the payment services and electronic money from the receivables of the payment institution's other creditors;
- d) copy of the draft contract with the credit institution;
- e) an explicit declaration by the electronic money institution of compliance with Article 10 of PSD2.

Where the applicant safeguards the funds of the electronic money users and, if applicable, the payment service users through an insurance policy or comparable guarantee from an insurance company or credit institution, and unless the applicant intends to provide payment initiation services only, the description of the safeguarding measures should contain the following:

- a) a confirmation that the insurance policy or comparable guarantee concluded with an insurance company or a credit institution is from an entity not belonging to the same group as the applicant;
- b) details of the reconciliation process in place to ensure that the insurance policy or comparable guarantee is sufficient to meet the applicant's safeguarding obligations at all times;
- c) duration and renewal of the coverage;
- d) copy of the (draft) insurance contract or the (draft) comparable guarantee.

#### **4.5.7. Corporate governance and internal audit mechanisms**

The applicant shall describe the corporate governance and internal audit mechanisms, in particular:

- a) a statement of the risks identified by the applicant, including the type of risks and the procedures the applicant will put in place to assess and prevent such risks, in relation to e-money services and, if applicable, to payment services;

- b) the procedures supporting the execution of the periodic and ongoing audits, including the frequency of the audits and the allocated human resources;
- c) the accounting procedures applied for the recording and reporting of the applicant's financial information;
- d) the identity of the person(s) in charge of the internal control functions, including the persons responsible for the periodic and ongoing control and for ensuring compliance, and the up-to-date curriculum vitae of such persons;
- e) the name of any auditor that is not a statutory auditor within the meaning of Directive 2006/43/EC;
- f) the composition of the management body and, if applicable, of any other supervisory body or committee;
- g) description of the method applied by the electronic money institution for the monitoring and audit of outsourced functions to ensure that the quality of its internal audit does not deteriorate;
- h) description of the method applied by the applicant for the monitoring and audit of the agents, branches and distributors within the framework of its internal audit;
- i) if the applicant is the subsidiary of a legal entity regulated in another EU Member State, the description of the group governance.

#### **4.5.8. Procedures used for the monitoring, management and follow-up of the security incidents and the customer complaints related to security**

Applicant shall describe the procedure used for the monitoring, management and follow-up of the security incidents and the customer complaints related to security with the following content: a) organisational measures and tools for the prevention of fraud;

- b) detailed data of the persons and bodies responsible for providing assistance to clients in the event of fraud, technical issues and/or claim management;
- c) reporting line in cases of fraud;
- d) contact point for clients, including the name and email address;
- e) the procedures for the reporting of incidents, including the communication of these reports to internal or external bodies, including the applicants that intend to provide payment services in addition to e-money services, and the notification of major incidents to national competent authorities under Article 96 of PSD2 and in line with the EBA guidelines on incident reporting stipulated in the aforementioned Article.
- f) the monitoring tools used and the follow-up measures and procedures in place to mitigate security risks.

#### **4.5.9. Description of the procedure used for registering, monitoring, tracking and limiting access to sensitive payment data**

The applicant shall provide a description of the processes in place to register, monitor, track and restrict access to sensitive payment data, in particular:

- a) description of the data flows classified as sensitive payment data in the context of the business model of the electronic money institution;
- b) the procedures introduced to authorise access to sensitive payment data
- c) the tool used for monitoring;
- d) access right policy, detailing access to all relevant infrastructure components and systems, including databases and back-up infrastructures;
- e) description of the method of filing the collected data;
- f) anticipated internal and/or external use of the collected data (e.g. by the contracting parties);
- g) the IT system and the implemented technical security measures, including encryption and/or tokenisation;
- h) identification of the individuals, bodies and/or committees with access to sensitive payment data;
- i) the manner of detecting and managing infringements;
- j) the annual internal audit programme related to the security of IT systems.

