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**Journal of Laws of 2011, No. 199, item 1175**

**Prepared on the basis of: consolidated text in the Journal of Laws of 2019, items 659, 730, 1495.**

**ACT**

of 19 August 2011

**on Payment Services<sup>1)</sup>**

**DIVISION I**

**General Provisions**

**Article 1.1.** The Act sets out the rules governing the provision of payment services and the issue and redemption of electronic money, including:

- 1) the conditions for the provision of payment services, in particular regarding the transparency of contractual regulations and requirements regarding the provision of information about payment services;
- 2) the rights and obligations of parties arising out of contracts for the provision of payment services and also the extent of providers' responsibilities in respect of payment services;
- 2a) conditions of the issue and redemption of electronic money;
- 3) principles of conduct of a business by payment institutions, small payment institutions, account information service providers, money service bureaus, electronic money institutions, and branches of foreign electronic money institutions, including through the intermediation of agents of these entities, and the principles of exercising supervision over these entities;
- 4) principles of consumers' access to the payment account with basic features;
- 5) principles of transferring payment accounts held for consumers.

2. The Act also sets out:

- 1) basic principles of functioning of the market of domestic payment transactions made using payment cards;
- 2) principles of operating websites that compare fees related to a payment account;
- 3) principles of functioning of payment schemes and principles of exercising supervision over such schemes.

**Article 2.** For the purposes of this Act, the following definitions shall apply:

- 1) agent - means a natural person or a legal person, or an organisational unit that is not a legal person on which the law confers legal capacity, and which acts for and on behalf of a payment institution, a registered account information service provider, a payment service bureau, an electronic money institution or a branch of foreign electronic money institution exclusively in providing payment services, and in relation to electronic money – in the field of its redemption;

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<sup>1</sup> The scope of the Act implements Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC, and 2006/48/EC, and repealing Directive 97/5/EC (OJ L 319 of 05.12.2007, p. 1, as amended).

- 1a) 'acquirer' means a provider engaged in the provision of payment services referred to in Article 3.1.5, including, an acquirer within the meaning of Article 2(1) of Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (OJ L 123 of 19.05.2015, p. 1), hereinafter referred to as "Regulation (EU) 2015/751";
- 1b) 'merchant' means a payee other than a consumer, for which the acquirer provides a payment service;
- 2) 'reference interest rate' means an interest rate which comes from publicly available sources which can be verified by both parties to a contract for the provision of payment services;
- 2a) 'payment service bureau' means a natural person, a legal person, or an organisational unit that is not a legal person, on which the law confers legal capacity, entered into the register of payment service bureaus, engaged in the business of providing payment services referred to in Article 3.1.6;
- 3) 'close links' means close links referred to in Article 4(1)(38) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176 of 27.06.2013, p. 1, as amended<sup>2</sup>);
- 4) 'credit value date' means a reference point in time from which or up to which a provider calculates interest on funds debited from or credited to a payment account;
- 4a) 'transferring payment service provider' means a payment service provider, which transfers to receiving service provider information required for the purpose of switching a payment account;
- 4b) 'receiving payment service provider' means a payment service provider to which a transferring payment service provider transfers information required for the purpose of payment account switching;
- 4c) 'account servicing payment service provider' means a payment service provider servicing a payment account for the payer;
- 4d) 'payment initiation service provider' means a payment service provider pursuing a business activity in the scope of provision of a payment initiation service;
- 4e) 'account information service provider' means a payment service provider pursuing a business activity in the scope of an account information service;
- 4f) 'registered account information service provider' means natural person, a legal person, or an organisational unit that is not a legal person, on which the law confers legal capacity, entered into the register, referred to in Article 4.3, pursuing a business activity in the scope of provision of an account information service, with the exclusion of other payment services;
- 5) 'business day' means a business day for the payer's provider or the payee's provider, respectively;
- 6) 'host Member State' means a Member State other than the home Member State in which a payment service provides payment services, including through an agent engaged in business in that state or through a branch in that state, or an issuer of electronic money issues electronic money, including through a branch located in that state;
- 7) 'group' means:
  - a) a parent undertaking together with its subsidiaries, and:
    - an entity in which the parent undertaking or its subsidiary has interests or shares, or
    - a joint subsidiary,
  - b) entities that are linked in such a way that more than half the members of the managing, supervisory or administrative bodies of one entity simultaneously perform managerial functions or are members of the supervisory or the administrative body of another entity, or
  - c) entities that are linked in such a way that one entity influences the financial and operating policies of another entity;

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<sup>2</sup> The principles of the regulations referred to have been announced in OJ L 208 of 02.08.2013, p. 68, OJ L 321 of 30.11.2013, p. 6, OJ L 165 of 04.06.2014, p. 31, OJ L 11 of 17.01.2015, p. 37, OJ L 143 of 09.06.2015, p. 7, OJ L 328 of 12.12.2015, p. 108, OJ L 151 of 08.06.2016, p. 4, OJ L 171 of 29.06.2016, p. 153, OJ L 336 of 10.12.2016, p. 36, OJ L 20 of 25.01.2017, p. 4, OJ L 144 of 07.06.2017, p. 14, OJ L 310 of 25.11.2017, p. 1, OJ L 322 of 07.12.2017, p. 27, and OJ L 345 of 27.12.2017, p. 27.

- 8) 'hybrid electronic money institution' means an electronic money institution which, in addition to issuing electronic money, payment services, or the activity referred to in Article 132j.1.1 and Article 132j.1.2 and Article 132j.3, is also engaged in other business activity;
- 9) 'hybrid payment institution' means a payment institution which, in addition to payment services, the issuance of electronic money or the activities referred to in Article 74.1.1 and Article 74.1.2 and Article 74.3 is also engaged in other business activity;
- 9a) 'hybrid payment service bureau' means a payment service bureau which, in addition to the payment service referred to in Article 3.1.6, and is also engaged in other business activity;
- 9aa) 'hybrid small payment institution' means a small payment institution which, in addition to any of the payment services referred to in Article 3.1.1 -6, or the business activity referred to in Article 74.1.1 and Article 74.3, is engaged in other business activity;
- 9b) 'provider identifier' means a combination of digits allowing to unambiguously identify a payment service of the account servicing payment service provider and participating in payment systems, which is referred to in Article 4.2.4-6, Article 4.2.8, and Article 4.2.9;
- 9c) 'incident' means an unexpected event which has an adverse impact on integrity, availability, confidentiality, authenticity, or continuity of payment service provision or creates a high likelihood that such impact will occur, or a series of such events;
- 9d) 'personalised security credentials' means personalised credentials provided to the user by the payment service provider for authentication;
- 10) 'payment instrument' means a personalised device or set of procedures agreed by a user and a provider which is used by the user to place a payment order;
- 10a) 'electronic money institution' means a domestic electronic money institution or an EU electronic money institution;
- 11) 'payment institution' means a domestic payment institution or an EU payment institution;
- 12) 'undertaking' means an undertaking within the meaning of Article 3.1.1 of the Act on Accounting of 29 September 1994 (Journal of Laws of 2018, item 395, as amended<sup>3</sup>), hereinafter referred to as the 'Act on Accounting';
- 13) 'parent undertaking' means a parent undertaking within the meaning of Article 3.1.37 of the Act on Accounting;
- 14) 'joint subsidiary' means a joint subsidiary within the meaning of Article 3.1.40 of the Act on Accounting;
- 15) 'subsidiary' means a subsidiary within the meaning of Article 3.1.39 of the Act on Accounting;
- 15a) 'payment card' means a card entitling to cash withdrawal or allowing a payment order to be placed through a merchant or an acquirer, authorised by the merchant in order for it to obtain funds due to it, including a payment card within the meaning of Article 2(15) of Regulation (EU) 2015/751;
- 15aa) (repealed)
- 15ab) (repealed)
- 15b) 'domestic electronic money institution' means a legal person, who has obtained the authorisation referred to in Article 132a.1 to pursue a business activity as an electronic money institution;
- 16) 'domestic payment institution' means a legal person, who under Article 60.1, has been authorised to pursue a business activity as a payment institution;
- 16a) 'domestic payment transaction' means a payment transaction, in which the payer's provider and the payee's provider are engaged in a business activity within the territory of the Republic of Poland, including a domestic payment transaction within the meaning of Article 2.9 of Regulation (EU) 2015/751;
- 16b) 'overdraft facility' means a savings and settlement account credit within the meaning of Article 5.4 of the Act on Consumer Credit of 12 May 2011 (Journal of Laws of 2018, item 993 and 1075), hereinafter referred to as the 'Act on Consumer Credit and a payment credit referred to in Article 74.3;

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<sup>3</sup> Amendments to the consolidated text of the said Act were published in the Journal of Laws of 2018, item 398, 650, 1629, 2212, and 2244, and of 2019, item 55.

- 17) 'home Member State' means a Member State in the territory of which the registered office of a payment service provider or electronic money issuer is situated or, if such entity has no registered office under the national law of its Member State, a Member State in which its principal place of business is situated;
- 17a) 'sort code' means a unique number identifying the account servicing payment service provider and participating in payment systems;
- 17b) 'small payment institution' means a natural person, a legal person, or an organisational unit that is not a legal person on which the law confers legal capacity, entered into the register referred to in Article 4.3, and engaged in a business activity within the scope of any of the payment services referred to in Article 3.1.1-6, and which is not engaged in a business activity within the scope of the payment services referred to in Article 3.1.7 or Article 3.1.8;
- 17c) 'payment brand' means a payment brand referred to in Article 2(30) of Regulation No 2015/751;
- 18) 'payee' means a natural person, a legal person, or an organisational unit that is not a legal person on which the law confers legal capacity, who is the intended recipient of funds which have been the subject of a payment transaction;
- 19) 'branch' means a separate and organisationally independent part of a business activity pursued by an entrepreneur outside the entrepreneur's registered office or its principal place of business, provided that in the case of an EU payment institution, an EU electronic money institution, and a foreign electronic money institution, all of its branches situated within the territory of the Republic of Poland shall be regarded as a single branch;
- 19a) 'interchange fee' means an interchange fee within the meaning of Article 2(10) of Regulation (EU) 2015/751;
- 19aa) 'merchant service charge' means a merchant fee within the meaning of Article 2(12) of Regulation (EU) 2015/751;
- 19ab) 'system charge' means a card-based payment transaction or a card-based payment instrument, referred to in Article 2(20) of Regulation (EU) 2015/751, constituting revenue of a payment card organisation;
- 19b) 'payment card organisation' means an entity, including a specific body or organisation and an entity referred to in Article 2(16) of Regulation (EU) 2015/751, establishing the rules of the functioning of the payment card scheme and being accountable for decision-making concerning functioning of the payment card scheme;
- 19c) 'payment organisation' means a card organisation and an entity, including a body or an organisation, establishing the rules of the functioning of the payment scheme and accountable for decision-making concerning the functioning of the payment scheme;
- 20) 'managing person' means a member of the management board, and in the case of an entity without a management board, means a person responsible for managing such entity, who is not reporting to another person, provided that in the case of a hybrid payment institution or a hybrid electronic money institution means an appropriate member of the management board or a person responsible for managing a business activity of such institution, respectively, in the scope of payment service or electronic money issue, and in the case of a hybrid small payment institution or a hybrid payment service bureau means an appropriate member of the management board or a person responsible for managing a business activity of such small payment institution or such payment service bureau, respectively, in the scope of payment services;
- 21) 'Member State' means a Member State of the European Union or a Member State of the European Free Trade Agreement (EFTA), or a party to the agreement on the European Economic Area;
- 21a) 'electronic money' means electronically, including magnetically, stored monetary value, issued with the obligation of redemption for the purpose of making payment transactions, accepted by entities other than only the electronic money issuer;
- 22) 'payer' means a natural person, a legal person, or an organisational unit that is not a legal person, on which the law confers legal capacity, who places a payment order;
- 22a) 'participating entity' means an entity that has concluded an agreement with a payment organisation pursuant to which it issues a payment instrument or provides a service referred to in Article 3.1.5 within a payment scheme;

- 23) 'single payment transaction' means a payment transaction, which is not covered by a framework contract;
- 24) 'entrepreneur' means an entrepreneur within the meaning of the provision of the Act on Entrepreneurs Law of 6 March 2018 (Journal of Laws, item 646, 1479, 1629, 1633, and 2212);
- 24a) 'payment transaction processing' means technical and operational activities performed for the purpose of execution of a payment transaction, including in particular:
  - a) initiating of the transaction, including authentication of a payment instrument or a user of such instrument,
  - b) checking data to allow transaction execution, including availability of funds, a possibility of executing the transaction using a payment instrument, and the availability of the communication system among payment service providers,
  - c) servicing of messages sent for the purpose of transfer of funds;
- 24b) 'complaint' means a request addressed to the payment service provider by the user or the electronic money holder, in which the user or the electronic money holder reports reservations concerning services provided by the payment service provider;
- 25) 'payment account' means an account held for one or more users for the execution of payment transactions, with payment account being understood to mean a bank account or an account of a member of a co-operative savings and credit union if those accounts are used for the execution of payment transactions;
- 25a) 'refund account' means a non-interest earning technical account of the provider held for the purpose of executing the obligation referred to in Article 143.2 second sentence, to which a payment transaction amount is refunded which has been executed using an incorrect unique identifier;
- 26) 'reference exchange rate' means an exchange rate provided by the payment service provider or coming from a publicly available source;
- 26a) 'payment scheme' means a set of the rules of payment transaction execution, payment instrument issue, payment instrument acceptance, and processing of payment instrument-based payment transactions and a payment card system;
- 26aa) 'strong user authentication' means authentication ensuring data confidentiality protection based on the application of at least two elements from the following categories:
  - a) knowledge of something that only the user knows,
  - b) possession of something that only the user possesses,
  - c) characteristic features of the user ,- being an integral part of such authentication and independent of each other in such way that breaching of any of such elements does not weaken the reliability of the other ones;
- 26b) 'payment card scheme' means a payment card scheme within the meaning of Article 2(16) of Regulation (EU) 2015/751;
- 26c) 'sensitive payment data' means data, including individual authorisation data that may be used for the purpose of frauds, with the exclusion of the first name and the last name or the name of the account holder and the account number – in the case of a business activity pursued by providers providing a payment initiation service and providers providing an account information service;
- 27) 'payment system' means a system for the transfer of funds which is based on formal and standardised arrangements and common rules for the processing, clearing, and settling payment transactions, and in particular a payment system within the meaning of Article 1.1 of the Act on Finality of Settlement in Payment Systems and Securities Settlement Systems and the Principles of Supervision of Such Systems of 24 August 2001 (Journal of Laws of 2019, item 212), hereinafter referred to as the 'Act on Finality of Settlement';
- 27a) 'average outstanding electronic money' means the arithmetic average of the sum of financial liabilities for the issued electronic money determined on the first calendar day of each month calculated at the end of each calendar day during the previous six calendar months;
- 27b) 'funds' means cash and non-cash funds with a reliably estimated value and liquidity allowing immediate covering of a risk or loss with cash obtaining from such non-cash funds;
- 28) 'means of distance communication' means methods, without the simultaneous physical presence of the payment service provider and the payment service user that may be used for the conclusion of a payment services contract;

- 29) 'payment transaction' means an act initiated by the payer or the payee of placing, transferring, or withdrawing funds;
- 29a) 'digital content' means goods or services, which are produced or supplied in digital form, the use or consumption of which is restricted to a technical device and which do not include in any way the use or consumption of physical goods or services;
- 30) 'durable medium' means a medium which enables the user to store information addressed to him in a way that makes it accessible for a period which is appropriate given the purposes for which the information has been prepared, and which allows the unchanged reproduction of the information stored;
- 31) 'framework contract' means a payment service contract which regulates the execution of single payment transactions, and which may contain provisions concerning payment account maintenance;
- 31a) 'EU electronic money institution' means a legal person to which the competent supervisory authorities have issued an authorisation to issue electronic money;
- 32) 'EU payment institution' means a legal person to which the competent supervisory authorities have issued an authorisation to provide payment services;
- 33) 'unique identifier' means a combination of letters, numbers, or symbols specified to the payment service user by the payment service provider and to be provided by the payment service user to identify unambiguously another payment service user and the payment account of that other payment service user for a given payment transaction;
- 33a) 'payment account-related services' means services provided within opening, holding, and closing of the payment account, including payment services, which are related to the use of the payment account, the transactions referred to in Article 6.7, the overdraft facility, and when the account balance is exceeded;
- 33b) 'authentication' means a procedure which allows the payment service provider to verify the identity of a payment service user or the validity of the use of a specific payment instrument, including the use of the user's personalised security credentials;
- 34) 'user' means a natural person, a legal person, or an organisational unit that is not a legal person on which the law confers legal capacity, and which uses payment services as a payer or payee;
- 35) 'competent supervisory authorities' means authorities of Member States other than the Republic of Poland that are empowered by regulations in force in those States to issue authorisations for the performance of payment services by EU payment institutions or for the issuance of electronic money by EU electronic money institutions;
- 35a) 'payment instrument issuer' means an entity providing a payment service referred to in Article 3.1.4, including the issuer within the meaning of Article 2.2 of Regulation (EU) 2015/751;
- 35b) 'foreign electronic money institution' means an entity established in a non-Member State, other than a foreign bank authorised under the national legislation of its registered office to issue electronic money;
- 35c) 'payment card issuer' means a provider issuing a payment card to be used by the payer;
- 36) 'payment order' means a statement by a payer or payee to its payment service provider containing an instruction requesting the execution of a payment transaction;
- 37) 'qualifying holding' means shares or interests in the amount:
  - a) that means holding by an undertaking, directly or indirectly, at least 10% of the capital of another undertaking,
  - b) that entitles an undertaking to exercise rights derived from at least 10% of the votes in a decision-making body of another undertaking, or
  - c) giving other rights to the capital of an undertaking in such a way as to influence management of its financial and operational policy.

**Article 3.1.** Payment services shall mean activities consisting of:

- 1) acceptance of cash deposits into and making cash withdrawals from a payment account and any operations required for account maintenance;
- 2) execution of payment transactions, including transfer of funds to a payment account with the user's provider or another provider:
  - a) by executing direct debits, including one-off direct debits,

- b) by using a payment card or a similar payment instrument,
- c) by executing transfer order services, including standing orders;
- 3) execution of the payment transactions listed in Article 3.1.2, where the funds made available to the user derive from credit, and in the case of a payment institution or an electronic money institution – from a credit as referred to in Article 74.3 or Article 132j.3;
- 4) issuance of payment instruments;
- 5) enabling acceptance of payment instruments and execution of payment transactions initiated by the merchant or through it, using a payer's payment instrument, in particular involving handling authorisations, transfer to the payment instrument issuer or payment systems of payment orders of the payer or the merchant in order to transfer funds owed to the merchant, with the exception of activities involving its accounting and settlement within a payment system, within the meaning of the Act on Finality of Settlement (acquiring);
- 6) provision of money remittance services;
- 7) provision of payment initiation services;
- 8) provision of account information services.

2. Direct debit means a payment service consisting of debiting the payer's payment account by a specified amount so as to effect a payment transaction initiated by the payee which is executed on the basis of consent extended by the payer to the payee, the payee's provider or the payer's provider.

2a. Direct debit transactions relating to payment for an invoice between a creditor and a debtor, who are entrepreneurs, shall be respectively governed by the provisions of Chapter 3a of the Banking Act of 29 August 1997 (Journal of Laws of 2018, item 2187, 2243, and 2354 and of 2019, item 326), hereinafter referred to as the 'Banking Act'.

3. Money remittance means a payment service provided without the intermediation of a payment account held for the payer that consists of the transfer of funds received from the payer to the payee or to another provider accepting funds for the payee or consisting of the acceptance of funds for the payee and their release to the payee.

4. A credit transfer means a payment service consisting of crediting the payee's payment account, if a payment transaction from the payer's payment account is executed by the the payer's account servicing payment service provider pursuant to an instruction given by the payer.

5. A payment initiation service means a service consisting of initiating a payment order by the provider providing a payment initiation service upon request of the user from the user's payment account held by another provider.

6. An account information service means an on-line service consisting of providing consolidated information on:

- 1) the user's payment account held with another provider, or
- 2) the user's payment accounts held with another provider or more than one provider.

**Article 4.1.** Operations in the area of provision of payment services may be performed only by payment service providers, hereinafter referred to as 'providers'.

2. A provider may only be:

- 1) a domestic bank within the meaning of Article 4.1.1 of the Banking Act;
- 2) a branch of a foreign bank within the meaning of Article 4.1.20 of the Banking Act;
- 3) a credit institution within the meaning of Article 4.1.17 of the Banking Act or a branch of a credit institution within the meaning of Article 4.1.18 of the Banking Act;
- 4) an electronic money institution and a branch of an electronic money institution – if such branch is situated in a Member State, and the registered office of such electronic Money institution is situated outside a Member State, provided that payment services provided by a branch are related to electronic money issue;
- 5) a branch of an entity that provides in a Member State other than the Republic of Poland, in accordance with the law of that state, postal payment services and is authorised in accordance with the law of that state to provide payment services and also Poczta Polska Spółka Akcyjna [the Polish Post Office] insofar as separate regulations authorise it to provide payment services;
- 6) a payment institution;

- 7) the European Central Bank hereinafter referred to as 'ECB', the National Bank of Poland, referred to hereinafter as the 'NBP', and the central bank of a Member State other than the Republic of Poland if they are not acting in their capacity as a monetary authority or public administration authorities;
- 8) a public administration authority;
- 9) a co-operative savings and credit union or the National Co-operative Savings and Credit Union within the meaning of the Act on Co-operative Savings and Credit Unions of 5 November 2009 (Journal of Laws of 2018, item 2386 and 2243, and of 2019, item 326), hereinafter referred to as the 'Act on Co-operative Savings and Credit Unions' – insofar as separate regulation authorise them to provide payment services, hereinafter referred to as a 'savings and credit union';
- 10) a payment service bureau;
- 11) a small payment institution;
- 12) a registered account information service provider.
  - 2a. The business of issuing electronic money and its redemption may only be carried out by electronic money issuers.
  - 2b. The issuer of electronic money may only be an entity referred to in Article 4.2.1-4 and Article 4.6-8, and:
    - 1) a branch of a foreign electronic money institution;
    - 2) a branch of an entity providing in a Member State other than the Republic of Poland, in accordance with the law of that State, postal payment services, authorised under the law of that State to issue electronic money and Poczta Polska Spółka Akcyjna [the Polish Post Office] insofar as the provisions of Article 13.1.2a of the Act on the Commercialisation of a State-Owned Enterprise of Public Utility "Poczta Polska" of 5 September, 2008 (Journal of Laws of 2019, item 261) entitle it to issue electronic money;
    - 3) a co-operative savings and credit union.
      3. Domestic payment institutions, small payment institutions, payment service bureaus, domestic electronic money institutions and their branches and agents of those entities performing agency activities for the provision of payment services, branches of domestic payment institutions, if they provide payment services in a Member State other than their home Member State, providers providing an account information service only, their branches and agents performing agency activities for the provision of payment services, if they provide payment services in a Member State other than their home Member State, branches of foreign electronic money institutions, savings and credit unions and their branches, entities pursuing activities referred to in Article 6.1.a or Article 6.1.b, to which do Article 6c.1 applies, and entities pursuing the activity referred to in Article 6.12, to which Article 6d.1 applies, shall be entered in the register of providers and issuers of electronic money, hereinafter referred to as the 'Register'.
      4. The expression "payment services" used to describe a pursued business activity, including as part of a (business) name or in advertising, may be used only by payment service providers.
      5. The only entities allowed using in their (business) name the expressions:
        - 1) 'payment institution' - are payment institutions;
        - 2) 'payment service bureau' - are payment service bureaus;
        - 3) 'small payment institution' - are small payment institutions.
      6. The term "issuing electronic money" to describe a pursued business activity, including as a part of a (business) name, or in advertising may be used by electronic money issuers only.
      7. The only entities entitled to use in the (business) name the term "electronic money institution" are electronic money institutions and branches of foreign electronic money institutions.
      8. The provider referred to in Article 4.2.1-3, provides payment institutions, electronic money institution, small payment institutions, and payment service bureaus, upon their request, access to the services provided by it regarding the maintenance of payment accounts under an objective, non-discriminatory, and proportionate basis. Such access allows provision of payment services by such entities without impediment and in an effective manner. The provider referred to in Article 4.2.1-3 shall notify the Polish Financial Supervision Authority, hereinafter 'PFSA' about a refusal to allow access to such entities to the services provided by it within 7 days from the date of access a refusal together with giving reasons for such refusal.



**Article 4a.1.** Payment service providers servicing payment accounts allowing provision of the services referred to in Article 3.1.2.a or Article 3.1.2.c shall assign a unique identifier to such accounts.

2. The provision of Article 4a.1 does not apply to bank accounts used to execute payment transactions held for the user by a domestic bank, a branch of a foreign bank, a branch of a credit institution, and the NBP.

3. The NBP shall assign sort codes to payment account servicing payment service providers participating in payment systems, with the exclusion of providers to whom sort codes are assigned pursuant to the Act on the National Bank of Poland of 29 August 1997 (Journal of Laws of 2017, item 1373 and of 2018, item 2243) and the Banking Act and shall hold a list of such codes.

4. The provider's identifier and sort code referred to in Article 4a.3 shall be assigned upon the provider's request containing in particular its contact details and data relating to its pursued activity.

5. Having sought an opinion of the President of the NBP, the minister competent for financial institutions shall define, by way of regulation:

- 1) a way of assigning unique identifiers of payment accounts held by providers,
  - 2) a way of assigning sort codes to payment account servicing payment service providers participating in payment systems,
  - 3) a detailed scope and a manner of providing information by providers to the NBP for the purpose of assigning sort codes,
  - 4) a way assigning providers with a provider's identifier,
  - 5) a detailed scope and manner of providing information by providers to the NBP for the purpose of assigning a provider's identifier,
  - 6) a template of applications referred to in Article 4a.4
- having regard to provision of a uniform way of numbering payment accounts and identification of providers in accordance with the applicable standards.

**Article 5.1.** The regulations of the Act apply to payment services provided in the territory of the Republic of Poland or in transactions with other Member States.

2. The provisions of Division II, Division IIa, Division III, with the exception of the provisions of Chapter 7 and Chapter IX shall apply to payment transactions executed in euro, in the Polish currency, or in a currency of a Member State other than the Republic of Poland in cases whereby both the payer's provider and the payee's provider or the sole provider in a payment transaction are located in the territory of the Republic of Poland or another Member State.

3. The provisions of Chapter II, with the exclusion of Article 23.1.2, Article 27.2.e and Article 30.1, Division IIa, and Division III, with the exclusion of Articles 52-58 and Chapter 7 shall apply to payment transactions executed in a currency which is not a current of a Member State, in cases whereby both the payer's provider and the payee's provider or the sole provider in a payment transaction are located in the territory of the Republic of Poland or another Member State, with regard to those parts of a transaction, which are executed in the Republic of Poland or another Member State.

3a. The provisions of Division II, with the exclusion of Article 23.1.2, Article 27.2.e and Article 27.5.f and Article 30.1, Division IIa, Division III, with the exclusion of Article 37a.1 and Article 37a.3, Article 38a.3, Article 47, Article 48, Article 52, Article 54, and Chapter 7, and Division IX, with the exclusion of Article 144, Article 145, Article 146, and Article 148 shall apply to payment transactions executed in every currency, in cases whereby only one of the providers is located in the territory of the Republic of Poland or another Member State and the second provider is located in a territory of another state, with regard to those parts of a payment transaction, which are executed in the territory of the Republic of Poland or another Member State.

3b. The provisions of Division III in Chapter 7 shall apply solely to payment services executed in the Polish currency.

4. The regulations of the Act apply to the issue of electronic money in every currency.

5. (repealed)

**Article 6.** Subject to Article 6a-6d, the regulations of the Act do not apply to:

- 1) payment transactions executed exclusively in cash directly between the payer and the payee;

- 2) payment transactions between the payer and the payee made through the intermediation of a person performing actions aimed at conclusion by the payer and the payee of a specified agreement or concluding such an agreement in the name of or on behalf of the payer or the payee only;
- 3) transport of banknotes and coins, and in particular their receiving, processing and delivering;
- 4) payment transactions carried out as part of the non-professional collection and delivery of cash in the course of an unpaid activity, and in particular the collection and disbursement of cash in public fundraising activities;
- 5) services, under which the payee, at the payer's request, made before a payment transaction to make payment for purchased goods or services, as part of the payment transaction pays cash to the payer ("cash back" services);
- 6) exchange of foreign currency cash into cash without the involvement of a payment account;
- 7) payment transactions based on one of the following documents in paper form issued to a provider with the objective of placing funds at the payee's disposal:
  - a) a cheque issued in accordance with the Convention on a Uniform Act on Cheques (Journal of Laws of 1937, item 181),
  - b) a cheque similar to the cheque referred to in letter a which is subject to the regulations of Member States that are not parties to the Convention referred to in letter a,
  - c) a bill of exchange drawn in accordance with the Convention on a Uniform Act on Bills of Exchange and Promissory Notes (Journal of Laws of 1937, item 175),
  - d) a bill of exchange similar to the bill of exchange referred to in letter c which is subject to the regulations of Member States that are not parties to the Convention referred to in letter c,
  - e) a mark of entitlement, including vouchers,
  - f) a traveller's cheque,
  - g) a postal order within the meaning of the acts of the Universal Postal Union;
- 8) payment transactions executed within a payment system or a securities settlement system referred to in Article 1.2 of the Act on Finality of Settlement;
- 9) payment transactions executed in connection with servicing of financial instruments and rights derived from them, including dividends and other income, and transactions executed in connection with the sale or redemption of securities, in particular those executed by the entities listed in point 8 or by entities that are subject to supervision under the Act on Financial Market Supervision of 21 July 2006 (Journal of Laws of 2019, item 298 and 326), hereinafter referred to as the "Act on Financial Market Supervision";
- 10) services provided by technical service providers in support of the provision of payment services if they do not come into possession of the funds that are the subject of the payment transaction, and in particular data processing and storage services, trust services and protection of privacy, services of transferring information about a payment transaction between the payer and the payee, authentication of data and entities, provision of IT and communication networks, and the supply and maintenance of terminals and devices used in the provision of payment services, with the exclusion of payment initiation services and account information services;
- 11) services based on payment instruments that may be used in a limited way only and which meet at least one of the following conditions:
  - a) allow the holder purchasing goods or services only in the premises of the issuers of such instruments or within a limited network of entities that are linked by a commercial contract directly to a professional issuer of such instruments,
  - b) are used solely for purchasing a very limited range of goods or services,
  - c) may be used solely in one Member State, if such instruments are delivered upon request of the entrepreneur or a public finance company, are regulated in terms of specific social or tax goals by a domestic or self-governing public administration authority and are used for purchasing specific goods or services from providers linked to the issuer by a commercial contract;
- 12) payment transactions executed by the telecommunication entrepreneur next to telecommunication services executed for the final user, added to receivables for telecommunication services;

- a) for the purpose of purchasing digital content or voice services, regardless of the device used for purchasing or using digital content, or
  - b) executed with the help or use of an electronic device, if a payment transaction is executed within public fundraising activities or for the purpose of purchasing tickets, especially for public transportation, car parking, and tickets for artistic, entertainment, or sporting events - if the value of a single payment transaction, referred to in letter a or b, does not exceed the equivalent of EUR 50 in the Polish currency and the total value of payment transactions concerning one end user, also when the amount due for telecommunication services are paid in advance, does not exceed a monthly equivalent of EUR 300 in the Polish currency, provided that amounts expressed in euro are calculated while applying the mean exchange rate announced by the NBP, applicable on 31 October of the previous year;
- 13) payment transactions executed between providers, their agents or their branches for their own account;
  - 14) payment transactions and additional services referred to in Article 74.1.1 that are strictly related to the provision of payment services, executed between a parent entity and a subsidiary or between subsidiaries of the same parent entity in which a provider belonging to the same group participates;
  - 15) cash withdrawal services using ATMs provided by providers acting on behalf of one or more issuers of payment instruments that are not a party to a framework contract with the person withdrawing the money from a payment account using an ATM if the providers do not provide other payment services;
  - 16) services performed exclusively with the use of paper passbooks where all transactions are recorded only in those books.

**Article 6a.** The provisions of Article 14f-14h, Article 20a, Article 20b, and Article 32b-32d shall apply to the transactions referred in Article 6.7.

**Article 6b.** In the case of the transactions referred to in Article 6.15, an entity providing a cash withdrawal service using an ATM provides a person withdrawing cash with information on cash withdrawal fees referred to in Article 20c and Article 23-25, prior to execution of cash withdrawal and after cash withdrawal. Upon the user's request, such information shall be provided in paper form or other durable medium.

**Article 6c.1.** If the total value of payment transactions executed during the last 12 months exceeds EUR 1,000,000, the entity pursuing the business activity referred to in Article 6.1.a or 6.1.b shall provide PFSA with a notification within 14 days from the end of the month in which such amount has been exceeded, containing a description of the offered services, indicating the exemption specified in Article 6.11.a and Article 6.11.b based on which it is recognised that a given type of the business activity is pursued. The equivalent of the amount referred to in the first sentence in the Polish currency shall be determined using the mean exchange rate announced by the NBP applicable on the last business day of the month in which such amount has been exceeded.

2. The notification referred to in Article 6c.1 also contains the data referred to in Article 136e.2.a-c.

3. If it is impossible to verify whether the amount has been exceeded, which is referred to in Article 6c.1, based on the notification referred to in Article 6c.1 PFSA shall request the entity to complete it.

4. If the exceeded amount, which is referred to in Article 6c.1, within 30 days from the submission date of the notification referred to in Article 6c.1 or the receipt date of the completion, which is referred in Article 6c.3 PFSA shall enter such entity into the register. If the business activity pursued by the entity does not meet the conditions referred to in Article 6.11.a or Article 6.11.b, PFSA shall issue a decision on a refusal to enter the entity into the register.

5. If a decision on a refusal to enter the entity into the register has been issued, such entity shall be obliged to adjust its business activity with regard to payment services to the requirement referred to in Article 6c.1 within 3 months from the date of service of such decision or to submit an application within such period for issuance of the authorisation, which is referred to in Article 60.1, or an application, which is referred to in Article 117j.

6. Until the request referred to in Article 6c.5 has been reviewed, the entity may continue its business activity in the territory of the Republic of Poland without a requirement of obtaining the authorisation or an entry into the register, which is referred to in Article 117g.1.

7. In the case of a refusal to issue the authorisation, which is referred to in Article 60.1 and a refusal to make the entry in the register, which is referred to in Article 117g.1, or discontinuation of the procedure, the period, which is referred to in Article 6c.5, shall run from the day on which the decision has become final.

8. The entity pursuing the business activity referred to in Article 6.11.a or Article 6.11.b, that has been entered into the register pursuant to Article 6c.4 shall notify PFSA about its intent to end the business activity or the activity referred to in Article 6.11.a or Article 6.11.b, indicating the end date of its activity.

**Article 6d.1.** The entity pursuing the business activity referred to in Article 6.12 shall provide PFSA with a notification, by 31 March of the year following the end of the financial year, containing a description of offered services and an opinion from a financial audit concerning such year certifying that the business activity is compliant with the limits specified in Article 6.12.

2. The notification referred to in Article 6d.1 also contains the data, which is referred to in Article 136f.2.a-c.

3. If it is impossible to establish whether the entity's business activity is compliant with the limits specified in Article 6.12, pursuant to the notification referred to in Article 6d.1 PFSA shall request the entity to complete it.

4. If the notified business activity is compliant with the limits specified in Article 6.12, within 30 days of submission of the notification referred to in Article 6d.1 or the receipt date of the completion referred to in Article 6d.3 PFSA shall make an entry into the register. If the entity's business activity does not satisfy the requirements concerning the limits specified in Article 6.12, PFSA shall issue a decision on a refusal to enter the entity into the register.

5. In the case of a decision on a refusal to enter into the register, within a period of 3 months from the date of service of such decision, the entity shall be obliged to adjust its conducted business activity to the conditions, which are referred to in Article 6.12 or to submit an application within such period for issuance of the authorisation, which is referred to in Article 60.1, or the application, which is referred to in Article 117j.

6. Until the request referred to in Article 6d.5 has been reviewed, the entity may continue its business activity in the territory of the Republic of Poland without a requirement of obtaining the authorisation or an entry into the register, which is referred to in Article 117g.1.

7. In the case of a refusal to issue the authorisation, which is referred to in Article 60.1 and a refusal to make the entry in the register, which is referred to in Article 117g.1, or discontinuation of the procedure, the period, which is referred to in Article 6d.1, shall run from the day on which the decision has become final.

8. The entity pursuing the business activity referred to in Article 6.12 that has been entered into the register pursuant to Article 6d.4 shall notify PFSA about its intent to end the business activity or the activity referred to in Article 6.12, indicating the end date of its activity.

**Article 6e.** PFSA shall notify the European Banking Authority, hereinafter referred to as 'EBA', about services that are the subject of notifications pursuant to Article 6c.1 and Article 6d.1, indicating the exemption based on which a business activity of such type is pursued.

**Article 7.1.** Funds received by payment institutions, small payment institutions, payment service bureaus, electronic money institutions and branches of foreign electronic institutions in connection with the provision of payment services and in exchange for issued electronic money, shall not constitute a deposit or other repayable funds within the meaning of Article 726 of the Act on the Civil Code of 23 April 1964 (Journal of Laws of 2018, item 1025, 1104, 1629, 2073, and 2244 and of 2019, item 80).

2. Payment institutions, small payment institutions, payment service bureaus, electronic money institutions and branches of foreign electronic institutions may not conduct business of taking deposits or other repayable funds to have them charged with risk other than the risk arising out of execution of payment services.

3. Funds placed in a payment account with a payment institution or electronic money institution may not bear interest and may not bring any other benefits for the user.

4. Funds obtained in exchange for issued electronic money may not bear interest and may not bring any other benefits for the electronic money user that depend on an electronic money holding period.

**Article 8.1.** The provisions of contracts for payment services and for electronic money issuing may not be less beneficial to users and to electronic money holders than the regulations of the Act, unless the Act provides otherwise.

2. The provisions of contracts for payment services and for electronic money issuing that are less favourable for users and electronic money holders than the regulations of the Act shall be invalid; instead the relevant regulations of the Act shall apply.

**Article 9.1.** Arrangements for access to payment systems for providers should be determined according to objective, fair, and proportionate criteria, and restrictions on access to these systems may not be larger than it is necessary for the protection against specific risks such as settlement risk, operational risk, and business risk and for the protection of the financial and operational stability of a payment system.