#### **4.5.10. Business continuity measures**

The applicant shall describe the business continuity measures by providing the following information:

- a) business impact analysis, including the business processes and recovery objectives, such as target recovery times and recovery points and protected assets;
- b) identification data of the back-up site, access to IT infrastructure and the critical software and data necessary for recovery in the event of a disaster or disruption;

- c) an explanation of how the applicant will deal with significant continuity events and disruptions, such as the failure of critical systems; the loss of critical data; the inaccessibility of the business site; and the loss of key persons;
- d) the frequency with which the applicant intends to verify its business continuity and disaster recovery plans, including the manner of registering the findings of the verification;
- e) description of the mitigation measures to be adopted by the applicant when it terminates its payment services, and has to ensure the execution of pending payment transactions and the termination of existing contracts

#### **4.5.11. Description of the principles and definitions applied during the collection of statistical data related to performance, transactions and frauds**

The applicant shall describe the principles and definitions applied during the collection of statistical data related to performance, transactions and frauds by providing the following information:

- a) the type of data collected in respect of clients, type of payment services, channels, tools, jurisdiction and currencies;
- b) the scope of the collection, indicating the respective activities and entities, such as branches, intermediaries and distributors;
- c) means of collection;
- d) purpose of collection;
- e) frequency of collection;
- f) supporting documents, such as the manual describing the functioning of the system.

#### **4.5.12. Description of the security principles**

The applicant should provide a security policy document in relation to its e-money service(s) and, where applicable, payment service(s) containing the following information:

- a) detailed assessment of the risks related to the electronic money and –where applicable – the payment services the applicant wishes to render, including the risk of fraud and the security audit and risk mitigating measures introduced by the applicant with a view to providing the users of the electronic money services and payment services with proper protection against the identified risks;
- b) description of the IT systems in accordance with the following content:
  - i. architecture and network components of the systems;
  - ii. the business IT systems supporting the performed business activities (e.g. the applicant’s website, wallets, the payment engine, the risk and fraud management engine, and customer settlement);
  - iii. IT systems supporting the organisation and administration of the electronic money institution (e.g. accounting, statutory reporting systems, human resource management, customer relationship management, e-mail servers and internal file servers);
  - iv. information whether the applicant or the applicant’s group already uses these systems; if the systems are not in use yet, the estimated start date of the use;
- c) type of authorised external connections (e.g. connection with counterparties, service providers, other legal entities of the group and employees working remotely), including the justification for these connections;
- d) for each of the services listed under point c), the logical security measures and mechanisms in place, specifying the control the electronic money institutions will have over such access as well as the nature and frequency of each control, such as technical organisational; preventive or diagnostic; and real-time monitoring or regular reviews, for example, use of an active directory separated from the group, the opening/closing of communication lines, security equipment configuration, generation of keys or client authentication certificates, system monitoring, authentication, confidentiality of communication, intrusion detection, antivirus systems and logs;
- e) logical security measures and mechanisms controlling internal access to IT systems, with the following content:
  - i. technical or organisational nature and frequency of the individual measures, i.e. indicating whether the measure is preventive or diagnostic, and whether it is executed real time;
  - ii. how the issue of client environment segregation is dealt with when the applicant’s IT resources are shared;
- f) measures and mechanisms ensuring the physical security of the applicant’s business site and data centre, such as the access control system and environmental security;

- g) security of the e-money and, where applicable, payment processes, which should include:
  - i. customer authentication procedure for enquiry and transaction initiation, and for all underlying cash substitute payment instruments
  - ii. an explanation of how safe delivery to the legitimate e-money services user and, where applicable, payment service user and the integrity of authentication factors, such as hardware tokens and mobile applications, is ensured, at the time of the initial contact and renewal;
  - iii. description of the systems and procedures introduced by the electronic money institution to analyse transactions and identify suspicious or unusual transactions;
- h) detailed risk assessment related to the applicant's electronic money and – where applicable – payment services (e.g. including fraud, with reference to the control and mitigation measures explained in the application file, demonstrating that the risks are addressed);
- i) list of the main written procedures in relation to the applicant's IT systems or, for procedures that have not yet been formalised, an estimated date for their finalisation.