2. Payment systems may not introduce:

- 1) restrictions on effective participation in other payment systems;
  - 2) rules that would introduce a differences in treatment between:
    - a) the providers listed in Article 4.2.1-8, or
    - b) the providers entered in the register that do not hold the authorisation, which is referred to in Article 60.1 or Article 132a.1;
  - 3) limitations because of the type of an entity or the legal form in which it conducts a business activity.
3. The regulations of Article 9.1 and Article 9.2 do not apply to:
- 1) payment systems within the meaning of Article 1.1 of the Act on the Finality of Settlement spoken of in Article 15 of this Act,
  - 2) payment systems which involve only providers that belong to a group.
  - 3) (repealed)
4. (repealed)
- 4a. If in the payment system, which is referred to in Article 15.1 and Article 15.2 of the Act on Finality of Settlement, a participant allows the provider with an authorisation or entered in the register, who is not a participant of such system transmitting transfer orders by the system, if it receives a request on that, such participant shall ensure such possibility for of providers with an authorisation or entered into the register pursuant to Article 9.1 and Article 9.2, in an objective, proportionate, and non-discriminatory manner. In the event of a refusal, the participant shall provide the provider making such request with the justification for such refusal.
5. Application of the principles specified in Article 9.1 and Article 9.2 by an entity that intends to maintain a payment system within the meaning of the Act on Finality of Settlement or by an entity that already maintains such a system shall be assessed by the President of the NBP during proceedings for the issue of the consent spoken of in Article 16.1 and Article 16.3 of the Act on Finality of Settlement.

**Article 10.** Providers, payment organisations, and operators of payment systems shall process personal data to the extent necessary to prevent frauds associated with the execution of payment services or with the operation of a payment system and the investigation and detection of this type of fraud by the competent authorities.

**Article 10a.** Providers, payment organisations, and entities operating payment systems, who are data controllers, shall not be obliged to perform the obligations, which are referred to in Article 15 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ

L 119 of 04.05.2016, p. 1, as amended<sup>4</sup>) to the extent in which it is required for the proper execution of the tasks concerning counteracting money laundering and terrorist financing and prevention of criminal offences.

**Article 11.1.** The following persons are obliged to maintain professional secrecy with regard to the activities referred to in Article 3.1 performed in the capacity of a provider, as well as the activity of issuing electronic money and the business of providing services closely related with payment services or issuing electronic money:

- 1) managers and other persons who belong to the statutory authorities of a provider or an electronic money issuer;
- 2) persons who have an employment relationship with a provider or an electronic money issuer;
- 3) individuals or entities connected with a provider or an electronic money issuer by an order or another legal relationship of a similar nature, including agents of a provider or an electronic money issuer, other entrepreneurs performing the redemption of electronic money, and entities performing certain operational activities under the agreement, referred to in Article 86.1 or Article 132v.1;
- 4) individuals or entities who are bound by an employment relationship, an order, or another legal relationship of a similar nature with an entity which is in the relationship referred to in Article 11.1.3 with a provider or an electronic money issuer.

2. The obligation to maintain professional secrecy persists after the end of performance of the functions or cessation of the legal relations referred to Article 11.1.

3. Professional secrecy within the meaning of Article 11.1 includes information relating to a user or a holder of electronic money in connection with payment services rendered to him/her, the electronic money issued to him/her, or credit granted to him/her in accordance with Article 74.3 or Article 132j.3, including identification of a user's payment account and the balance thereof, as well as other information related to payment transactions and agreements concluded with the user or electronic money holder, if unauthorised disclosure of such information could cause harm to a legally protected interest of the user or electronic money holder, to whom such information relates.

**Article 12.1.** The professional secrecy obligation shall not be deemed to be breached by the disclosure of information covered by that obligation:

- 1) to an authority that exercises supervision or inspects a provider or an electronic money issuer in connection with actions undertaken in the field of supervision or inspection;
- 2) in the exercise of rights or obligations specified in separate regulations;
- 3) to other providers, electronic money issuers, users or holders of electronic money as part of the provision of payment services or issuing electronic money, according to the received payment order or the agreement concluded;
- 3a) to a payee in the exercise of the obligations referred to in Article 143b and Article 143c.6;
- 3b) to another provider in the exercise of the obligations referred to in Article 143a.1.2, Article 143b.2 and Article 143c.2 and Article 143c.5;
- 4) at the express written consent of the user or electronic money holder, to whom the information relates;
- 5) to providers providing a payment initiation service to the extent required for the provision of a payment initiation service;
- 6) to providers of account information service to the extent required for the provision of an account information service.

2. The persons specified in Article 12.1.3-6 may use information they have collected only in accordance with the purpose for which it has been provided.

**Article 12a.1.** Issuers of payment instruments may exchange information about users with whom an agreement for the issuance of a payment instrument has been terminated because of its improper performance by the user.

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<sup>4</sup> Amendment of the said regulation was announced in OJ L 127 of 23.05.2018, p. 2.

2. The information referred to in Article 12a.1 include indication of the reason for termination of the agreement, and also:

- 1) in the case of a user who is a natural person:
  - a) first name and surname,
  - b) personal identification number (PESEL);
- 2) in the case of a user who is not a natural person:
  - a) business (name) of the company, its registered office, and address,
  - b) taxpayer's identification number (NIP).

3. The information referred to in Article 12a.1 can be provided to issuers of payment instruments and gathered for this purpose by an institution established pursuant to Article 105.4 of the Banking Act.

4. Acquirers are obliged to exchange information about merchants with whom an agreement for a payment service referred to in Article 3.1.5 have been terminated because of its improper performance by the merchant.

5. The Acquirer is obliged to provide the information referred to in Article 12a.4 to an issuer of a payment instrument on request.

6. The information referred to in Article 12a.4 includes the reason for termination of the agreement, and also:

- 1) in the case of a merchant who is a natural person - the information referred to in Article 12a.2.1;
- 2) in the case of a merchant who is not a natural person - the information referred to in Article 12a.2.2.

7. The retention period for the information referred to in Article 12a.1 and Article 12a.4 shall not exceed five years from the agreement termination date.

8. An issuer of a payment instrument and an acquirer, who in connection with their business activities has found out about information of a criminal offence prosecuted ex officio, shall be obliged to immediately notify the authorities responsible for prosecuting these offences. The notification shall be accompanied by the necessary information or documents, and shall in particular include the information specified in Article 12a.1 and Article 12a.4.

**Article 13.** If separate regulations specify different rules for the protection of information that constitutes professional secrecy in accordance with Article 11.3, then those separate regulations shall apply to the protection of such information.

**Article 14.1.** Supervision over the activities in the field of payment services, payment account switching, and the issue and redemption of electronic money in accordance with the Act and Regulation (EU) 2015/751, and of payment services in euro - also in accordance with Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments within the Community and repealing Regulation (EC) No 2560/2001 (OJ L 226 of 09.10.2009, p. 11, as amended) and Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94 of 30.03.2012, p. 22, as amended):

- 1) performed by the entities referred to in Article 4.2.1-3, Article 4.2.5 and Article 4.2.9 shall be exercised by the authorities competent to exercise supervision over these entities;
- 2) performed by the entities referred to in Article 4.2.4, Article 4.2.6, and Article 4.2.10-12, and by branches of foreign electronic money institutions shall be exercised by the Polish Financial Supervision Authority, hereinafter referred to as "PFSA", except that in the case of EU payment institutions and EU electronic money institutions, only to the extent specified by the Act.

2. Supervision over functioning of payment schemes shall be exercised by the President of the NBP.

3. Actions undertaken by PFSA with regard to supervision over compliance with the provisions of Regulation (EU) 2015/751 by the providers, which are referred to in Article 4.2.1-4, Article 4.2.6, Article 4.2.9, shall consist in particular in:

- 1) monitoring of compliance with the provisions of Regulation (EU) 2015/751;
- 2) preventing attempts at breaching the prohibition specified in Article 5 of Regulation (EU) 2015/751.

4. If the providers referred to in Article 4.2.1-4, Article 4.2.6, and Article 4.2.9 fail to perform or improperly perform the obligations or fail to comply with the prohibitions or limitations referred to in Article 3-5 and Article 8-10 of Regulation (EU) 2015/751, PFSA may, by way of a decision, impose on such providers a penalty of up to PLN 100,000, however, not higher than up to 1% of the revenues from the provision of payment services disclosed in their last audited financial statements, and if there is no obligation to have such financial statements audited, not higher than 10% of the revenues disclosed in the last approved financial statements.

5. If the providers referred to in Article 4.2.1-4, Article 4.2.6, Article 4.2.9, fail to perform or improperly perform their obligations and fail to comply with the prohibitions referred to in Article 11 and Article 12 of Regulation (EU) 2015/751, PFSA may, by way of a decision, impose on such providers a penalty of up to PLN 500,000.

6. While determining the amount of the penalties referred to in Article 14.4 and Article 14.5, PSFA shall in particular consider the type and importance of a breach of the provisions of Regulation (EU) 2015/751, an impact of such breach on the proper functioning of the payment service market, the size of a pursued business activity, and a financial situation of the provider, who has committed such breach.

7. The decision referred to in Article 14.4 or Article 14.5 shall be issued after the hearing.

8. (repealed)

9. (repealed)

10. If the circumstances indicative of a possibility of the occurrence of a threat of failure to perform or improper performance of the obligations specified in Regulation (EU) 2015/751 by the providers referred to in Article 4.2.1-4, Article 4.2.6, and Article 4.2.9 have been established, PFSA may in particular:

- 1) issue recommendations for a provider;
- 2) request a provider for the provision of information or explanations.

11. If the breach referred to in Article 3-5 and Article 8-12 of Regulation (EU) 2015/751, respectively, committed by an EU payment institution has been established, Article 107.1 and Article 107.3-8 shall apply accordingly.

**Article 14a.1.** The acquirer is obliged to provide to the NBP quarterly information including:

- 1) the number of merchants, to which it provides the payment service referred to in Article 3.1.5, and the number of devices accepting payment instruments used by those merchants;
- 2) the number and value of the executed payment transactions to constituting the payment service referred to in Article 3.1.5;
- 3) the number and value of the executed payment transactions made in breach of the law or the rules of fair trading, and the amount of losses caused by them to the acquirer and the merchants.

2. The information referred to in Article 14a.1 shall be provided as at the end of the last day of the month ending the quarter or for the period of a quarter, not later than by the end of the month following the quarter to which it relates.

3. The NBP shall forward to PFSA the information referred to in Article 14a.1.3 immediately following its receipt.

**Article 14b.1.** The issuer of a payment instrument is obliged to submit to the NBP quarterly information including:

- 1) the type and number of issued payment instruments;
- 2) the number and value of the payment transactions made using the payment instruments issued;
- 3) the number of ATMs made available and the number and value of the payment transactions executed using them;
- 4) the number and value of the payment transactions which violate provisions of the law or the rules of fair trading made using the payment instruments issued, and the amount of loss caused by such transactions.

2. In the information submitted in accordance with Article 14b.1, information relating to payment instruments on which electronic money issued by another entity is stored shall be presented separately and shall include:



- 1) the type and number of the payment instruments issued;
- 2) the number of devices accepting the payment instruments issued and the number of devices that enable topping up of such instruments;
- 3) the number and value of the payment transactions made using the payment instruments issued;
- 4) the number and value of the top-up transactions pertaining to the payment instruments issued;
- 5) the number and value of the payment transactions which violate provisions of the law or the rules of fair trading made using the payment instruments issued, and the amount of loss caused by such transactions.

3. The information referred to in Article 14b.1 and Article 14b.2 shall be provided as at the end of the last day of the month ending the quarter or for the period of a quarter, not later than by the end of the month following the quarter to which it relates.

4. The NBP shall forward to PFSA the information referred to in Article 14b.1.4 and Article 14b.2.5 immediately following its receipt.

**Article 14c.1.** The issuer of electronic money is obliged to submit to the NBP quarterly information of the value of issued electronic money in circulation.

2. If an issuer of electronic money at the same time issues a payment instrument on which the electronic money issued by it is stored, the information referred to in Article 14c. 1 shall include additionally information about these instruments to the extent specified in Article 14b. 2.

3. The information referred to in Article 14c.1 and Article 14c.2 shall be provided as at the end of the last day of the month ending the quarter or for the period of a quarter, not later than by the end of the month following the quarter to which it relates.

4. The NBP shall forward to PFSA the information referred to in Article 14b.2.5, submitted in accordance with Article 14c.2, immediately following its receipt.

**Article 14ca.** The information referred to in Article 14a-14c shall be provided in electronic form by using relevant certificates issued by the NBP or other forms of authentication used by the NBP.

**Article 14d.** The minister competent for financial institutions, after consulting the President of the Polish National Bank, shall define, by way of regulation, a detailed scope of the information referred to in Article 14a-14c, submitted to the National Bank of Poland and the method of fulfilling the obligation to submit it, guided by a need to ensure the National Bank of Poland with access to the data necessary to perform periodic assessments of the monetary settlements.

**Article 14e.1.** In order to perform the tasks arising out of Article 14f-14h, Article 32e, the provisions of Division III in Chapters 7 and 8, PFSA shall act as a point of contact, whose task consists in collaboration with competent supervisory authorities appointed as points of contact in other Member States, including the exchange of information required for the performance of such tasks.

2. Provision of the information referred to in Article 14e.1 shall be done without undue delay.

3. If a PFSA request to undertake collaboration to perform the tasks arising out of Article 14f-14h, Article 32e, the provisions of Division III in Chapters 7 and 8 and the provisions of Divisions V and VI, and in particular a request concerning the exchange of information, has been rejected by the authority referred to in Article 14e.1, or such authority has failed to undertake actions within a reasonable time, PFSA may hand over the case of EBA and request it for assistance pursuant to Article 19 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC, and repealing Commission Decision 2009/78/EC (OJ L 331 of 15.12.2010, p. 12, as amended<sup>5</sup>), hereinafter referred to as "Regulation 1093/2010." PFSA shall suspend proceedings until EBA has issued a decision in accordance with Article 19(3) of Regulation 1093/2010 and shall issue a decision following the decision issued by EBA.

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<sup>5</sup> Amendments of the said regulation were announced in OJ L 287 of 29.10.2013, p. 5, OJ L 60 of 28.02.2014, p. 34, OJ L 173 of 12.06.2014, p. 190, OJ L 225 of 30.07.2014, p. 1 and in OJ L 337 of 23.12.2015, p. 35.

4. PFSA may refuse to provide the information required for the performance of the tasks arising out of Article 32e and the provisions of Division III in Chapters 7 and 8, if provision of such information may have an adverse impact on exercising supervision or security or public order.

5. By refusing to provide the information referred to in Article 14e.4, PFSA shall notify an appropriate authority appointed as a point of contact, who has made a request for provision of the information, and shall provide detailed reasons for its refusal.

**Article 14f.1.** The minister competent for financial institutions, after consulting PFSA shall define, by way of regulation:

1) a list of representative services comprising at least ten, but not more than twenty services related to a payment account, which are most frequently used by consumers on the domestic market, for the use of which at least one provider conducting a business activity in the territory of the Republic of Poland charges a fee;

2) definitions relating to the services referred to in Article 14f.1.1.

2. By issuing the regulation referred to in Article 14f.1, the minister competent for financial institutions shall first consider services that are most frequently used when payment accounts are used by consumers on the domestic market and which, at the same time, generate the highest costs for consumers, both one-off and total, and if there are no such services, it shall consider those that only meet the criterion of being most frequently used when payment accounts are used by consumers on the domestic market, and shall also consider the terms and definitions developed by the European Commission pursuant to Articles 10-14 of Regulation 1093/2010.

3. Every 4 years, PFSA shall perform an assessment of an update of the list of the representative services, which is referred to in Article 14f.1, and shall provide the minister competent for financial institutions with information on services related to a payment account, which are representative for the domestic market in a given period.

4. PFSA shall provide the European Commission and EBA with:

1) information on results of the assessment referred to in Article 14f.3,

2) a list of the representative services, in the event of an amendment of the provisions issued pursuant to Article 14f.1 in that respect

- within 2 months from the date of such assessment or announcement of an amendment of the provisions issued pursuant to Article 14f.1 concerning the list of the representative services.

**Article 14g.1.** An entity operating a website that compares fees collected by providers holding accounts, and which:

1) contains information on payment accounts covering over 50% of the offers existing on the payment service market in the territory of the Republic of Poland,

2) compares fees collected by providers holding accounts at least for the provision of services included in the list of the representative services and uses the terms and definitions included in such list,

3) (repealed)

4) contains information on the entity operating the website,

5) clearly defines unambiguous and objective comparison criteria,

6) contains information formulated in a simple and unambiguous manner,

7) contains updated information, together with a date of the last update,

8) uses a procedure allowing reporting errors included in information,

9) is operated by an entity independent of the providers

- may place a statement on such website that it is an entity comparing fees collected by providers holding accounts, and the website operated by it meets the requirements set in Article 14g.1.1, Article 14g.1.2, Article 14g.1.4-9.

2. When assessing if the requirement specified in Article 14g.1.1 is met, providers having at least one branch in the territory of each voivodeship are considered.

2a. The entity that has placed the statement referred to in Article 14g.1., it shall inform PFSA about operating such website and shall provide a description of the pursued business activity.

2b. The website referred to in Article 14g.1 may additionally include other information on payment services allowing consumers comparing offers by providers holding accounts, including

information on the number of ATMs or branches located in the territory of the Republic of Poland where or in which a consumer may withdraw cash without fees.

3. The entity that is independent within the meaning of Article 14g.1.9 is an entity which is not a parent company, a subsidiary, or a co-subsidiary of any account servicing payment service provider for consumers in the territory of the Republic of Poland, nor shall it participate in running a business activity consisting in maintenance of payment account within any extent.

4. If the website has ceased to meet any of the requirements set out in Article 14g.1 or the entity referred to in Article 14g.2a has waived publishing the statement referred to in Article 14g.1., such entity shall inform PFSA accordingly.

**Article 14h.1.** PFSA shall put up on its website a list of the entities referred to in Article 14g.2a operating a website.

2. PFSA shall delete from the list referred to in Article 14h.1 an entity that has notified PFSA about failure to meet any of the requirements set out in Article 14g.1 or about its waiver to publish the statement referred to in Article 14g.1, pursuant to Article 14g.4, or when PFSA has otherwise established that the entity does not meet any of the requirements referred to in Article 14g.1.

3. PFSA may operate a website meeting the requirements referred to in Article 14g.1, regardless of the number of the entities referred to in Article 14g.2a, entered in the list referred to in Article 14h.1.

4. If no entity operates a website that meets the requirements referred to in Article 14g.1 and containing the statement referred to in Article 14g.1, such website shall be operated by PFSA.

5. A provider holding an account shall be obliged to provide PFSA, upon its request, with data on fees collected for the provided services further to maintenance of a payment account, especially those included in the list of the representative services and on a change of such fees for the purposes of operating the website by PFSA that meets the requirements referred to in Article 14g.1.

6. Every 2 years PFSA shall inform the European Commission of the number of entities operating the website, which are referred to in Article 14g.2a.

**Article 15.1.** A user or electronic money holder may file a complaint with the supervisory authority of the provider or issuer of electronic money against the behaviour of the provider, issuer of electronic money or an agent of such an entity, if such behaviour violates provisions of the law.

1a. A user may file a complaint with PFSA or a competent supervisory authority about operations of the acquirer or a branch of the provider, providing services in the territory of the Republic of Poland, as a host Member State.

2. The right referred to in Article 15.1 and Article 15.1a shall also refer to natural persons, legal person, and organisational units which are not legal persons, on whom the law confers legal capacity, and who have been refused the provision of payment services or the issuance of electronic money, as well as to consumer organisations.

3. The authority referred to in Article 15.1, providing a response to a complaint concerning a civil law dispute, shall inform the complainant about out-of-court dispute resolution, including also the provision of information about competent arbitration tribunals.

4. If it is not possible to determine the authority exercising supervision over a particular provider or issuer of electronic money, the complaint shall be filed directly to the provider or issuer concerned; the provision of Article 15.3 shall apply accordingly.

5. The provisions of Division VIII of the Act on the Code of Administrative Procedure of 14 June 1960 (Journal of Laws of 2018, item 2096 and of 2019, item 60) shall not apply to the complaints referred to in Article 15.1-4.

**Article 15a.1.** A provider shall introduce and apply complain review procedures by users concerning the rights and obligations provided for in the Act.

2. A provider shall give a response to the complaint within 15 business days from its receipt. The response shall be given in paper form or, after agreeing with a user, on other durable medium.

3. In particularly complex cases that make it impossible to review a complaint and provide a response by the date referred to in Article 15a.2, a provider shall:

- 1) explain a reason for delay;
- 2) indicate circumstances that must be established for the purpose of reviewing the case;

3) determine an envisaged date of reviewing the complaint and providing a response, not longer than 35 business days from the complaint receipt date.

4. To observe the dates referred to in Article 15a.2 and Article 15a.3.3 it shall suffice to send responses prior to the expiry dates, and in the case of written responses to dispatch them in a post office branch of an operator appointed within the meaning of Article 3.13 of the Act on Postal Law of 23 November 2012 (Journal of Laws of 2018, item 2188).

6. The procedures referred to in Article 15a.1 shall be applied by a provider with regard to users from each of the Member States, in which a provider offers its services, unless governing law applicable to a legal relation under which a user has filed a complaint provides otherwise.

7. The procedures referred to in Article 15a.1 are available in official languages of the Member States in which a provider offers a given payment service, unless a provider and a user have agreed on using another language for the provision of a payment service while concluding an agreement on the provision of such service.

8. Satisfaction of the obligations provided for in Article 15a.1-6 by providers, who are referred to in Article 4.2.1, Article 4.2.2, Article 4.2.4, Article 4.2.6, and Article 4.2.9-12, and by branches of foreign electronic money institutions shall be supervised by PFSA.

**Article 15b.1.** The provisions of the Act on Reviewing Complaints by Financial Market Entities and on the Financial Ombudsman of 5 August 2015 (Journal of Laws of 2018, item 2038, 2215, and 2243), subject to Article 15a.2-4, shall apply to review of complaints filed by a user, who is a natural person.

2. To the extent in which a resolution of a complaint by a user, who is a natural person, is not governed by the provisions of the Act referred to in Article 15b.1, a provider shall introduce and apply complaint review procedures established hereunder.

**Article 15c.1.** The provider shall provide the user with the information on entities entitled to conduct proceedings into out-of-court resolution of consumer disputes within the meaning of the Act on Out-of-Court Resolution of Consumer Disputes of 23 September 2016 (Journal of Laws, item 1823).

2. In the information referred to in Article 15c.1, the provider shall also indicate a manner and mode for a user to obtain detailed information on the rules of dispute resolution by an entity entitled to conduct proceedings into a case of out-of-court resolution of consumer disputes within the meaning of the Act referred to in Article 15c.1.

3. The information referred to in Article 15c.1 and Article 15c.2 is precise, exhaustive, and easily accessible on a provider's website, if any, and at its branches, and also in the general terms and conditions of an agreement between a provider and a user.

**Article 15d.** PFSA may publicly announce information on imposing an administrative sanction on the provider further to a breach of the provisions of the Act on provision of payment services, unless disclosure of such information could have threaten stability of the financial market or incommensurately harm the legal interest of the involved parties.

## DIVISION II

### Informational Obligations Regarding the Provision of Payment Services

#### Chapter 1

#### General Provisions

**Article 16.** The provider and the user, who is not a consumer, may agree that the provisions of this Division, excluding Article 32a, shall not apply in whole or in part.

**Article 17.1.** The provider may not charge the user with a fee for the provision of information required under the provisions of this Division.

2. The provider and the user, upon the user's request, may agree on fees for:

- 1) transfer of information other than that required under the regulations of this Division;
- 2) a greater frequency of transfer of information than that required under the regulations of this Division;
- 3) the provision of the information required under the provisions of this Division by means of communication other than those specified in a framework contract.

3. If a provider is entitled to collect fees for the transfer of information in accordance with Article 17.2, such fees may not exceed the costs incurred by a provider in connection with such transfer of information.

**Article 18.** The burden of proving compliance by a provider with the requirements for transferring to a user the information specified in the provision of this Division lies with a provider.

**Article 19.1.** In the case of payment instruments which in accordance with a framework contract allow the execution of single payment transactions for an amount not exceeding the equivalent of EUR 30 in the Polish currency, or which have a limit on expenditures not exceeding the equivalent of EUR 150 in the Polish currency, or which are used for storing funds in an amount not exceeding at any time the equivalent of EUR 150 in the Polish currency calculated using the mean exchange rate announced by the NBP prevailing on the conclusion date of the agreement:

- 1) a provider shall supply the payer only with information about the main characteristics of the payment service and other basic information that is needed to make a decision, including:
  - a) the possible uses of the payment instrument, including the information referred to in Article 32a,
  - b) the extent of the responsibility for the execution of services borne by the provider,
  - c) the fees charged, and,
  - d) the place where it is easily possible to obtain access to the information referred to in Article 27;
- 2) the parties may agree that Article 29 shall not apply, and that the provider shall have no obligation to propose amendments to the regulations of the framework contract in the manner specified in Article 26.1;
- 3) the parties may agree that following execution of a payment transaction:
  - a) the provider shall provide the user only with information that makes it possible to identify the payment transaction, its amount, and the fees charged and in the case of several payment transactions of the same kind in which payment is made to the same payee with information about the total amount of the payment transactions and the fees charged for them,
  - b) the provider shall not be obliged to disclose the information referred to in letter a, if the payment instrument is used anonymously or, if for other reasons, the provider is not technically in a position to provide it; the provider shall ensure, however, that the payer is able to check the amount of funds held.

2. In the case of payment transactions specified in Article 19.1 that are entirely executed within the territory of the Republic of Poland the amounts that allow limitation of the informational obligations of the provider in accordance with Article 19.1.1-3 may be increased by 100% in a framework contract.

3. In relation to the prepaid payment instruments in the area of payment transactions spoken of in Article 19.1 that are entirely executed within the territory of the Republic of Poland the amounts that allow limitation of the informational obligations in accordance with Article 19.1.1-3 shall be the equivalent of EUR 500 in the Polish currency as calculated by application of the mean exchange rate announced by the NBP prevailing on the conclusion date of the agreement.

**Article 20.1.** If the payee requires payment of a fee or offers a reduction if a particular payment instrument is used, then the payee shall be obliged to inform the payer of this prior to commencement of the payment transaction.

2. If the provider or another entity participating in the payment transaction requires fees for the use of a given payment instrument, then it shall be obliged to inform the user of this prior to initiation of the payment transaction.

3. In the event of failure to provide information about a total amount of the fees referred to in Article 20.1 and Article 20.2, the payer or the user, respectively, shall not be obliged to pay them. In the event of failure to provide information about an offered discount the agreement is deemed to be concluded together with the discount offered by the payee.

**Article 20a.1.** Prior to conclusion of a payment account maintenance agreement, the provider shall provide the consumer, well in advance, with a document in paper or electronic form on fees collected for the services provided further to the maintenance of the payment account to allow the consumer comparing offers by providers holding accounts.

2. The document referred to in Article 20a.1 shall contain a list of the services provided by the provider, which are included in the list of representative services, which is referred to in the regulations issued pursuant to Article 14f.1, together with the related fees, including any fees collected in the event of the consumer's default on the contractual obligations under the agreement for the provision of such services and any fee for termination of the framework contract, which is referred to in Article 35.4.

3. If the service provided by the provider is offered under a package of services, in the document referred to in Article 20a.1 the provider shall include information on a fee for the entire package, the services included in the package, and their number, and on additional fees for each service, which is in excess of the number of the services included in the fee for the entire package of services.

**Article 20b.1.** The fee document, referred to in Article 20a.1 shall be a document separate from other documents provided to the consumer prior to the conclusion of the agreement on payment account maintenance, and additionally:

- 1) it is concise and accurate;
- 2) the information included in it has been formulated in a clear and legible manner and is not misleading;
- 3) its layout, structure, and fonts used do not make its understanding difficult;
- 4) in the case of the original produced in colour, a black and white copy of the original document is not less legible than its original;
- 5) it has been drafted in Polish, unless the provider and the consumer have agreed on drafting it in another language;
- 6) it contains fee amounts expressed in the Polish currency, unless the provider and the consumer have agreed that they shall be given in a currency of a Member State other than the Republic of Poland;
- 7) in the upper part of its first page, it contains note reading: "Document on fees for the services relating to a payment account";
- 8) it contains the information that the fees disclosed in it are for the most representative services relating to a payment account, and full information on all services provided and their related fees under the framework contract shall be provided in accordance with Article 27;
- 9) it has been drafted in a uniform format and uses the symbol developed in accordance with draft implementing technical standards adopted by the European Commission pursuant to Article 3-5 of Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257 of 8.08.2014, p. 214) - if they have been adopted.

2. The provider shall provide the consumer with information including explanations of the terms used in the list of the representative services set out in the regulations issued pursuant to Article 14f.1. Such information is:

- 1) formulated in a clear and legible manner and may not be misleading;
- 2) provided to the consumer in a separate document or is included in the fee document, which is referred to in Article 20a.1.

3. The provider shall provide consumers, free of charge, with the fee document, which is referred to in Article 20a.1, and the separate document, which is referred to in Article 20a.2.2, in its branches, during office hours of the provider, and on its website, and upon the consumer's request, also in paper or electronic form.

4. In the fee document, which is referred to in Article 20a.1, the provider may use trade names with respect to the services included in the list of representative services, set out in the regulations issued pursuant to Article 14f.1, if such names are just a supplement to the terms included in such list and the definitions set out in such regulations.

**Article 20c.** If the service of currency conversion is directly offered prior to the initiation of a payment transactions and provided using an ATM, at a point of sales or by the payee, prior to the execution of a payment transaction, an entity offering a currency conversionservice to the payer shall provide the payer with information on fees, and also on a foreign currency exchange rate that shall be applied to converting the payment transaction.

## Chapter 2

### Single Payment Transactions

**Article 21.** Where a payment order for a single payment transaction is transferred by a payment instrument covered by a framework contract, the provider is not obliged to provide or make available information that the user has already received under a framework contract concluded with another provider or which he shall receive on the basis of the framework contract.

**Article 22.1.** The provider must ensure that the user has easy access to the information referred to in Article 23.1 or Article 23.1a, Article 24, and Article 25 and, upon the user's request, it must provide it with that information on paper or on another durable information medium. This information is to be expressed in a clear and legible manner.

2. The provider must make the information referred to in Article 23.1 available to the user when submitting proposals for the conclusion of a contract or when offering to execute a single payment transaction. If a contract for a single payment transaction has been concluded upon the user's request, who makes use of means of communicating at a distance that do not allow the provider fulfilling this obligation, then the provider shall fulfil this obligation without delay after the execution of the payment transaction. If the user requests provision of the information in paper form or on another durable information medium, the provider shall perform this obligation without delay following the execution of the payment transaction.

2a. The information referred to in Article 23.1a shall be supplied or made available to the user by the provider providing a payment initiation service before the payment transaction is initiated.

3. The provider may fulfil the obligation referred to in Article 22.2 by providing, at least in electronic form, a model agreement for a single payment transaction or a form for a payment order that contains the information spoken of in Article 23.1 or Article 23.1a.

4. If the provider fails to meet the obligation referred to in Article 22.1, Article 22.2, or Article 22.2a, the user shall be exempt from the obligation to pay fees; the provision of Article 52.4 shall apply accordingly.

**Article 23.1.** The provider must supply or make available to the user:

- 1) details of the information which must be supplied by the user so that a payment order can be properly executed or initiated, or the information that is sufficient to provide a unique identifier;
- 2) information about the maximum time that execution of the payment service provided may take;
- 3) information about all and any fees due to the provider from the user, including details of the amounts of such fees; and
- 4) information about the exchange rate, including the reference exchange rate, which shall be applied to a payment transaction, if the payment transaction involves currency conversion.

1a. Besides the information referred to in Article 23.1, payment initiation service provider shall be obliged to provide or make available to the user also the following information:

- 1) (business) name of the payment initiation service provider, the address of its registered office and the address of the principal place of business, and if use is being made of the services of an agent or of a business activity pursued by a branch in a Member State, in which the service is offered, also the address or the address of such acquirer or branch, and other contact details

that are of importance for the purposes of communicating with the payment initiation service provider, including an electronic mail address;

2) contact details of the competent supervisory authority.

2. If the parties agree that the provider must make available to the user other information as well, including the information specified in Article 27, the provider must ensure that the user has easy access to such information.

**Article 24.** Immediately after receipt of a payment order the payer's provider shall provide the payer with information:

- 1) that enables the payee to identify the payment transaction and with the information about the payee;
- 2) about the amount of the payment transaction in the currency used in the payment order;
- 3) about any fees due from the payer in respect of the payment transaction, including a list of the amounts of such fees;
- 4) about the exchange rate used in the payment transaction by the payer's provider and the amount of the payment transaction following currency conversion if the payment transaction has entailed currency conversion;
- 5) about the date on which the payment order has been received.

**Article 25.** Immediately following execution of a payment transaction the payee's provider shall provide the payee with the information:

- 1) that enables the payee to identify the payment transaction and, where appropriate, the payer, and all and any other information provided to the payee in connection with the execution of the payment transaction;
- 2) about the amount of the payment transaction in the currency in which funds are made available to the payee;
- 3) about all and any fees due from the payee in respect of the payment transaction, including, where appropriate, details of the amounts of such fees;
- 4) about the exchange rate used in the payment transaction by the payee's provider and the amount of the payment transaction before currency conversion, if the payment transaction entails currency conversion;
- 5) about the credit value date used in crediting the account.

### Chapter 3

#### **Framework Contract on Payment Services**

**Article 26.1.** The provider must provide the user with the information specified in Article 27, Article 29.1 Article 29.5, Article 31.1, and Article 32.1 on paper or on another durable information medium. The information shall be drafted in Polish or another language as agreed by the provider and the user. The information shall be formulated in a clear, transparent, and legible manner.

2. The provider must provide the user with the information specified in Article 27 in good time before conclusion of a framework contract. Upon the user's consent the provider may execute this obligation by placing information on a website, if the site makes it possible to access the information for a period that is appropriate for the purposes of provision of the information and allows reproducing the information stored there in an unaltered form.

3. If the framework contract is concluded upon the user's request, who makes use of means of communication at a distance, the provider must provide the user with the information specified in Article 27 without delay after the conclusion of the framework contract, if it has not been possible to deliver it within the period specified in Article 26.2

4. The provider may fulfil the obligation referred to in Article 26.1, Article 26.2, or Article 26.3 in relation to provision of the information specified in Article 27 by providing a draft framework contract that contains such information.

5. The user may withdraw from a framework contract concluded in breach of the regulations of Article 26.1-3, or Article 26.4 at any time, but no later than 30 days after receipt of the information specified in Article 27 in the manner referred to of in Article 26.1.



6. The regulation of Article 22.4 shall apply to single payment transactions executed on the basis of the framework contract prior to fulfilment of the obligation by the provider specified in Article 26.1-3 or Article 26.4.

**Article 27.** The provider shall provide a user with the following information:

- 1) the first name and surname or the (business) name of the provider and its registered office and address or the residential address and the address of its principal place of business, its electronic mail address and, if use is being made of the services of an agent or of a branch in a Member State in which the payment service in question is offered, the address of the agent or branch, and also any other addresses that are significant for the purposes of communication with the provider, including identification of all the places in which business is conducted, together with information about:
  - a) the authority that supervises the provider and about the registry, giving the number under which the provider is entered in that register, unless the provider is not subject to supervision regarding the provision of payment services or is not required to be entered in a register, or
  - b) the competent supervisory authority and the public register referred to in Article 13 of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC, and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319 of 5.12. 2007, p. 1, as amended), in which the provider is entered in another Member State, giving the number of the entry in that register, and the case of an EU payment institution, that of its agent or branch;
- 2) about the use of the payment service:
  - a) a description of the most important features of the payment service provided,
  - b) details of the information which must be supplied by the user so that a payment order could be properly initiated or executed or the information that is sufficient to provide a unique identifier,
  - c) specification of the form and procedure of granting consent for placing a payment order or executing a payment transaction and for withdrawing such consent, as well for cancelling a payment order pursuant to Article 40 and Article 51,
  - d) information about the time, which in accordance with Article 49, is considered to be the moment at which a payment order is received,
  - e) information about the maximum time that execution of the payment service provided may take,
  - f) an indication of the limits on expenditure for payment transactions executed by means of a payment instrument referred to in Article 41.1, and
  - g) in the case of payment instruments, in which inclusion of at least two payment brands or payment application of the same payment brand have been used in the same payment instrument (co-branding), additionally the information on the rights the user is entitled to pursuant to Article 8 of Regulation (EU) 2015/751;
- 3) about fees, interest rates, and exchange rates:
  - a) information about fees due to the provider from the user, including fees related to the manner and frequency of providing or making information available, including details of the amounts of such fees,
  - b) information about interest rates, if applicable, or about exchange rates if a payment transaction involves currency conversion, including underlying reference interest rates and reference exchange rates, and about how to calculate the actual level of interest and exchange rates, and
  - c) if this has been agreed, the information on the use without prior notice of modified amounts of a reference interest rate or a reference exchange rate and on how information about such modification is to be communicated in accordance with Article 29.4;
- 4) about communication:

- a) identification of the means of communication, including technical requirements of the user's hardware and software, agreed by the parties for the transmission of information or notifications in accordance with the Act,
  - b) specification of the manner and frequency with which information required under the Act is made available,
  - c) identification of the language or languages in which the framework contract is concluded and in which the parties are to communicate during the period of its term, and
  - d) information about the user's right to receive the provisions of the framework contract and the information in accordance with Article 28;
- 5) about protective and corrective measures:
- a) a description of the measures which should be taken by the user for safekeeping of a payment instrument and the information about how the provider shall make announcements in accordance with Article 42.1.2,
  - b) if this has been agreed, the conditions under which the provider reserves the right to block a payment instrument in accordance with Article 41,
  - c) information about the payer's liability in accordance with Article 46.2-5, including the information on the amount of an unauthorised payment transaction that is to be reimbursed,
  - d) determination of the manner in which the user must notify the provider about cases of unauthorised or incorrectly initiated or executed payment transactions in accordance with Article 44 and indication of the time within which notification should be given, as well as the information about liability for unauthorised payment transactions pursuant to Article 46.1 and Article 46.2,
  - e) information about the provider's liability for the execution of payment transactions pursuant to Article 144-146,
  - f) information about the conditions for obtaining, in accordance with Article 47 and Article 48, reimbursement of the amount of an authorised payment transaction initiated by the payee or through its intermediation which has already been executed, and
  - g) a description of a secure procedure of notifying the user by the provider in the event of occurrence of fraud or suspicion of its occurrence, or the occurrence of threats to security;
- 6) about amendments to and termination of the framework contract:
- a) insofar as, in accordance with Article 29.2, this has been agreed, the information that if, before the proposed effective date of amendments to the framework contract, the user does not notify the provider of its objection to the amendments, the user is deemed to have expressed its consent to them,
  - b) information about the term of the framework contract, and
  - c) information about the user's right to terminate the framework contract and other arrangements relating to the termination of the contract in accordance with Article 29.1 and Article 29.2 and Articles 35 and 37;
- 7) about procedures of dispute resolution:
- a) information about all and any contractual clauses that apply to the framework contract, and in particular about those that concern governing law and a competent court, and
  - b) information about out-of-court procedures for lodging the complaints referred to in Article 15 and about out-of-court procedures available to the user for the resolution of disputes.