#### **4.5.13. Internal audit mechanisms to comply with obligations related to the prevention of money laundering and terrorist financing**

The description of the internal audit mechanisms developed to comply with these obligations shall include the following information:

- a) the applicant's assessment of the money laundering and terrorist financing risks associated with its business, including the risks associated with the applicant's customer base, the products and services provided, the distribution channels used and the geographical areas of operation;
- b) the measures the applicant has or will put in place to mitigate the risks and comply with applicable obligations to prevent money laundering and terrorist financing, including the applicant's risk assessment process, the policies and procedures to comply with customer due diligence requirements, and the policies and procedures to detect and report suspicious transactions or activities;
- c) the systems and controls the applicant has or will put in place to ensure that its branches, agents and distributors comply with applicable requirements pertaining to the prevention of money laundering and terrorist financing, including the cases where the agent or branch is located in another Member State;
- d) arrangements the applicant has or will put in place to ensure that its employees, agents and distributors are appropriately trained in matters related to the prevention of money laundering and terrorist financing;
- e) the identification data of the person in charge of ensuring the applicant's compliance with obligations to prevent money laundering and terrorist financing, and evidence that expertise related to the prevention of money laundering and terrorist financing is sufficient to enable them to fulfil this role effectively;
- f) the systems and controls the applicant has or will put in place to ensure that its policies and procedures related to the prevention of money laundering and terrorist financing remain up-to-date, effective and relevant;
- g) the systems and audits the applicant has or will put in place to ensure that its agents and distributors do not expose the applicant to increased money laundering and terrorist financing risk;
- h) the manual available to the applicant's employees for the prevention of money laundering and terrorist financing.

#### **4.5.14. Identity and suitability assessment of persons with qualifying holdings in the applicant**

For the purposes of proving the identity and suitability of persons with qualifying holdings in the applicant electronic money institution, without prejudice to the assessment in accordance with the criteria, as relevant, introduced by Directive 2007/44/EC and specified in the joint guidelines for the prudential assessment of acquisitions of qualifying holdings (EBA/GL/2017/08), the applicant shall submit the following information:

- a) if the applicant belongs to a group of companies, the description of the group, indicating the parent company;
- b) the chart illustrating the applicant's ownership structure, including:
  - i. the name and the percentage of the holding (capital/voting right) of each person that has or will have direct holding in the share capital of the applicant, identifying those that are considered as persons with qualifying holding and the reason for such qualifications;
  - ii. the name and the percentage of the holding (capital/voting right) of each person that has or will have indirect holding in the share capital of the applicant, identifying those that are considered as persons with indirect qualifying holding and the reason for such qualifications;

- c) list of the names of all persons and other entities that have or, in the case of authorisation, will have qualifying holdings in the applicant's capital, indicating for each such person or entity:
  - i. the number and type of shares or other holdings subscribed or to be subscribed; ii. the nominal value of such shares or other holdings;

Where a person who has or, in the case of authorisation, will have a qualifying holding in the applicant's capital is a natural person, the application should list the following information relating to the identity and suitability of that person:

- a) the person's name, name at birth, date and place of birth, citizenship (current and previous), identification number (where available) or passport number, address and a copy of an official identity document;
- b) a detailed curriculum vitae stating the education and training, previous professional experience and any professional activities or other functions currently performed;
- c) a statement, accompanied by supporting documents, containing the following information concerning the person:
  - i. subject to national legislative requirements concerning the disclosure of sentences served, any criminal conviction not abolished;
  - ii. any civil or administrative decisions in matters of relevance to the assessment or authorisation process where the person was condemned and any administrative sanctions or measures imposed as a consequence of a breach of laws or regulations (including disqualification as senior executive), when the decision was not abrogated, or there is no pending appeal against it or no appeal lies;
  - iii. any bankruptcy, insolvency and similar proceedings; iv. pending criminal proceedings;
  - v. any civil or administrative investigations, enforcement proceedings, sanctions or other enforcement decisions against the person concerning matters that may be considered relevant to the licensing to commence the activity of an electronic money institution or to the sound and prudent management of an electronic money institution;
  - vi. where such documents can be obtained, an official certificate or any other equivalent document evidencing whether or not any of the events set out in sub-paragraphs (i)-(v) has occurred in respect of the relevant person;
  - vii. any refusal of registration, authorisation, membership or licence to carry out trade, business or a profession;
  - viii. any withdrawal, revocation or termination of a registration, authorisation, membership or licence to carry out trade, business or a profession;
  - ix. any expulsion by an authority or public sector entity in the financial services sector or by a professional body or association;
  - x. any position of responsibility with an entity subject to any criminal conviction or proceedings, administrative investigations, sanctions or other enforcement decisions for conduct failings, including in respect of fraud, dishonesty, corruption, money laundering, terrorist financing or other financial crime, or of failure to put in place adequate policies and procedures to prevent such events, held at the time when the alleged conduct occurred, together with details of such occurrences and of the person's involvement, if any, in them;
  - xi. any dismissal from employment or a position of trust, any removal from a fiduciary relationship (other than as a result of the relevant relationship coming to an end by passage of time) and any similar situation;
- d) a list of undertakings that the person directs or controls and of which the applicant is aware of after due and careful enquiry; the percentage of control either direct or indirect in these companies; their status (whether or not they are active, dissolved, etc.); and a description of insolvency or similar procedures;
- e) where an assessment of reputation of the person has already been conducted by a competent authority in the financial services sector, the name of that authority and the outcome of the assessment;
- f) the current financial position of the person, including details concerning sources of revenues, assets and liabilities, security interests and guarantees, whether granted or received;
- g) a description of any links to politically exposed persons, as defined in Article 3(9) of Directive 2015/849/EU.