**Article 28.1.** During the term of the framework contract, the user has the right to require to be delivered the provisions of the contract and the information specified in Article 27 on paper or on another durable information medium. The provision of Article 26.2 shall apply accordingly.

1a. Prior to the conclusion of the framework contract with the merchant, the acquirer, is obliged to provide to the merchant, on request, the information on the merchant's fees and details of the items of such fee. The provision of Article 26.1 shall apply accordingly.

1b. The provision of Article 28.1a shall apply accordingly in the event of a change of the merchant's fee.

2. Subject to the reservation of Article 17.2, during the term of the framework contract, the provider, at any time that it is requested to do so by the user, shall provide it in a mutually agreed manner with the information about the payment account and payment transactions executed.

**Article 29.1.** The provider shall inform about proposed amendments to the contractual regulations no later than two months before their proposed effective date.

2. If the framework contract provides that failure by the user to raise its objection to the proposed amendments is deemed to be equivalent to an expression of its consent to them, then the provider, when providing information about the amendments referred to in Article 29.1 shall be obliged to inform the user that:

- 1) if prior to the proposed effective date of the amendments the user does not report its objection to the amendments to the provider, the user is deemed to have expressed its consent to them;
- 2) prior to the proposed effective date of the amendments, the user has the right to terminate the framework contract with an immediate effect without incurring any charges effective as of the date of notifying the user of an amendment referred to in Article 29.1, but not later than as of the date on which such amendments would have been applied;
- 3) if the user expresses its objection, in accordance with Article 29.1.1, but fails to terminate the framework contract, the contract shall expire on the day before the effective date of the proposed amendments, without any charges being incurred.

3. The regulation of Article 26.1 shall apply accordingly to the provision of the information in accordance with Article 29.2.

4. Changes may be made to interest rates or exchange rates without prior notice, provided that they are favourable to users or:

- 1) the framework contract so provides, and
- 2) the changes are a result of changes to reference interest rates or reference exchange rates the use of which is provided for by the framework contract.

5. The provider shall inform the user about changes to the interest rate without undue delay, unless the framework contract specifies a fixed frequency or manner of delivering or making available the information about changes in interest rates.

6. The providers may not discriminate individual users for any reason when making changes to the interest rates or exchange rates used in payment transactions.

7. If a change applies to a fee for the service included in the list of representative services specified in the regulations issued pursuant to Article 14f.1, the provider shall provide the consumer, with which it has concluded an agreement on the provision of such service, with an updated fee document, which is referred to in Article 20a.1.

**Article 30.** In the case of a single payment transaction executed under a framework contract and initiated by the payer, the provider, before execution of a single payment transaction at the payer's request and with respect to the particular payment transaction, shall supply accurate information about:

- 1) the maximum period its execution may take, and
- 2) the fees payable by the payer, including a list of the amounts of such fees.

**Article 31.1.** After debiting the payer's payment account by the amount of a single payment transaction and, if the payer does not use a payment account, after receiving a payment order, the payer's provider must provide the payer immediately with information:

- 1) that makes it possible to identify the payment transaction and, where appropriate, the payee;
- 2) about the amount of the payment transaction in the currency in which the payer's payment account has been debited or in the currency in which the payment order has been made;
- 3) the amount of all and any fees for the payment transaction and, where appropriate, details of them or the information about interest due from the payer;
- 4) about the exchange rate used in the payment transaction by the payer's provider and the amount of the payment transaction after currency conversion if the payment transaction has entailed currency conversion;
- 5) about the credit value date used in debiting the account or the receipt date of the payment order.

2. The parties may agree in the framework contract that the information referred to in Article 31.1 is to be supplied by the payer's provider periodically at intervals of at least once a month, free of charge, in a mutually agreed manner that makes it possible for the payer to store and recover the information in its unchanged form.

**Article 32.1.** After execution of a single payment transaction the payee's provider must provide the payee immediately with information:

- 1) that makes it possible for the payee to identify the payment transaction and, where appropriate, the payer and also all and any other information provided to the payee in connection with execution of the payment transaction;
- 2) about the amount of the payment transaction in the currency in which the payee's payment account has been credited;
- 3) about the amount of all and any fees for the payment transaction, also including, details of them or the information about interest due from the payee;
- 4) about the exchange rate used in the payment transaction by the payee's provider and the information on the amount of the payment transaction before currency conversion if the payment transaction has entailed currency conversion;
- 5) about the credit value date used in crediting the account.

2. The parties may agree in the framework contract that the information referred to in Article 32.1 is to be supplied or periodically made available by the payee's provider at intervals of no more than a month, in a mutually agreed manner that makes it possible for the payee to store and recover the information in its unchanged form.

**Article 32a.** The issuer of a payment card shall inform the user about the manner of marking merchants and ATMS and other premises in which payment transactions may be executed with the use of a payment card.

**Article 32b.1.** The provider shall provide the consumer, free of charge, at least once in a calendar year, with a list of fees for services related to a payment account collected during a period covered by the list, and if there is an overdraft facility on the payment account, also with the information on the overdraft facility interest rate and the total amount of interest charged for such facility during such period, and also the information on the interest rate for funds on the payment account and the total amount of interest due for a given period.

2. If the payment account agreement is terminated, the provider shall provide the consumer, not later than within a period of two weeks from the agreement termination date, with a list of fees for the period for which no list of fees has been prepared until the agreement termination date.

3. In the list of fees the provider shall include fees collected further to the services included in the list of representative services specified in the regulations issued pursuant to Article 14f.1. In such case, the provider shall use the terms included in the list and the definitions specified in the regulations issued pursuant to Article 14f.1.

4. The provider and the consumer shall agree the manner of provision of the list of fees. Upon the consumer's request, the provider shall provide it with the list of fees in paper form.

**Article 32c.1.** In the list of fees, the provider shall include:

- 1) a one-off fee collected from the consumer for a given service, the number of instances of using a given service by the consumer during the period included by the list, and if services are bundled into a package, a fee for the entire package, the number of instances of collecting a fee for the package during the period included in the list, and an additional fee collected for each service that is in excess of the number of the services included in the fee for the package;
- 2) the total amount of the fees collected from the consumer for a given service, a package of the services, and for the services that are in excess of the number of services included in the fee for the package during the period included in the list;
- 3) in the case of provision of an overdraft facility service, the interest rate on such facility and the amount of interest charged for such facility during the period included in the list;
- 4) if the funds on the account bear interest, its interest rate applied to a given payment account for such funds and the total amount of interest due for the period included in the list;

5) the total amount of the fees collected for all services related to the payment account provided during the period covered by the list.

2. The list of fees shall be governed by the provisions of Article 20b.1.1-6 and Article 20b.1.9 and Article 20b.4, respectively, provided that such document shall have a note in the upper part of the first page reading: “List of Fees.”

**Article 32d.1.** In commercial and advertising information addressed to consumers and in the provisions of contracts concluded with consumers, the provider shall be obliged to use the terms included in the list of representative services set out in the regulations issued pursuant to Article 14f.1 and the definitions set out in such regulations, if they relate to such services. The provider may use trade names, if such information indicates a service name included in the list of representative services corresponding to a given trade name.

2. The provider, who offers a payment account to consumers, in a package of services with another product or an unrelated service with a payment account, prior to conclusion of a contract shall inform a consumer about a possibility of concluding a payment account agreement separately, if any – also about any fees related to each product or service that may be purchased separately.

**Article 32e.** By 31 January, as at 31 December of the previous calendar year, relevant authorities, which are referred to in Article 14, shall inform the European Commission every 2 years about the established cases of default by the providers supervised by such authorities on the obligations provided for in Article 20a, Article 20b, and Article 32b-32d.

## DIVISION IIA

### Security of the Provision of Payment Services

**Article 32f.1.** Within the risk management system, the provider shall undertake measures to mitigate risk and introduces control mechanisms aimed at managing operational and security risks relating to the provision of payment services, especially by:

- 1) maintaining an effective incident management procedure, including for the detection and classification of major operational and security incidents, including information and communication technology security;
- 2) ongoing assessments and updates of procedures in terms managing operational and security risks, including information and communication technology security, and also ongoing assessment of risk mitigating measures and control mechanisms.

2. Every year, by 31 January of the following year, the provider shall provide PFSA or another competent supervisory authority annual information on the assessments and updates of the procedures regarding management of operational and security risks, and also on the assessment of the risk mitigating measures and the control mechanisms referred to in Article 32f.1.2.

**Article 32g.1.** The provider shall immediately provide PFSA or another competent supervisory authority with information on a major operational or security incident, including information and communication technology security.

2. If the incident referred to in Article 32g.1 has or may have an impact on financial interests of users, the provider, without undue delay, shall notify its users of such incident and inform them about available measures that they may pursue to mitigate adverse consequences of the incident.

3. The information referred to in Article 32g.1 shall be immediately forwarded by PFSA or another competent supervisory authority to EBA and ECB, and if the incident is of importance for a supervisory authority of another Member State, also to such authority.

4. If PFSA or another competent supervisory authority receives from EBA or ECB information about the incident that is of importance for a national financial market, it shall immediately undertake necessary measures to protect the financial system security.

**Article 32h.1.** By 31 January of the following year, the provider shall provide PFSA or another competent supervisory authority annual data on frauds related to the executed payment services, including various forms of provision of payment services.

2. Based on the data received pursuant to Article 32h.1, PFSA and another competent supervisory authority, by 30 June of a given year, shall provide EBA and ECB with aggregated data on fraud related to the executed payment services, including various forms of provision of payment services.

**Article 32i.1.** The provider shall apply strong user authentication, if the payer:

- 1) accesses its account online;
- 2) initiates an electronic payment transaction;
- 3) using a remote channel performs an activity that may involve fraud risk relating to the executed payment services or other fraud.

2. If the payer initiates an electronic payment service using an Internet network connection or by other means that may be used for distance communication, the provider shall apply strong user authentication including elements that dynamically link a payment transaction with a specific transaction amount and a specific payee.

3. The provider shall use relevant security measures to protect confidentiality and integrity of personalised security credentials.

4. The provisions Article 32i.2 and Article 32i.3 shall also apply, if payments are initiated through intermediation of the payment initiation service provider.

5. The provisions of Article 32i.1 and Article 32i.3 shall also apply if the account information service provider requests the account servicing payment service provider to provide information on such account.

6. The account servicing payment service provider allows the payment initiation service provider and the account information service provider to provide their services based on authentication used in relations between the user and the account servicing payment service provider, pursuant to Article 32i.1 and Article 32i.3, and pursuant to Article 32i.1-3, if the payment initiation service provider is involved.

## DIVISION III

### **Rights and Responsibilities Regarding the Provision of Payment Services and Their Use**

#### Chapter 1

#### **General Provisions**

**Article 33.** The provider and the user, who is not a consumer may agree that the provisions of Article 34, Articles 35-37, Article 40.3 and Article 40.4, Article 45, Article 46.2-5, Article 47, Article 48, Article 51 and Articles 144-146 shall not apply in their entirety or in part, and may agree on another deadline than the one specified in Article 44.2 for notifying the provider about identified unauthorised, non-executed, or improperly executed payment transactions.

**Article 34.** Payments shall be made in the currency mutually agreed by the provider and the user.

**Article 34a.** Contractual provisions requiring the application of the principles imposed by a payment card organisation with regards to payment transactions using payment cards issued under an agreement with another payment card organisation shall be invalid.

**Article 34b.** (repealed)

**Article 35.1.** The user may terminate a framework contract at any time with an immediate effect, unless the framework contract provides for a period of notice. The contractual period of notice may not exceed one month.

2. The provider may terminate a framework contract concluded for an indefinite period by giving at least two months' notice; the provision of Article 26.1 shall apply accordingly.

3. Termination of a framework contract may not involve imposition of fees on the user by the provider.

4. The provider may collect a fee from the user for termination of a framework contract if such termination has occurred prior to expiry of 6 months from its conclusion date, and the contract provides for a possibility of collecting such fee. The fee collected from the user for that shall not exceed the costs incurred by the provider further to the conclusion of a framework contract.

**Article 36.1.** The provider may not collect from a user fees for the provision of information and the application of the security and corrective measures referred to in the regulations of this Division, except for the fees referred to in Article 50.3 and Article 51.6.

2. The amount of the fees referred to in Article 50.3 and Article 51.6 is set out in an agreement between the user and the provider. The fees may not exceed the costs incurred by the provider in connection with the notification referred to in Article 50.2, or in connection with the cancellation of an order by the user.

**Article 37.** Fees charged for the provision of payment services that are collected periodically shall be due to the provider only for the term of a framework contract. Fees paid in advance shall be reimbursed proportionally.

**Article 37a.1.** In the case of payment transaction executed in the territory of the Republic of Poland or in transactions with Member States other than the Republic of Poland, the payer and the payee shall incur fees set out in an agreement executed by each of them with their provider, if both the payer's provider and the payee's provider or the sole provider for a given payment transaction pursue their business activity in the territory of the Republic of Poland or that of another Member State.

2. The Provider shall not prevent the payee from requesting from the payer's provider to offer it a discount or direct its choice otherwise so that it could use a specific payment instrument. Any fees collected for that may not exceed direct costs incurred by the payee due to its use of a specific payment instrument.

3. The payee shall not collect fees for using payment instruments in the case of which interchange fees are regulated in the provisions of Chapter II of Regulation (EU) 2015/751, nor for such payment services to which the provisions of Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 shall apply.

**Article 38.** (repealed)

**Article 38a.1.** A payment card organisation, a payment card issuer, and an acquirer shall make available on their websites information on updated rates of an interchange fee.

2. A payment card organisation shall provide information on system fee rates on its website.

3. A payment card organisation may not collect a fee for a domestic card-based payment transaction or a card-based payment instrument referred to in Article 2.20 of Regulation (EU) 2015/751 issued under an agreement with another payment card organisation.

**Article 39.1.** In the case of payment instruments, which pursuant to a framework contract, permit the execution of single payment transactions for an amount not exceeding the equivalent of EUR 30 in the Polish currency or have a spending limit amounting to the equivalent of EUR 150 in the Polish currency, or which are used for storing of funds in an amount not exceeding at any time the equivalent the equivalent of EUR 150 in the Polish currency calculated using the mean exchange rate announced by the NBP prevailing on the conclusion date of the contract, the provider and the user may agree that:

1) the provisions of Article 42.1.2, Article 43.1.3-5, and Article 46.4 and Article 46.5 shall not apply, if the payment instrument cannot be blocked or its further use prevented in some other way;

- 2) the provisions of Article 45 and Article 46.1-3 shall not apply, if the payment instrument is used anonymously or if the provider for other reasons that are intrinsic to the payment instrument is not in a position to prove that the transaction has been authorised;
- 3) the provider shall not be required to notify the user of refusal to execute a payment order, if it is clear from the circumstances that the order has not been executed; in such case, the provisions of Article 50.1-3 shall not apply;
- 4) the payer may not cancel a payment order after transfer to the payee of the payment order or if the payee has given its consent to execution of the payment transaction; in such case, the provision of Article 51 shall not apply;
- 5) the dates for crediting the payee's provider's account with the amount of the payment transaction and for the payee's provider's placing the amount of the transaction at the payee's disposal specified in Article 54, Article 56, and Article 57 shall not apply.

2. In the case of payment transactions that are executed entirely within the territory of the Republic of Poland the amount specified in Article 39.1 may be increased in the framework contract by 100%.

3. In relation to prepaid payment instruments used in payment transactions performed in their entirety within the territory of the Republic of Poland the amounts referred to in Article 39.1 amount to the equivalent of EUR 500 in the Polish currency as calculated by application of the mean exchange rate announced by the NBP that prevails on the date of conclusion of the contract.

**Article 39a.1.** In the case of death of the user who is a party to the agreement providing for the issuance of a payment instrument or maintenance of a payment account, the provider, to the extent not covered by the Banking Act and the Act on Co-operative Savings and Credit Unions, shall be obliged to withdraw from this instrument or the account:

- 1) an amount expended on the expenses of the user's funeral to the person, who presents invoices confirming the costs incurred by that person not exceeding the cost of a funeral arranged in accordance with customs prevailing in a given community;
- 2) an amount equal to disbursements made to the payment instrument or the payment account by the benefit disbursing body under insurance, social security, or retirement benefit, that were not due for the period after the user's death, as indicated in the application of the disbursing body addressed to the provider together with the identification data of the payment instrument or the payment account to which the disbursements have been made.

2. The provider is exempt from payment of the full or partial amount referred to in Article 39a.1.2 if, prior to receiving the application of the disbursing body, it made payments from the payment instrument or the payment account to other co-proprietors under the agreement providing for the issue of the payment instrument or maintenance of the payment account, which do not allow the implementation of the application in whole or in part.

3. The provider, upon a written request of the body disbursing the benefit under insurance, social security, or the retirement pension, shall be obliged to compile and submit personally identifiable information of the co-proprietor under the agreement providing for the issue of the payment instrument or maintenance of the payment account to whom the benefits or the pensions for the period after the death of the beneficiary have been transferred. The information provided may include only the name and surname, the personal identification number (PESEL), and the co-proprietor's address of residence.

**Article 39b.** Payment services providers, which are referred to in Article 3.1.2.c and Article 3.1.7 and providers of the technical services, which are referred to in Article 6.10, providing a service of exchanging information between the payer and the recipient of information on a payment transaction, may intermediate in split payments referred to in Division XI of Chapter 1a of the Act on Tax on Goods and Services of 11 March 2004 (Journal of Laws of 2018, item 2174, as amended<sup>6</sup>).

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<sup>6</sup> Amendments to the consolidated text of the said act were announced in the Journal of Laws of 2018, item 2193, 2215, 2244, 2354, 2392, and 2433.



**Authorisation of Payment Transactions**

**Article 40.1.** A payment transaction is deemed to be authorised if the payer has expressed its consent, in the manner provided for in the contract on execution of the payment transaction between the payer and its provider. Such consent may also apply to subsequent payment transactions.

2. Permission should be granted by the payer prior to the execution of a payment transaction or subsequent payment transactions, unless the payer and its provider have agreed that consent may also be granted following their execution. Consents to the execution of a payment transaction may also be granted through the payee, the payee's provider, or the payment initiation service provider.

3. The payer may withdraw its consent at any time, but not later than until the point at which, in accordance with Article 51, the payment order becomes irrevocable.

4. If the consent relates to subsequent payment transactions, the withdrawal affects all payment transactions unless the payer has stipulated otherwise.

**Article 41.1.** If a specified payment instrument is used to express consent, the payer and its provider may agree on limits on expenditures for payment transactions executed using such payment instrument.

2. The right to block a payment instrument may be reserved in a framework contract:

- 1) for justified reasons related to the security of a payment instrument,
- 2) further to a suspicion of unauthorised use of a payment instrument or intent to cause an unauthorised payment transaction, or
- 3) because of increased risk of the payer's losing the credit capacity required for a given payment instrument if the use of the payment instrument is related to the payer's use of a credit granted to it.

3. The provider should inform the payer, in the agreed manner, about blocking of a payment instrument before blocking such instrument and, if it that not possible, as soon as it has been blocked. This does not apply to cases where the transfer of information about blocking of the instrument would be unreasonable for security reasons or would be prohibited by separate regulations.