Where a person or entity who has or, in the case of authorisation, will have a qualifying holding in the applicant's capital (including entities that are not a legal person and which hold or should hold the participation in their own name), the application should contain the following information relating to the identity and suitability of that legal person or entity: a) name;

- b) where the legal person or entity is registered in a central register, commercial register, companies register or similar register that has the same purposes of those aforementioned, a copy of the good standing, if possible, or otherwise a registration certificate;
- c) the addresses of its registered office and, where different, of its head office, and principal place of business;
- d) contact details,
- e) corporate documents or, where the person or entity is registered in another Member State, a summary explaining the main legal features of the legal form or the entity;
- f) whether or not the legal person or entity has ever been or is regulated by a competent authority in the financial services sector or other government body;
- g) where such documents can be obtained, an official certificate or any other equivalent document evidencing the information set out in subsections (a) to (e) issued by the relevant competent authority;
- h) the information referred to in sections 15 (2)(c), 15 (2)(d), 15 (2)(e), 15 (2)(f) and 15 (2)(g) of the Guidelines in relation to the legal person or entity;
- i) a list containing details of each person who effectively directs the business of the legal person or entity, including their name, date and place of birth, address, their national identification number, where available, and a detailed curriculum vitae (stating relevant education and training, previous professional experience, any professional activities or other relevant functions currently performed), together with the information referred to in Sections 15 (2)(c) and 15 (2)(d) of the Guidelines in respect of each such person;
- j) the shareholding structure of the legal person, including at least their name, date and place of birth, address and, where available, personal identification number or registration number, and the respective share of capital and voting rights of direct or indirect shareholders or members and beneficial owners, as defined in Article 3(6) of Directive 2015/849/EU;
- k) a description of the regulated financial group in which applicant participates or may participate, indicating the parent company and the organisation dealing with loans, insurance and securities within the group; the name of their competent authorities (on an individual or consolidated basis); and
- l) annual financial statements, at individual level and, where applicable, the consolidated and sub-consolidated group levels, for the last three financial years, where the legal person or entity has been in operation for that period (or, if less than three years, the period for which the legal person or entity has been in operation and for which financial statements have been prepared), approved by the statutory auditor or audit firm within the meaning of Directive 2006/43/EC, where applicable, including each of the following items:
  - i. the balance sheet;
  - ii. the profit and loss account;
  - iii. the annual reports and notes to financial statements and any other documents registered with the relevant registry or competent authority of the legal person;
- m) where the legal person has not been operating for a sufficient period to be required to prepare financial statements for the three financial years immediately preceding the date of the application, the application shall present the existing financial statements (if any);
- n) where the legal person or entity has its head office in a third country, general information on the regulatory regime of that third country as applicable to the legal person or entity, including information on the extent to which the third country's regime to prevent money laundering and terrorist financing is consistent with the Financial Action Task Force Recommendations;
- o) for entities that do not have legal personality such as a collective investment undertaking, a sovereign wealth fund or a trust, the application shall contain the following information:
  - i. the identity of the persons who manage assets and of the persons who are beneficiaries or subscribers, unit holders controlling the collective investment undertaking or having a holding enabling them to prevent the taking of decisions by the collective investment undertaking;
  - ii. a copy of the document establishing and governing the entity including the investment policy and any restrictions on investment applicable to the entity.

The application shall include the following information for each natural or legal person or entity who has or, in the case of authorisation, will have a qualifying holding in the capital of the applicant:

- a) details of that person's or entity's financial or business reasons for owning that holding and the person's or the entity's strategy regarding the holding, including the period for which the person or the entity intends to hold the holding and any intention to increase, reduce or maintain the level of the holding in the foreseeable future;
- b) details of the person's or the entity's intentions in respect of the applicant and of the influence the person or the entity intends to exercise over the applicant, including in respect of the dividend policy, the strategic

development and the allocation of resources of the applicant, whether or not it intends to act as an active minority shareholder, and the rationale for such intention;

- c) information on the person's or the entity's willingness to support the applicant with additional own funds if needed for the development of its activities or in the case of financial difficulties;
- d) the content of any intended shareholder's or member's agreements with other shareholders or members in relation to the applicant;
- e) an analysis as to whether or not the qualifying holding will impact in any way, including as a result of the person's close links to the applicant, the ability of the applicant to provide timely and accurate information to the competent authorities;
- f) the identity of each member of the management body or of senior management who will direct the business of the applicant and will have been appointed by, or following a nomination from, such shareholders or members, together with, to the extent not already provided, the information set out in Guideline 16.

The application shall contain a detailed explanation of the specific sources of funding for the participation of each person or entity having a qualifying holding in the applicant's capital, which shall include:

- a) details on the use of private financial resources, including their availability and (so as to ensure that the competent authority can ascertain that the activity that generated the funds is legitimate) source;
- b) details on access to financial markets, including details of financial instruments to be issued;
- c) information on the use of borrowed funds, including the name of the lenders and details of the facilities granted, such as maturities, terms, securities collaterals and guarantees, as well as information on the source of revenue to be used to repay such borrowings; where the lender is not a credit institution or a financial institution authorised to grant credit, the applicant should provide to the competent authorities information on the origin of the borrowed funds;
- d) information on any financial arrangement with other persons who are shareholders or members of the applicant.

#### **4.5.15. Identity and suitability assessment of senior executives and officers of the electronic money institution responsible for management**

The applicant shall provide the following information with regard to the identity and suitability assessment of senior executives and officers of the electronic money institution responsible for management: a) Personal data, including:

- i. full name, sex, place and date of birth, address and nationality, and personal identification number or copy of ID card or equivalent;
  - ii. details of the position to be assessed, and indication whether or not the position in the management body is executive or non-executive. This should also include the following data:
    - a) letter of appointment, agency contract, offer of employment or relevant drafts, as applicable;
    - b) planned start date and duration of the mandate;
    - c) description of the individual's key duties and responsibilities;
- b) where applicable, information on the suitability assessment carried out by the applicant, which shall include details of the result of any assessment of the suitability of the individual performed by the institution, such as relevant board minutes or suitability assessment reports or other documents;
  - c) evidence of knowledge, skills and experience, which shall include a curriculum vitae containing details of education and professional experience, including academic qualifications, other relevant training, the name and nature of all organisations for which the individual works or has worked, and the nature and duration of the functions performed, in particular highlighting any activities within the scope of the position to be filled;
  - d) evidence of good reputation, honesty and integrity, which shall include:
    - i. criminal records and relevant information on criminal investigations and proceedings, relevant civil and administrative cases, and disciplinary actions, including disqualification as a company director, bankruptcy, insolvency and similar procedures, confirmed by an extract from the judicial record or equivalent instrument concerning the absence of criminal conviction, investigations and proceedings, such as third-party investigations and testimonies made by a lawyer or a notary established in the European Union;
    - ii. statement as to whether criminal proceedings are pending or the person or any organisation managed by him or her has been involved as a debtor in insolvency proceedings or comparable proceedings;