4. The provider shall unblock the payment instrument or replace it with a new one if the reasons for maintaining the blockade have ceased to exist.

5. The account servicing payment service provider may refuse access to a given payment account to the account information service provider or the payment initiation service provider due to objectively justified and properly documented reasons relating to unauthorised or illegal access to a payment account by such provider, including unauthorised payment transaction initiation. In such case, account servicing payment service provider shall notify the payer in the agreed manner about the refusal to access a payment account and its reasons. Such information, if possible, shall be forwarded to the payer prior to the access refusal, and not later than following such refusal, however, not later than on the business day following the refusal date, unless its provision would be inadvisable due to objectively justified security reasons or is contrary to separate regulations. The account servicing payment service provider allows the account information service provider and the payment initiation service provider to access to a payment account immediately after the reasons justifying the refusal have ceased to exist.

6. In the case referred to in Article 41.5, the account servicing payment service provider shall immediately notify PFSA or another competent supervisory authority about the incident concerning the account information service provider or the payment initiation service provider. Such information shall include material circumstances of the event and a description and reasons for undertaken actions together with their justification.

7. If an access refusal is contrary to Article 41.5, PFSA or another competent supervisory authority, by way of decision shall order that the account servicing payment service provider should immediately provide the account information service provider or the payment initiation service provider with access to a given payment account.

**Article 42.1.** The user, who is authorised to use a payment instrument, shall:

- 1) make use of the payment instrument in accordance with a framework contract, and
- 2) immediately notify the provider or an entity designated by the provider of the loss, theft, misappropriation, or unauthorised use of the payment instrument or of unauthorised access to the instrument.

2. In order to meet the obligation referred to in Article 42.1.1, once the user has received a payment instrument must take the necessary measures to prevent a breach of the individual authentication data, and in particular it shall be obliged to store the payment instrument with due care and not to make it available to unauthorised persons.

3. The framework contract referred to in Article 42.1.1 shall contain objective, non-discriminatory, and proportionate provisions concerning the issuance and use of a payment instrument.

**Article 43.1.** When issuing a payment instrument the provider must:

- 1) ensure that the individual security features of a payment instrument are not available to persons other than the user who is authorised to use such instrument,
- 2) not send out an unsolicited payment instrument, except in situations where a payment instrument that the user has already received needs to be replaced,
- 3) ensure the continuing availability of adequate resources to enable the user to make a notification in accordance with Article 42.1.2 or to make a request for unblocking or the replacement of a blocked payment instrument with a new one in accordance with Article 41.4,
- 4) provide procedures that allow it to be proved that the notification referred to in Article 42.1. 2 has been made, at the user's request within 18 months from the date of making the notification,
- 4a) provide the user with a possibility of making the notification pursuant to Article 42.1.2 free of charge and not impose fees in the amount that exceeds the costs directly related to the issuance of a new payment instrument replacing the instrument to which the notification applies, and
- 5) prevent the use of a payment instrument after the notification is made in accordance with Article 42.1.2.

2. The provider bears the risk associated with sending to the payer a payment instrument or personalised security credentials.

**Article 44.1.** The user must notify its provider immediately of detected unauthorised, unexecuted, or improperly executed payment transactions.

2. If the user fails to make the notification referred to Article 44.1, then the provider's claims related to unauthorised, unexecuted, or improperly executed payment transactions shall expire within 13 months after the date of debiting the payment account or after the date on which the transaction was to have been executed.

3. If the user does not use a payment account, the period referred to in paragraph Article 44.2 is calculated from the date of execution of unauthorised or improperly executed payment transactions or from the date on which the payment transaction was to be executed.

3a. If a payment transaction is initiated by the payment initiation service provider, the account servicing payment service provider shall restore the account status prior to the occurrence of unauthorised, unexecuted, or improperly executed payment transactions.

4. The provision of Article 44.2 does not apply if the provider has not made information about the payment transaction available in accordance with the regulations of Division II.

**Article 45.1.** The burden of proof that a payment transaction has been authorised by the user and correctly recorded in the provider's system operated to support payment transactions and that it has not been affected by a technical failure or any other defect related to a payment transaction provided by such provider, including the payment initiation service provider shall rest with the user's provider.

1a. If a payment transaction is initiated through intermediation of the payment initiation service provider, such provider shall have the burden of proof that, within its competences, a payment transaction has been authorised and correctly recorded in the provider's system operated to support payment transaction and that it has not been affected by a technical failure or any other defect related to a payment services for which such provider is responsible.

2. Demonstration by the provider of the registered use of a payment instrument is not sufficient to prove that the payment transaction has been authorised by the user or that the payer wilfully or as a result of gross negligence has caused an unauthorised payment transaction or it wilfully or as a result of gross negligence has defaulted on one or more of the obligations referred to in Article 42. The burden of proof of such circumstances rests with the provider.

**Article 46.1.** Subject to Article 44.2, in the event of the occurrence of an unauthorised payment transaction, the payer's provider shall immediately, not later, however, than by the end of a business day following the day when the occurrence of an unauthorised transaction with which the payer's account has been charged is established or after the day of receipt of a relevant notification, reimburse the payer with the amount of the unauthorised payment transaction, with the exception whereby the payer's provider has a reasonable and properly documented basis to suspect fraud and has accordingly informed in writing authorities appointed to prosecute criminal offences. If the payer makes use of a payment account, the payer's account must restore the debited payment account to the status in which it would have been if the unauthorised payment transaction had not occurred. The credit value date related to crediting of the payer's payment account may not be later than the date of charging it with such amount.

1a. If a payment transaction is initiated through the intermediation of the payment initiation service provider, the account servicing payment service provider shall immediately, not later, however, than by the end of a business following the day when the occurrence of an unauthorised transaction with which the payer's account has been charged is established or after the day of receipt of a relevant notification, reimburse the payer with the amount of the unauthorised payment transaction and, in appropriate cases, shall restore the debited payment account to the status in which it would have been, if the unauthorised payment transaction had not occurred.

1b. If the payment initiation service provider is responsible for the execution of an unauthorised payment transaction, at the request of the account servicing payment service provider, it shall immediately, not later, however, than by the end of a business day following the day when the occurrence of a given transaction has been established or the request has been delivered, compensate it for the losses incurred or reimburse the amounts paid as a result of reimbursement made by it to the payer, including the amount of an unauthorised payment transaction. The provision of Article 45.1a shall apply accordingly.

1c. The claims referred to in Article 46.1b do not exclude claims arising under an agreement executed between the payer and the account servicing payment service provider or an agreement executed between the payer and the payment initiation service provider and from the provisions of law governing such agreements.

2. The payer is responsible for unauthorised payment transactions up to the equivalent of EUR 50 in the Polish currency, calculated using the mean exchange rate announced by the NBP prevailing on the day on which the transactions have been executed if an unauthorised transaction is the result of:

- 1) use of a payment instrument lost by the payer or stolen from the payer, or
- 2) misappropriation of the payment instrument.

2a. The provision of Article 46.2 shall not apply, if:

- 1) the payer has had no possibility of establishing loss, theft, or misappropriation of the payment instrument prior to the execution of a payment transaction, with the exception of a case, when the payer has acted wilfully, or
- 2) the loss of the payment instrument prior to the execution of a payment transaction has been caused by action or omission by an employee, agent, or a branch of the payer's provider or an entity providing services to it, which are referred to in Article 6.10.

3. The payer is responsible for the full amount of unauthorised transactions if it has caused them to take place wilfully or as a result of a breach that has been wilfully or resulted from gross negligence of at least one of the obligations referred to in Article 42.

4. After making a notification in accordance with Article 42.1.2, the payer is not responsible for unauthorised payment transactions, unless the payer has wilfully caused an unauthorised transaction.

4a. If the payer's provider does not require strong user authentication, the payer shall not be responsible for unauthorised payment transactions, unless it has acted wilfully. If the payee or the

payee's provider do not accept strong user authentication, they shall be responsible for losses incurred by the payer's provider.

5. If the provider, contrary to the obligation referred to in Article 43.1.3 does not ensure the availability of adequate resources for making at any time the notification referred to in Article 42.1.2 the payer is not responsible for unauthorised payment transactions, unless the payer has wilfully caused an unauthorised transaction.

6. The provisions of Article 46.1-5 shall not apply to electronic money, if the payer's provider is not able block a payment instrument or payment account.

**Article 47.1.** The payer may demand of its provider reimbursement of the amount of an authorised payment transaction initiated by the payee or through its intermediation which has already been executed if:

- 1) at the time of the authorisation the exact amount of the payment transaction has not been specified, and
- 2) the amount of the payment transaction is higher than the amount which the payer could expect, taking into account the type and value of the payer's earlier transactions, the provisions of the framework contract and circumstances that are relevant to the matter.

2. If requested to do so by the payer, the provider must present the factual circumstances that demonstrate that the conditions specified in Article 47.1 have been met.

3. Reimbursement covers the full amount of the payment transaction executed. The value date related to crediting of the payer's payment account may not be later than the date of debiting it with such amount.

4. As regards payment orders, the payer has an absolute right to receive reimbursement at the dates provided for in Article 48.

5. The payer may not rely on grounds relating to the currency conversion to demonstrate that the condition referred to in Article 47.1.2 has been met if the reference exchange rate agreed with the provider has been used to determine the exchange rate.

6. The framework contract between the payer and its provider may provide that the payer does not have the right to reimbursement of the amount of an authorised transaction initiated by the payee if:

- 1) the payer has given its consent to execution of a payment transaction directly to its provider, or
- 2) the information about a future payment transaction has been given to the payer by the provider or the payee, in the agreed manner, at least four weeks before the execution date of the order or has made available to the payee by the provider or payee, in the agreed manner, for a period of at least four weeks before the execution date of the order.

**Article 48.1.** The payer may seek the reimbursement referred to in Article 47 during a period of eight weeks after the date on which the payment account is debited and, if a payment account is not used, following the date on which the payment transaction has been executed.

2. Within 10 business days of the date of receipt of a demand for reimbursement, the provider shall reimburse the full amount of the payment transaction or provide grounds for a refusal to make a reimbursement and identify the body to which the payer may appeal in accordance with Article 15, if it does not agree with the grounds presented. In the circumstances specified in Article 47.4 the provider may not refuse to make the reimbursement.

3. If the payer's provider is the NBP, it may make the reimbursement referred to in Article 47 conditional on receipt of funds from the payee's provider.

## Chapter 3

### Payment Orders and the Amount of Payment Transactions

**Article 49.1.** The time of receipt of a payment order is the time at which an order has been received by the payer's provider. Where the payer's provider receives a payment order on a date which is not a business day for the provider, the order shall be deemed to have been received on

the first business day after that day. The payer's account shall not be debited before receipt of a payment order.

2. The provider may set a deadline at the end of the business day after which payment orders received are deemed to have been received on the next business day.

3. If the user initiating a payment order and its provider agree that execution of a payment order is to begin:

- 1) on a specific date,
- 2) at the end of a specified period,
- 3) on the date on which the payer places at its provider's disposal the funds for the execution of a payment order

– for the purposes of Article 54 the time of receipt of an order shall be deemed to be the beginning of the day referred to in Article 49.3.1 or the last day of the period referred to in Article 49.3.2 or the date referred to in Article 49.3.3.

4. If the date referred to in Article 49.3.1 or Article 49.3.3 or the last day of the period referred to in Article 49.3. 2 is not a business day for the provider, the order shall be deemed to have been received on the first business day after that day.

**Article 49a.1.** At the request of the card-based payment instruments issuer, the account payment service provider shall immediately confirm the availability of an amount on the payer's payment account that is required to execute a payment transaction based on such card if:

- 1) the payer's payment account is available online at the moment of such request, and
- 2) the payer has given consent to the account servicing payment service provider to respond to requests of the card-based payment instruments issuer concerning confirmation that the amount corresponding to a given payment transaction executed on the basis of such card is available on the payer's payment account, and
- 3) consent referred to in Article 49a.1.2 has been given before the first request concerning confirmation.

2. The card-based payment instruments issuer may make the request referred to in Article 49a.1, if:

- 1) the payer has given consent to such provider to make the request referred to in Article 49a.1, and
- 2) the payer has initiated a payment transaction executed on the basis of a payment card for a given amount using a payment instrument based on such card, which has been issued by a given provider, and
- 3) the provider shall authenticate itself towards the account servicing payment service provider before the request referred to in Article 49a.1 has been made and it shall communicate with such provider in a secure manner pursuant to the requirements set out in the provisions of Commission Delegated Regulation (EU) 2018/389 of 27 November 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for strong customer authentication and common and secure open standards of communication (OJ L 69 of 13.03.2018, p. 23).

3. The confirmation referred to in Article 49a.1 consists in answering "yes" or "no" and does not include provision of the account's balance. Answers shall not be stored or used for the purposes other than execution of a card-based payment transaction.

4. The confirmation referred to in Article 49a.1 shall not allow the account servicing payment service provider blocking funds on the payer's payment account.

5. The payer may request the account servicing payment service provider to be supplied with data identifying the provider referred to in Article 49a.2 and the answer given, which is referred to in Article 49a.3.

6. The provisions of Article 49a.1 -5 shall not apply to payment transactions initiated using card-based payment instruments on which electronic money is stored.

**Article 49b.1.** If a payment transaction is initiated by the payee or through its intermediation further to a card-based payment transaction, and its exact amount is not known at the time when the payer expresses its consent to execution of a payment transaction, the payer's provider may block

the funds on the payer's payment account only if the payer has expressed its consent to blocking a specific amount of funds.

2. The payer's provider shall release the funds blocked on the payer's payment account pursuant to Article 49b.1 immediately after receipt of a payment order and the information on a specific amount of the payment transaction.

**Article 50.1.** The account servicing payment service provider may not refuse to execute an authorised payment order initiated by the payer, including through intermediation of the payment initiation service provider or by the payee or through its intermediation, unless the payer has not fulfilled the provisions of the agreement between the payer and the account servicing payment service provider or a possibility or the obligation to refuse execution arises from separate regulations.

2. If the provider refuses to execute a payment order, it shall be obliged to notify the user as soon as possible, not later, however, than at the dates set in accordance with Article 54 and Article 56:

- 1) of the refusal,
- 2) if possible, of the reasons for the refusal,
- 3) if possible, of the procedure for rectifying the errors that have caused the refusal

- unless such notification is not allowed under separate regulations.

3. The parties may stipulate in the agreement that in the case referred to in Article 50.2 the provider has the right to collect fees not in excess of the justified costs incurred by the provider, if the refusal to execute the payment order has been objectively justified.

4. For the purposes referred to in Article 54 and Article 56 and Articles 144-146 a payment order the execution of which has been refused shall be deemed not to have been received.

**Article 51.1.** The user may not cancel a payment order after its receipt by the payer's provider.

2. If the payment transaction is initiated by the payment initiation service provider or by the payee or through its intermediation, the payer may not cancel a payment order after the payment initiation service provider has been given consent to initiate a payment transaction or after the payee has given consent to execution of the payment transaction.

3. In the case of a direct debit the payer may cancel a payment order, while keeping the right to reimbursement of the amount of the payment transaction, not later than the end of the business day preceding the agreed day for debiting of the payer's account.

4. In the case referred to in Article 49.3 the user may cancel a payment order not later than by the end of the business day preceding the agreed day.

5. After the dates referred to in Article 51.1-4 a payment order may be cancelled only by mutual agreement between the user and a relevant provider. In the cases referred to in Article 51.2 and Article 51.3 the consent of the payee shall also be required.

6. If this has been agreed in the framework contract, the provider may charge a fee for cancellation of the payment order.

**Article 52.1.** The payer's provider, the payee's provider, and other entities that intermediate in the execution of a payment transaction may not reduce the amount of a payment transaction by fees due for its execution or by other amounts due.

2. A contract between the payee and the payee's provider may provide that the provider is to make available to the payee the amount of a payment transaction less fees charged. The provider is then obliged to provide information about the payment transaction, the full amount of the payment transaction and the fees charged.

3. The provisions of Article 52.1 and Article 52.2 do not preclude the admissibility of deduction of the amount of tax liabilities and health insurance contributions related to the payment transaction by the provider from the amount of a payment transaction.

4. If any charges other than those specified in Article 52.2 or Article 2.3 have been deducted from the amount of a payment transaction initiated by the payer, the payer's provider must ensure that the payee receives the full amount of the payment transaction. In the case of payment transactions initiated by the payee or through its intermediation, this obligation rests with the payee's provider.

5. The minister competent for public finance may define, by way of regulation, detailed conditions for collecting fees for accepting payments of public liabilities constituting revenue of the state budget or local government units using a payment card, guided in particular by the need to transfer the full amount of a given public liability to a designated bank account and taking into account the specific nature of such payments.

## Chapter 4

### Time for Execution of a Payment Transaction and Value Date

**Article 53.1.** The provisions of this Chapter apply to:

- 1) payment transactions in euro;
- 2) payment transactions executed entirely in the territory of the Republic of Poland in the Polish currency;
- 3) payment transactions including not more than one currency conversion between:
  - a) the euro and the Polish currency, if the currency conversion is executed in the territory of the Republic of Poland,
  - b) the euro and a currency of a Member State other than that of the Republic of Poland from outside the euro zone, if the currency conversion is executed in such Member State,
  - c) the euro and the Polish currency or the euro and the currency of a Member State other than the Republic of Poland from outside the euro zone, executed in a Member State that is in the euro zone, in the case of cross-border transfers initiated in euro.

2. The provisions of this Chapter also apply to the payment transactions referred to in Article 5.2 and Article 5.3a other than those identified in Article 53.1.

3. The user and its provider may agree that the provisions of this Chapter shall not apply to the payment transactions referred to in Article 5.2 and Article 5.3a other than those identified in Article 53.1. The parties may not, however, agree to exclude the application of Article 59 and, in the case of payment transactions executed in the territory of one or more Member States, may not agree a time limit as referred to in Article 54 being longer than four business days from the time of receipt of the payment order.

**Article 54.1.** The payer's provider must ensure that the payment account of the payee's provider is credited with the amount of a payment transaction initiated by the payer not later than at the end of the next business day after receipt of the order.

2. The time specified in Article 54.1 may be extended by one business day if the payer's provider has received the payment order in paper form.

**Article 55.1.** Article 54.2 shall not apply to payment transactions executed entirely in the territory of the Republic of Poland in the Polish currency, which relate to liabilities to which the regulations of the Tax Ordinance Act of 29 August 1997 (Journal of Laws 2005 No. 8 item 60, as amended<sup>7</sup>), hereinafter referred to as the "Tax Ordinance" and Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 establishing the Community Customs Code (OJ L 269 of 10.10.2013 p. 1, as amended<sup>8</sup>).

2. In the event of failure to meet the deadline for the execution of the payment transaction referred to in Article 54.1 in respect to the liabilities referred to in Article 55.1, the provider must pay to the State Treasury or a relevant local government unit statutory interest in the amount set for interest on late payment of tax liabilities.

3. The provisions of the Tax Ordinance relating to a tax liability of a collector shall apply accordingly to the provider's liability for failure to comply with the obligation set out in Article 54.1 concerning the liabilities referred to in Article 55.1.

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<sup>7</sup> Amendments to the consolidated text of the said act were announced in the Journal of Laws of 2018, item 650, 723, 771, 1000, 1039, 1075, 1499, 1540, 1544, 1629, 1693, 2126, 2193, 2244, and 2354, and of 2019 item

<sup>8</sup> Amendment of the said regulation was announced in OJ L 287 of 29.10.2013,

**Article 55a.1.** With regard to payment transactions executed entirely in the territory of the Republic of Poland in the Polish currency, relating to the liabilities, to which the provisions of the Act on Old Age and Disability Pensions from the Social Insurance Fund of 17 December 1998 (Journal of Laws of item 1270 and 2245 and of 2019, item 39) are applicable, the provision of Article 54.2 shall not apply.

2. In the event of failure to meet the deadline for the execution of the payment transaction referred to in Article 54.1 with regard to the liabilities referred to in Article 55a.1, the provider is obliged to pay statutory interest to the beneficiary for delay.

3. With regard to the provider's liability for failure to perform the obligation set out in Article 54.1, concerning the amounts due referred to in Article 55a.1, the provisions of Article 85.1, second sentence of the Act on the Social Security System of 13 October 1998 (Journal of Laws of 2019, item 300 and 303) shall apply accordingly.

**Article 55b.** With regard to payment transactions involving a transfer of funds for contributions to social security and health insurance, and other contributions and payments, to the collection of which the Social Insurance Institution is obliged, Article 54.2 shall not apply.

**Article 56.1.** The payee's provider is to send a payment order initiated by the payee or through its intermediation to the payer's provider within a period agreed between the payee and its provider that in the case of a direct debit transaction makes possible settlement of such transaction within the agreed time of payment.

2. The provision of Article 56.1 shall accordingly apply to payment transactions by payment card or a similar payment instrument initiated by the payee.

**Article 57.** If the payee does not have a payment account with its provider, the funds are to be made available to the payee by the provider, who receives funds for the payee within the period specified in Article 54 and Article 56.1.

**Article 58.** Where cash is placed on the payer's own or another person's payment account provided by the account servicing payment service provider in the currency of the payment account, it is made available on the account without delay after the receipt of the funds, not later than on the same business day, and is value dated immediately after the funds are paid in, but if the payment is made by a non-consumer, the funds must be made available on the account and value dated not later than on the next business day after receipt of the funds.

**Article 59.1.** The payee's provider shall credit the payee's payment account with the amount of a payment transaction with a value date of the business day on which the payee's provider's account has been credited with the amount of the payment transaction.

2. The payee's provider shall make the amount of the payment transaction available to the payee without delay after the crediting of the payee's provider's account with such amount, if on the part of the payee's provider:

- 1) there is no currency conversion, or
- 2) there is currency conversion between the euro and the currency of a Member State or between two currencies of Member States.

2a. The obligation referred to in Article 59.2 shall also apply to payments made by one provider.

3. Debiting of the payer's payment account with the amount of the payment transaction shall take place with a value date no earlier than the point in time at which such account has been actually debited with the amount of the payment transaction.

4. The payee's provider or the payee may agree on a longer period than the one specified in Article 59.2 for payment transactions that are initiated by the payee or through its intermediation.

## Chapter 5

### Payment Cards



**Article 59a.** Insofar as it provides for the issuance of a payment card, an agreement determines whether the card is issued to a bearer or to a designated person.

**Article 59b.** When making payment with a payment card that identifies a person entitled to its use, the person using the card is obliged to present to the merchant, at its request, a document confirming such person's identity.

**Article 59c.1.** The user may terminate the agreement in the scope providing for the issuance of a payment card within 14 days of receipt of the first payment card under such agreement; if no payment transaction has been performed using the card.

2. In the case of termination of the agreement in accordance with Article 59c.1, the issuer of a payment card shall reimburse the user for the fees incurred. The payment card issuer may charge the user with the costs associated with the issuance of the payment card to the extent provided for in the agreement.

**Article 59d.1.** User may authorise the payment card issuer to exercise its rights as a victim in criminal proceedings.

2. The payment card issuer shall be obliged to act with due diligence.

3. The payment card issuer may exercise the rights of two or more victims in criminal proceedings, if their interests do not conflict.

## Chapter 6

### Rights and Obligations of Merchant and Acquirer

**Article 59e.** The merchant may refuse to accept a payment in the event of:

- 1) expiry of the period during which it is possible to use the payment instrument;
- 2) blocking of the payment instrument;
- 3) incompatibility of a signature of the person authorised to use the payment instrument on the payment instrument that identifies such a person with the signature on the transaction receipt;
- 4) refusal to present an identity document in the case referred to in Article 59f.1;
- 5) establishing that the payment instrument is used by an unauthorised person;
- 6) inability to execute acceptance of a payment transaction.

**Article 59f.1.** In the event of justified doubts, the merchant may require the person using a payment card that identifies the person authorised to use it to present a document confirming such person's identity.

2. The merchant may detain the payment instrument in the case referred to in Article 59e.1-3 and Article 59e.5, and also in the case of receiving from the acquirer an instruction to detain the payment instrument.

3. The merchant and the acquirer are obliged to establish and comply with security procedures, in particular, the merchant may not make available to unauthorised persons any information relating to the user and the person authorised by it to use a payment card, and is also obliged to prevent improper use or copying of the payment instrument.

**Article 59g.** The merchant labels a place in which it conducts its operations in a manner enabling unambiguous determination of the payment instruments using which it is possible to make payment transactions in the course of its business, and shall in particular indicate a range of accepted payment cards.

**Article 59h.** The acquirer shall review complaints relating to payment transactions, the execution of which has been refused by the issuer. In the case of payment transactions initiated in the territory of the Republic of Poland reviewing of a complaint may not last longer than 90 days from the date of its delivery to the acquirer.

**Article 59i.** The merchant may authorise the acquirer to exercise its rights as a victim in criminal proceedings. The provisions of Article 59d.2 and Article 59d.3 shall apply accordingly.

## Chapter 7

### Access to Payment Account with Basic Features

**Article 59ia.1.** The providers, who are referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, offering services related to maintenance of payment accounts for consumers, shall be obliged to provide a service of a payment account with basic features. In the case of the providers mentioned in an Article 4.2.9 this obligation shall apply to members of a given co-operative savings and credit union only.

2. The payment account with basic features is operated for consumers for whom no provider, referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, under a business activity pursued in the territory of the Republic of Poland, does not provide other payment account in the Polish currency that allows for execution of the transactions that are referred to in Article 59ia.3.

3. The payment account with basic features only allows to:

- 1) make payments of funds into the account;
- 2) execute cash withdrawals from the account in the territory of any Member State, from an ATM or a branch of the provider referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, during office hours of such provider or outside or using a payment terminal, if the consumer express their will also to conclude an agreement with respect to a service allowing such withdrawals;
- 3) execute payment transactions referred to in Article 3.1.2 in the territory of Member States, particularly in devices accepting payment instruments, in a branch of the provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions or by means of electronic Access to the account, provided that in the case of payment transactions executed with the use of a payment card, the payment account with basic features also makes it possible to execute payment transactions without physical use of the card and to settle payment transactions by the provider that are executed with the use of a payment card, which result in exceeding the funds accumulated on the account, which is referred to in Article 4.2.4 of the Act on Consumer Credit.

4. The obligation of ensuring withdrawal in a branch outside the office hours of the provider shall be met only in the event whereby the provider offers such services.

5. The provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, shall be obliged to provide under the payment account with basic features the services referred to in Article 59ia.3, to the extent in which it provides such services under other payment accounts it provides.

6. The provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, upon the consumer's request, shall make available, free of charge, information on payment accounts with basic features provided in its offer, the conditions of using accounts and related fees.

**Article 59ib.** The provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, may, through a central information register on accounts, which is referred to in Article 92bb of the Banking Act, check if the consumer has a payment account allowing execution of the transactions referred to in Article 59ia.3, held by the provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions.

**Article 59ic.1.** The provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, shall open and hold the consumer's payment account with basic features pursuant to a payment account with basic features agreement concluded with the consumer. Applications for conclusion of the payment account with basic features agreement shall be made available by the provider in paper form in its

branches, and the application template on its website. The consumer may also orally request conclusion of the payment account with basic features agreement, without filing a written application, if the provider allows such possibility.

2. The provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, may not condition opening of the payment with basic features account on conclusion of another agreement by the consumer for provision of additional services or declaration of a specific amount of funds to be flowing into the payment account with basic features. Such prohibition does not apply to the obligations arising under a membership relation between the consumer and the provider.

3. The provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, shall immediately, not later, however, than within 10 business days from the date of receiving a complete application for the conclusion of the payment account with basic features agreement, shall conclude such agreement with the consumer or inform about a refusal to conclude it. In the case of the complete application filed by means of electronic communication, if the provider allows such possibility, it shall establish a period for the consumer, not shorter than 10 business days, to conclude the agreement in a branch of the provider or shall conclude the agreement with the consumer using means of distance communication.

4. In the case of the provider, who is referred to in Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, the period indicated in Article 59ic.3 shall count from the date of confirmation that the applicant may have a member status of such provider.

5. The provisions of Article 59ic.3 and Article 59ic.4 shall apply accordingly, if the conclusion of the payment account with basic features agreement is made pursuant to an oral request referred to Article 59ic.1.

6. The provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, shall refuse conclusion of the payment account with basic features agreement, if:

- 1) it is justified by prudential considerations arising from suspicion of committing a criminal offence, which is referred to in Article 165a or Article 299 of the Act on the Penal Code of 6 June 1997 (Journal of Laws of 2018, item 1600 and 2077), hereinafter referred to as the "Penal Code";
- 2) in the case of the providers, who are referred to in Article 4.2.9, if the consumer filing an application is not a member of a co-operative savings and credit union, being such provider or does not meet the criteria of having a member status of such union;
- 3) the provider has probable information on participation of the consumer in a criminal offence committed with the use of the payment account or probable information that the funds which are to be accumulated on the account originate from a criminal offence.

7. The provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, may refuse to conclude the payment account with basic features agreement if:

- 1) the consumer is a party to an agreement on payment account servicing concluded with the provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, under a business activity pursued in the territory of the Republic of Poland, allowing for the execution of the transactions referred to in Article 59ia.3;
- 2) the consumer's identification data is compliant with the data of persons on international sanction lists or the List of Public Warning of PFSA published pursuant to Article 6b.4 of the Act on Financial Market Supervision;
- 3) the consumer has no valid document establishing their identity;
- 4) the payment account agreement concluded between such provider and the consumer has been terminated due to gross violation of its provisions by the consumer;
- 5) the consumer has failed to conclude the agreement in the provider's branch within the period referred to in Article 59ic.3 first sentence, or has failed to conclude the agreement within such period by means of distance communication;
- 6) the consumer does not legally stay in the territory of a Member State;

7) the consumer has not provided their address of residence or another address for communication in territory of the Republic of Poland.

8. In the cases referred to in Article 59ic.6 and Article 59ic.7, the provider shall immediately inform the consumer, free of charge, of reasons for the refusal to conclude the agreement, unless disclosure of such information would threaten national security or public order or would be contrary to the provisions of law, including the provisions of the Act on Counteracting Money Laundering and Terrorist Financing of 1 March 2018 (Journal of Laws, item 723, 1075, 1499, and 2215 and of 2019, item 125), hereinafter referred to as the “Act on Anti-Money Laundering.”

9. In the event of a refusal to conclude the payment account with basic features agreement pursuant to Article 59ic.6.1, the provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, shall be obliged to apply appropriate measures provided for in the Act on Anti-Money Laundering.

**Article 59id.** The provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, shall be obliged to offer payment accounts with basic features in the Polish currency.

**Article 59ie.1.** The provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, shall provide the payment account with basic features in the scope of domestic payment transactions free of charge.

2. The provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, may collect fees for execution of the domestic payment transactions, which are referred to in Article 3.1.2.c, after it has executed five such payment transactions within a month ordered by the consumer. Such fees may not be higher than fees most frequently applied by a given provider over the last 12 months with respect to the transactions, which are referred to in Article 3.1.2.c, related to any payment account offered by such provider.

3. The provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, may collect a fee from the consumer for execution of the transactions, which are referred to in Article 3.1.1, by using ATMs or CDMs that do not belong to such provider, and which are located in the territory of the Republic of Poland, after it has executed five such domestic payment transactions for the consumer with a month. Such fees may not be higher than fees most frequently applied by such provider over the last 12 months with respect to the transactions, which are referred to in Article 3.1.1, executed in any payment account held by such provider and using ATMs or CDMs that do not belong to such provider.

4. The provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, shall ensure for consumers a possibility of executing the operations referred to in Article 59ia.3 in its branches and by means of electronic access to the account, if the provider offers such access. The provider may not offer payment accounts with basic features the use of which would be made only by means of electronic access to the account, unless the provider only offers services provided by such means.

5. The provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, may not collect from the consumer fees for the provision of services related to the maintenance of the payment account with basic features other than the fees referred to in Article 59ie.2 and Article 59ie.3, and fees for execution of cross-border payment transactions. Fees for execution of cross-border payment transactions may not be higher than fees most frequently applied by a given provider over the last 12 months with respect to such transactions, executed in any payment account provider by such provider.

**Article 59if.** The payment account with basic features agreement is a framework contract to which the provisions of Division II in Chapter 3 apply.

**Article 59ig.1.** The provider, who is referred to in Article 4.2.1-3 and Article 4.2.9, with the exclusion of the National Association of Co-operative Savings and Credit Unions, may terminate the payment account with basic features agreement if:

- 1) the consumer wilfully or as a result of gross negligence has used the account for illegal purposes;
- 2) there is a justified suspicion that the funds accumulated on the account originate from a criminal activity or are related to such activity;
- 3) there has been no operations performed on the account for over 24 subsequent months, with the exception of operations of collecting fees or accruing interest on the funds accumulated on the account;
- 4) the consumer has provided untrue information or has concealed true information in the application for the execution of the payment account with basic features agreement, if the provision of true information would have resulted in application rejection;
- 5) the consumer does not legally stay in the territory of a Member State;
- 6) the consumer has concluded another agreement on the payment account, which allows them for execution of the transactions referred to in Article 59ia.3 in the territory of the Republic of Poland.

2. In the cases referred to in Article 59ig.1.3, Article 59ig.1.5, Article 59ig.1.6, free of charge information on reasons for terminating the payment account with basic features agreement shall be provided to the consumer in paper form or electronically, together with termination of such agreement, unless the disclosure of such information would threaten national security or public order or would be contrary to the provisions of the Act on Anti-Money Laundering. The provider may terminate the payment account with basic features agreement executed for an unspecified period of time upon at least two-month notice.

3. In the information referred to in Article 59ig.2 the provider shall indicate the manner in which the consumer may claim its rights further to termination of the payment account with basic features agreement and shall inform them about out-of-court dispute resolution procedures, including indication of competent courts of arbitration.

4. Termination of the payment account with basic features agreement due to the reasons set out in Article 59ig.1.1, Article 59ig.1.2, and Article 59ig.1.4 shall be done with an immediate effect. The provision of Article 59ig.3 shall apply accordingly.

5. Following termination of the payment account with basic features agreement due to the reasons set out in Article 59ig.1 the consumer shall indicate to the provider a manner in which it wishes to have the funds accumulated on the account reimbursed. If the provider does not obtain such information, it may place the funds accumulated on the account to a court deposit account or otherwise secure the funds accumulated on the account. The provider shall inform the consumer about the security measure applied in writing.

**Article 59ih.1.** PFSA shall put up on its website information on the rules governing Access to the payment account with basic features.

2. By 31 January of a given calendar year, payment accounts with basic features service providers in the previous year shall provide PFSA with the information on the number of payment accounts with basic features opened in such year and on a relation of the number of cases of refusal to conclude agreements on such account to the number of filed applications, as at 31 December of the previous calendar year.

3. PFSA, every 2 years, by the end of February of the calendar year following the expiry of a reporting period, shall inform the European Commission about the number of payment accounts with basic features service providers and shall provide the obtained information pursuant to Article 59ih.2.

## Chapter 8

### Payment Account Switching

**Article 59ii.** Switching payment account between providers having their registered offices in the territory of the Republic of Poland shall be understood as a transfer, pursuant to authorisation by the consumer, by a transferring payment service provider to a receiving payment service provider of information on all or certain direct debits concerning payment orders and regularly incoming to the payment account provided for the consumer by a transferring payment service providers orders and direct debits under the payment account or any positive balance, from the payment account provided

by the transferring payment service provider into the payment account opened for the consumer by the receiving payment service provider in the payment account currency, to which transferred information applies, together with any closure of the payment account provided for the consumer by the transferring payment service provider.

**Article 59ij.1.** The provisions of this chapter shall apply to payment accounts that at least allow to:

- 1) execute payments of funds to such account;
- 2) execute withdrawals of funds from the account;
- 3) order and receive payment transactions.

2. The receiving payment service provider, who does not provide services provided by the transferring payment service provider under the provided payment account, shall not be obliged to provide them under an account opened by it for the consumer as a result of the payment account switching.

**Article 59ik.1.** The transferring or the receiving payment service provider shall inform the consumer, free of charge, in a transparent and legible manner, about the way of transferring the payment account.

2. The information referred to in Article 59ik.1 shall include in particular:

- 1) the rights and obligations of the transferring payment service provider, the receiving payment service provider, and the consumer;
- 2) completion dates of individual actions under the payment account switching;
- 3) indication of the payment services which the receiving payment service provider provides, including the conditions under which it provides them and possible limits that may arise during the payment account switching in relation to such services;
- 4) fees related to the payment account switching, if any;
- 5) data that the consumer shall have to present to transfer the payment account;
- 6) indication of out-of-court dispute resolution procedures, including competent courts of arbitration.

3. The information referred to in Article 59ik.1 shall be provided by the provider in paper form in all of its branches available for consumers, or electronically and it shall also make it available on its website.

**Article 59il.1.** After the consumer has submitted authorisation for the payment account switching and to the extent provided in it, the receiving payment service provider shall undertake actions aimed at transferring the consumer's payment account or services related to the payment account indicated by the consumer to the extent, in which the receiving payment service provider provides such services. If the payment account is kept for two or more consumers, authorisation shall be given by all consumers.

2. The authorisation may be submitted in paper form or electronically, if unambiguous electronic identification of the consumer authorising the payment account switching is ensured. The authorisation shall be drafted in Polish or other language agreed by the receiving payment service provider and the consumer.

3. In the authorisation the consumer may in particular:

- 1) determine in detail incoming payment orders and standing orders concerning payment orders and grant the receiving payment service provider consents to execution of direct debits that are to be transferred;
- 2) define the date from which standing orders concerning payment orders and direct debits are to be executed from the payment account provided by the receiving payment service provider.

4. The date referred to in Article 59il.3.2 shall be determined at least 6 business days starting from the receipt day of the documents by the receiving payment service provider supplied by the transferring payment service provider pursuant to Article 59im.3. If the date is determined on an earlier date, standing orders concerning payment orders and direct debits shall be executed by the receiving payment service provider after expiry of 6 business days from the receipt date of such documents by the receiving payment service provider.

**Article 59im.1.** Within two business days of receiving the authorisation, the receiving payment service provider shall request the transferring payment service provider to perform the following actions, if they have been covered by the authorisation:

- 1) provision of the receiving payment service provider and the consumer, if it has so requested, with the list of the existing standing orders concerning payment orders and available information on the granted consents to executed direct debits that are to be transferred;
- 2) provision of the receiving payment service provider and the consumer, if it has so requested, with available information on regularly incoming payment orders and direct debits ordered by a creditor that have been executed on the consumer's payment account within 13 months preceding the date when such information has been requested;
- 3) discontinuation of acceptance of direct debits and incoming payment orders, effective as of the date defined in the authorisation, if the transferring payment service provider does not ensure automatic redirecting of incoming payment orders and direct debits into the consumer's payment account with the receiving payment service provider;
- 4) cancellation of standing orders effective as from the date defined in the authorisation;
- 5) transfer of funds remaining on the payment account provided by the transferring payment service provider on the date defined by the consumer in the authorisation;
- 6) closure of the payment account provided by the transferring payment service provider on the date indicated by the consumer in the authorisation.