- iii. information on the following: - investigations, enforcement proceedings or sanctions by a supervisory authority that the individual has been directly or indirectly involved in;
- d) refusal of registration, authorisation, membership or licence to carry out a trade, business or profession; the withdrawal, revocation or termination of registration, authorisation, membership or licence; or expulsion by a regulatory or government body or by a professional body or association;
- e) dismissal from employment or a position of trust, fiduciary relationship, or having been asked to resign from employment in such a position, excluding redundancies;
- f) whether or not an assessment of the reputation of the individual as an acquirer or head of an institution has already been conducted by another competent authority, including the identity of that authority, the date of the assessment and evidence of the outcome of this assessment, and the consent of the individual, where required, to seek such information and process and use the received information for the suitability assessment;
- g) whether or not any previous assessment of the individual, commissioned by another, non-financial sector, has already been conducted, including the identity of that authority and evidence of the outcome of such an assessment.

#### **4.5.16. Identification of the statutory auditors and audit companies specified in Directive 2006/43/EC of the European Parliament and of the Council**

The applicant shall indicate, as applicable, the identification data of the statutory auditors and audit companies as defined in Directive 2006/43/EC, together with the names, addresses and contact details of auditors.

#### **4.5.17. Professional liability insurance or other comparable guarantee for payment initiation services and account information services**

The applicants that in addition to the payment initiation and account information services also intend to render electronic money services and wish to obtain the licence as an electronic money institution, shall provide the following information as evidence of a professional indemnity insurance or comparable guarantee complying with the EBA Guidelines on the criteria on how to stipulate the minimum monetary amount of the professional liability insurance or other comparable guarantee (EBA/GL/2017/08) and Article 5 (2) and 5 (3) of PSD2:

- a) an insurance policy or other equivalent document presenting all relevant liabilities, which confirms the existence of professional liability insurance or a comparable guarantee, where the cover amount complies with the aforementioned EBA Guidelines;
- b) documentation that the method used by the applicant to calculate the minimum amount complies with the aforementioned EBA Guidelines (EBA/GL/2017/08), including all applicable components of the formula specified therein.

#### **4.6. Special provisions related to the activity licence of electronic money institutions**

The electronic money institution – if following the granting of the activity licence any change affects the fulfilment of the provisions of the activity licence application – shall inform the MNB accordingly in writing within three days from the occurrence or the date of obtaining knowledge of the change. The electronic money institution shall attach the document confirming the change and the reliable evidence or declaration that the electronic money institution continues to satisfy the licensing criteria (Section 23 (1) of the Payment Providers Act).

For an electronic money institution that also pursues business activity other than those stipulated in Sections 5 and 7 of the Payment Providers Act, the MNB may prescribe that it should pursue its other business activity separately from the financial services and supplementary financial services activity, in a separate organisation, if the volume or nature of such other business activity or the absence of transparency thereof for the MNB has adverse effect

- a. on the financial reliability of the electronic money institution, or
- b. on the MNB's ability to fulfil its supervisory tasks. (*Section 23 (2) of Payment Service Providers Act*)

## V. PERSONNEL REQUIREMENTS

### 5.1. Senior executives of the electronic money institution

Pursuant to the provisions of Section 3 (40)b-c) of the Payment Providers Act, the senior executives of the electronic money institutions shall include:

- the person in charge of managing the electronic money issuance services and payment business of the electronic money institution, and all of his or her deputies, and
- the managing director.

Pursuant to the provisions of Section 15 (2)c) and Section 29 (1) of the Payment Providers Act, the election and appointment of the senior executives of the electronic money institution shall be conditional upon the MNB's prior authorisation

For the detailed conditions applicable to the authorisation of senior executives see the licensing guide entitled "Election/appointment of the senior executives of payment institutions/electronic money issuers".

### 5.2. Internal controller

The electronic money institution shall employ at least one internal auditor (*Section 32 (2) of the Payment Providers Act*).

Only such person may be appointed as the head of the internal audit organisational unit, or – if the electronic money institution employs only one internal auditor – only such person may be entrusted with the performance of the internal audit duties, who

- holds a specialised higher education degree or qualified as chartered accountant provision,
- has at least three years of professional experience, and
- has clean record (*Section 32 (5)a-c) of the Payment Providers Act*)

### 5.3 With a view to ascertaining that the internal auditor satisfies the relevant requirements, the electronic money institution should ask the candidate to submit the following documents:

- original instrument or notarised copy of the instrument confirming the specialised higher education/chartered accountant qualification,
- employer's certificate(s) to confirm the professional experience of at least three years, - certificate of clean record with enhanced content not older than 90 days.

Pursuant to the provisions of Section 32 (6)a-d) of the Payment Providers Act, those persons are deemed to hold higher education degree who obtained

- in accordance with Act LXXX of 1993 on Higher Education, university or college degree in higher education in economics, or in accordance with Act XXXIX of 2005 on Higher Education a BA or MSc degree in economics,
- lawyer's qualification,
- auditor's qualification, or higher education or postgraduate banking qualification.

### 5.4. Rules applicable to the auditor

The electronic money institutions shall submit to the MNB the contract concluded with the auditor for the audit of the annual accounts, and all reports prepared by the auditor in relation to the annual accounts (*Section 37 (1) of the Payment Providers Act*).

Electronic money institutions may only give mandate for the performance of the external auditor's tasks to a registered auditor (audit company) holding a valid audit licence, if - the auditor (audit company) has financial institution qualification,

- the auditor has no direct or indirect ownership right in the electronic money institution,
- the auditor has no outstanding loan with the electronic money institution,
- the member with qualifying holding has no direct or indirect ownership right in audit company. (*Paragraphs a-d) of Section 35 (1) of Payment Service Providers Act*)

The restrictions related to the auditor's outstanding loan with the electronic money institution, and the direct and indirect holding in the audit company shall also apply to the auditor's close relative (*Section 35 (2) of the Payment Providers Act*).

**VI. The MNB shall reject the application for the electronic money institution activity licence, if**

- the applicant provides any misleading or false data during the licensing procedure,
- the electronic money institution to be operated by the applicant does not comply with the requirements pertaining to the start-up capital, organisational and personnel conditions, and to the owners with qualifying holding,
- if the person in close relationship with the electronic money institution to be operated by the applicant, or the legislative system of the third country applicable to the closely related person does not facilitate the efficient performance of the oversight duties, or
- based on applicant's business plan, other documents attached to the licence application or any other instrument, data or information available to the Supervisory Authority it can be established that the applicant is unable to comply with the statutory requirements applicable to the financial services activity and supplementary financial services activity.
- there are reasonable grounds to suspect that, in connection with the activity of the applicant, money laundering or terrorist financing within the meaning of the relevant legislation is being or has been committed or attempted, or that the contemplated activity could increase the risk thereof,
- the suitability of its owner with qualifying holding is questionable based on the data available to the MNB. (*Section 20 of Payment Service Providers Act*)

The detailed requirements related to the engagement of electronic money distributors by the electronic money institutions are included in the guide entitled "Financial intermediary licences".

Pursuant to Section 3(1) of MNB Decree 32/2023. (VII. 19.) on the administrative service fees of the Magyar Nemzeti Bank applied in certain licensing and registration procedures in the context of the supervision of the financial intermediary system and with respect to trustee enterprises, the conduct of the licensing procedure is subject to the payment of an administrative service fee by the electronic money institution in the amount of HUF 1.900.000. The applicant shall make a declaration on the payment of the fee on the Form used for the application for the activity licence.

For further information about the administrative service fee see:

<http://www.mnb.hu/letoltes/tajekoztatas-a-magyar-nemzeti-bank-altal-egy-esnyilvantartasba-veteli-eljarasokban-alkalmazott-igazgatasi-szolgaltatasi-dijrol.pdf>

Should, after carefully reading this guide, any further question – related to the respective, individual case, not possible to answer in the form of consultation over the phone or in writing – arise, the MNB provides the applicant with the possibility of personal consultation. For the possibility of personal consultation, contact the secretariat of the Money and Capital Markets Licensing Department (Telephone number: +361-489-9731; email: [ptef@mnb.hu](mailto:ptef@mnb.hu)).

If the questions are solely of IT nature, you may also contact the Information Technology Supervision Department directly for the purpose of personal consultation (Telephone number: +361-489-9780; email: [iff@mnb.hu](mailto:iff@mnb.hu)).

Last amendment: August 2023