2. If the receiving provider is the entity referred to in Article 4.1.9, with the exception of the National Association of Co-operative Savings and Credit Unions, and it performs verification of the consumer's membership, the period defined in Article 59im.1 shall be counted from the date of making membership positive verification.

3. In the case referred to in Article 59im.1, the transferring payment service provider shall perform the following actions, if they are covered by the authorisation:

- 1) provides the receiving provider with the information referred to in Article 59im.1.1 and Article 59im.1.2 within five business days from the receipt date of the authorisation;
- 2) effective from the date defined in the authorisation stops accepting payment orders and direct debits incoming to the payment account if it does not ensure automatic redirecting of the incoming payment orders and direct debits to the payment account held or opened by the consumer with the receiving payment service provider, and in the event of refusal of transaction acceptance, it shall inform the payer or the payee about the reasons for the refusal;
- 3) cancels standing orders effective from the date defined in the authorisation;
- 4) transfers funds remaining on the payment account held by it into the payment account provided by the receiving payment service provider on the date defined in the authorisation;
- 5) closes the payment account on the date defined in the authorisation, if there are no outstanding liabilities on it that prevent its closure, and subject to completion of the actions referred to in Article 59im.3.1-3.

4. If the outstanding liabilities prevent the closure of the consumer's payment account within the period referred to in Article 59im.3.5, the transferring payment service provider shall immediately inform the consumer accordingly.

5. The transferring payment service provider may not collect fees from the consumer and the receiving payment service provider for providing the information that such provider has requested pursuant to Article 59im.1.1 and Article 59im.1.2.

6. The receiving payment service provider, within the period of five business days from the date of receipt of the information referred to in Article 59im.1.1 and Article 59im.1.2 shall perform the following actions if they are covered by the authorisation:

- 1) establishes and executes standing orders concerning payment orders the establishment of which has been requested by the consumer, effective from the date indicated in the authorisation;
- 2) makes necessary preparations for accepting direct debits and accepts direct debits effective from the date indicated in the authorisation;
- 3) in relevant cases informs the consumer about its rights pursuant to Article 5(3)(d) of Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009;

- 4) informs payers indicated in the authorisation and regularly making payment orders incoming to the consumer's payment account about the data identifying the consumer's payment account with the receiving payment service provider and provides the payers with a copy of the authorisation;
- 5) informs the payees defined in the authorisation and using the direct debit to collect funds from the consumer's payment account about the data identifying the consumer's payment account with the receiving payment service provider and the date from which direct debits are to be executed from such payment account, and shall also provide those payees with a copy of the authorisation.

7. The receiving payment service provider shall perform the actions referred to in Article 59im.6 to the extent in which it is made possible by the information presented by the transferring payment service provider or the consumer, and in the event of no such information, it shall request its provision.

8. If the consumer personally provides the information referred to in Article 59im.6.4 and Article 59im.6.5 to payers or payees, the receiving payment service provider shall provide the consumer with the data identifying the payment account within the period referred to in Article 59im.6 and shall indicate the data referred to in Article 59il.3.2.

9. To ensure continuity of the provision of the payment services for the consumer during the the payment account switching, the transferring payment service provider may not block payment instruments before the date indicated in the authorisation granted by the consumer, subject to Article 41.2.

**Article 59in.1.** If the consumer informs its account servicing payment service provider in the territory of the Republic of Poland about its intent to open a payment account with the provider carrying out a business activity in another Member State, after obtaining such information, the account servicing payment service provider:

- 1) provides the consumer, free of charge, the list of the existing standing orders concerning payment orders and consents granted by the debtor to execute direct debits, if available, and also the information available about regularly incoming payment orders and direct debits ordered by the creditor executed on the consumer's payment account within 13 months preceding the information receipt date;
- 2) transfers funds remaining on the consumer's payment account into the consumer's payment account with the new provider of payment services, if the information contains data allowing its identification and identification of the consumer's payment account;
- 3) closes the consumer's payment account, if such request is covered by the information.

2. If the consumer has no outstanding liabilities on its payment account, the provider holding such account shall perform the actions defined in Article 59in.1 on the date indicated by the consumer, not earlier, however, than after expiry of 6 business days from the date of receipt of the consumer's information, unless the consumer and the provider agree on another date. If there are outstanding liabilities on the consumer's payment account that prevent its closure, the provider shall immediately inform the consumer accordingly.

**Article 59io.** In the event referred to in Article 59im.3.5 and Article 59in.2 second sentence, the provider may establish the existence of outstanding liabilities preventing closure of the account on the date referred to in the authorisation or in Article 59in.2 first sentence, if it especially concerns the account:

- 1) on which the funds due to an outstanding payment transaction have been blocked;
- 2) from which repayment of credits is made, including those granted with the use of the credit card;
- 3) on which funds have been seized in the course of enforcement or proceedings to secure claims;
- 4) with blocked funds;
- 5) on which a security deposit has been established for the purpose of the consumer's liabilities due to another provider;
- 6) with a zero balance and outstanding fees, if the receiving provider does not introduce an overdraft facility on the account, and the fees have been charged, but have not been collected;



- 7) with a negative balance;
- 8) with an open letter of credit, an open documentary collection, or a collection of cheques in domestic or foreign currency transactions;
- 9) provided for the consumer against whom a decision on its bankruptcy has been issued or who has filed a motion for being declared bankrupt;
- 10) related to the membership at this account servicing payment service provider.

**Article 59ip.1.** The transferring payment service provider and the receiving payment service provider, at the consumer's request, shall provide it, free of charge, with the data on the existing standing orders and direct debits, related to the consumer's payment accounts provided by such providers which are covered by the transfer.

2. Fees collected from the consumer by the transferring payment service provider or the receiving payment service provider for actions others than provision of the information referred to in Article 59ip.1 and in Article 59im.1.1 and Article 59im.1.2, performed in accordance with Article 59il and Article 59im, may not be higher than the actual costs incurred by a given provider for the performance of such actions.

**Article 59iq.1.** The receiving payment service provider or the transferring payment service provider shall immediately compensate for the consumer's each financial loss directly resulting from a given provider's failure to comply with the obligations arising under Article 59ik-59io.

2. The losses referred to in Article 361.2 of the Act on the Civil Code of 23 April 1964 shall be understood as fees and interest collected by the transferring payment service provider, which would not have been collected if the provider had complied with the obligations arising under Article 59ik-59io, and the benefits, which are referred to in that provision, shall be understood to mean interest due to the interest rate borne by the funds on the account, which would have been accumulated if the provider had complied with the obligations arising under Article 59ik-59io.

**Article 59ir.** The provisions of Article 59ii-59im and Article 59io-59iq shall apply accordingly to the payment account switching within the same provider.

**Article 59is.1.** By 31 January of a given calendar year, the payment service provider participating in the account switching as a transferring payment service provider shall provide PFSA with the information on the number of transferred payment accounts and the number of unexecuted authorisations to transfer a payment account in the previous calendar year, as at 31 December of the previous calendar year.

2. Every 2 years PFSA shall inform the European Commission of the number of the transferred payment accounts and the number of unexecuted authorisations to transfer a payment account during that period, as at 31 December of the previous calendar year.

**Article 59it.1.** If the provider, who is referred to in Article 59ii, other than the provider, who is referred to in Article 4.2.1-3 and Article 4.2.19, does not allow for the payment account switching, a competent supervisory authority, referred to in Article 14, may impose on such provider a financial penalty of up to PLN 1,000,000, following an ineffective call requesting it to comply with such obligation within the period set forth by the authority.

2. While determining the financial penalty referred to in Article 59it.1, the supervisory authority shall consider the importance, duration, and reasons for violating the obligation defined in Article 59ii, the size of a business activity carried out by the provider and its financial standing.

3. (repealed)

4. (repealed)

## DIVISION IIIA

### Issuance and redemption of electronic money

**Article 59j.** Electronic money issuers shall be obliged to issue electronic money at par value immediately on receipt of funds allocated for such purpose.

**Article 59k.1.** An agreement on the issuance of electronic money lays down conditions governing the redemption of electronic money, including any fees relating thereto, clearly and in an understandable manner.

2. The electronic money issuer is obliged to state clearly and in an understandable manner the conditions of redemption of electronic money not later than upon the submission of an offer to conclude a contract.

**Article 59l.1.** The electronic money issuer is obliged, upon request of the electronic money holder, to enable redemption of electronic money at any time and at par value.

2. Redemption of electronic money shall take place in exchange for funds other than the electronic money.

3. The electronic money holder may request redemption of electronic money:

- 1) before termination of the contract referred to in Article 59k.1 - in whole or in part;
- 2) after the termination of the contract referred to in Article 59k.1 - in whole.

4. In the case referred to in Article 59l.3.2, if the electronic money issuer is also engaged in a business activity other than issuing electronic money or the provision of payment services and the provision of additional services closely related to those activities, or other than the operation of payment systems or provision of credits for the execution of payment transactions in connection with the performance of payment services, and it is not able to determine what proportion of the funds given to it was to be used for electronic money, all funds requested by the user in the amount not covered by the previously submitted payment orders shall be withdrawn.

**Article 59m.1.** The electronic money issuer may charge a fee for the redemption of electronic money only if the contract so provides, and additionally where:

- 1) the contract provides for a termination date and the electronic money holder terminates the contract before that date;
- 2) the electronic money holder requests redemption of electronic money in full before the expiry of the contract or more than one year after the date of its expiry.

2. The fee referred to in Article 59m.1 may not exceed the cost incurred by the electronic money issuer in connection with enabling of the redemption.

3. The provisions of Article 59m.1 and Article 59m.2 shall not exclude the possibility of deducting a charge resulting under tax liabilities by the electronic money issuer from the amount of the payment transaction.

**Article 59n.** The electronic money issuer and an entity that is a non-consumer and which accepts electronic money may agree upon the conditions of electronic money redemption other than those laid down in Article 59l.3 and in Article 59l.4, and Article 59m.1 and Article 59m.2.

**Article 59o.** A claim for redemption of electronic money shall expire after five years from the date of expiry of the contract for the issuance of electronic money.

**Article 59p.** Issuance of electronic money through agents or other entities is prohibited.

## DIVISION IIIB

### Provision of Payment Initiation Services and Account Information Services

**Article 59q.1.** If a payment order is submitted with the payment initiation service provider, immediately following its submission the payment initiation service provider shall provide or make available to the payer, and, if necessary, to the payee:

- 1) a confirmation of correct submission of a payment order with the account servicing payment service provider;

- 2) the identification number allowing the payer and the payee identification of a payment transaction, and, if needed, allowing the payee identification of the payer and other information provided together with a payment transaction;
- 3) the information on:
  - a) the amount of a payment transaction,
  - b) the total amount of fees due under a payment transaction for the payment initiation service provider, and in relevant cases, together with a list detailing amounts of such fees.

2. If a payment order is submitted to the payment initiation service provider, such provider shall provide the account servicing payment service provider with the identification number of such transaction.

**Article 59r.1.** The payer may use a payment initiation service, unless the payment account is not available online.

2. If the payer grants consent to execution of a payment pursuant to Article 40, the account servicing payment service provider shall perform actions defined in Article 59r.4 to ensure that the payer may use a payment initiation service.

3. The payment initiation service provider:

- 1) may not come into the possession of the payer's funds in connection with the provision of the payment initiation service;
- 2) shall be obliged to ensure that personalised security credentials are not available to entities other than the user and the account servicing payment service provider and that it is transmitted through the safe and efficient channels;
- 3) shall be obliged to ensure that the information on the user other than defined in Article 59r.3.2 obtained in the course of provision of payment initiation services is provided only to the payee and only with the user's consent;
- 4) in the event of payment initiation - it shall be obliged to identify itself towards the account servicing payment service provider and communicate with the account servicing payment service provider, the payer and the payee in a secure manner pursuant to the requirements defined in the provisions of Commission Delegated Regulation (EU) 2018/389 of 27 November 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for strong customer authentication and common and secure open standards of communication;
- 5) may not store sensitive payment data concerning the payment;
- 6) may not request from the user data other than necessary to provide the payment initiation service;
- 7) may not use, access, or store data for the purposes other than provision of the payment initiation service provided pursuant to an agreement with the user or upon the user's consent;
- 8) may not modify the amount, the payee, or any other data of the payment transaction.

4. The account servicing payment service provider:

- 1) shall be obliged to communicate with payment initiation service providers in a secure manner pursuant to the requirements defined in the provisions of Commission Delegated Regulation (EU) 2018/389 of 27 November 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for strong customer authentication and common and secure open standards of communication;
- 2) immediately, after receiving a payment order from the payment initiation service provider shall be obliged to provide or make available to such provider the information on initiation of a payment transaction and information accessible to it concerning execution of the payment transaction;
- 3) shall be obliged to apply to payment orders transmitted through the services of the payment initiation service provider non-discriminatory rules governing payment orders transmitted directly by the payer itself, unless withdrawal from the obligation of applying such rules is justified by objective reasons, especially in terms of timing, a priority nature of a payment transaction or the amount of fees.

5. The use of payment initiation services by the user shall not be dependent on the existence of a contractual relationship between the payment initiation service provider and the account servicing payment service provider.

**Article 59s.1.** The user shall use an account information service, unless the payment account is not accessible online.

2. The account information service provider:

- 1) shall be obliged to provide services only upon the user's consent expressed in a manner that raises no doubts;
- 2) shall be obliged to ensure that personalised security credentials are not available to entities other than the user and the account servicing payment service provider and that it is transmitted through the safe and efficient channels;
- 3) in the event of a communication session – it shall be obliged to identify itself towards the payer's account servicing payment service provider and communicate with the account servicing payment service provider and the user in a secure manner pursuant to the requirements defined in the provisions of Commission Delegated Regulation (EU) 2018/389 of 27 November 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for strong customer authentication and common and secure open standards of communication;
- 4) may obtain access only to the information from designated payment accounts and associated payment transactions;
- 5) may not request sensitive payment data linked to the payment accounts;
- 6) may not use, access, or store data for the purposes other than performance of an account information service provided under the agreement with the user or the user's consent.

3. The account servicing payment service provider:

- 1) shall be obliged to communicate with account information service providers in a secure manner pursuant to the requirements defined in the provisions of Commission Delegated Regulation (EU) 2018/389 of 27 November 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for strong customer authentication and common and secure open standards of communication;
- 2) shall be obliged to use in applications for making available the data transmitted through the services of an account information service provider non-discriminatory rules for other applications, unless withdrawal from the obligation of applying such rules is justified by objective reasons.

4. The use of an account information service by the user shall not be dependent on the existence of a contractual relation between the account information service provider and the account servicing payment service provider.

**Article 59t.** The provisions of this Division shall not apply to accounts held by Bank Gospodarstwa Krajowego and the accounts referred to in Article 51.1.2-4 of the Act on the National Bank of Poland of 29 August 1997.

## DIVISION IV

### Domestic Payment Institutions

#### Chapter 1

#### Undertaking and Pursuing Business Activities by Domestic Payment Institutions

**Article 60.1.** The provision of payment services as a domestic payment institution requires obtaining the authorisation of PFSA.

2. The authorisation may be granted to a legal person with its registered office in the territory of the Republic of Poland, upon its application, which intends to carry out at least part of its business activity in the scope of payment services in such territory.

3. The authorisation covering the provision of services referred to in Article 3.1.5 shall be issued after consultation with the President of the NBP. The opinion of the President of the NBP shall include an assessment of the application in terms of its compliance with law and assurance of security and efficiency of the provision of a payment service.

**Article 61.1.** An applicant referred to in Article 60.1 shall append to its application:

- 1) the address of its registered office;
- 2) the articles of association, the deed of incorporation, or the company's memorandum of association;
- 3) a list of the payment services that it intends to provide;
- 4) a programme of operations and a financial plan for a period of at least three years which demonstrates that the applicant is able to employ the appropriate and proportionate systems, resources, and procedures required to carry out a business activity soundly;
- 5) documents that confirm the possession of own funds in the required amount;
- 6) a description of the risk management and internal control system referred to in Article 64.1.3;
- 6a) a description of close links between the applicant and other entities, if such relations exist;
- 7) (repealed)
- 8) information that makes it possible to establish the identity of managers and persons, who directly or indirectly, have qualifying holding of shares or interests in the company or co-operative that intends to provide payment services, indicating the size of their shares or interests comprising:
  - a) the first name and the surname or a (business) name,
  - b) the registered office and address or the place of residence and address;
- 9) documents and information that make it possible to assess whether the applicant and the persons referred to in Article 61.1.8 ensure prudent and stable management of the payment institution, in particular:
  - a) documents that allows assessment whether managers have education and experience necessary to manage operations involving the provision of payment services,
  - b) information regarding a conviction for an offence or a fiscal offence, proceedings conditionally discontinued and disciplinary proceedings concluded with punishment, as well as other concluded administrative and civil proceedings concerning the applicant or the persons referred to in Article 61.1.8,
  - c) information about ongoing criminal proceedings into cases of an intentional offence, with the exception of offences prosecuted under private prosecution, proceedings into cases of a fiscal offence, as well as ongoing administrative, disciplinary, and civil proceedings conducted against the persons referred to in Article 61.1.8, or associated with the activities of those persons or the applicant;
- 10) information that allows the identification of auditors and audit firms, comprising:
  - a) the first name and the surname of an auditor or a name of the audit firm,
  - b) the address of an auditor or the address of an audit firm,
  - c) the number of an entry in the register of auditors or the number of an entry into the list of audit firms;
- 11) in the case referred to in Article 61b.1 - the document confirming possession of civil liability insurance, a bank guarantee, an insurance guarantee, or another security for the user's claims.

2. After obtaining the authorisation the applicant and the payment institution shall immediately inform PFSA of each change that materially affects the accuracy of the information and the documents appended to the application in accordance with Article 61.1. If the notification contains the information that affects the manner of provision of the service referred to in Article 3.1.5, PFSA shall immediately forward such information to the President of the NBP.

3. The minister competent for financial institutions shall define, by way of regulation, a detailed scope of the information and the nature and form of the documents referred to in Article 61.1.4-10, having in mind the need to verify whether the applicant meets the conditions necessary to obtain the authorisation referred to in Article 60.1 and the completeness and reliability of the documents appended to the application, considering the guidelines issued in that respect by EBA.

**Article 61a.1.** If the applicant intends to provide the payment services referred to in Article 3.1.5, PFSA shall immediately forward the application to the NBP together with the appendices referred to in Article 61.1 so that the President of the NBP may issue the opinion referred to in Article 60.3.

2. The opinion referred to in Article 60.3 shall be issued by the President of the NBP within a month from the date of being provided with the application pursuant to Article 61a.1.

**Article 61b.1.** If the applicant intends to provide payment initiation services, it shall be obliged to conclude a civil liability insurance agreement for losses occurring further to the business activity pursued by it or have a bank guarantee, an insurance guarantee, or another security for the user's claims.

2. The scope and amount of civil liability insurance, a bank guarantee, an insurance guarantee, or another security shall cover the amounts of liabilities that the applicant shall be charged with resulting from its performance of the business activity pursuant to the Act and regulations of law applicable in the territory of a Member State other than the Republic of Poland in which the applicant intends to pursue its business activity.

3. The bank guarantee agreement or the insurance guarantee agreement shall include an authorisation for PFSA to issue withdrawal instructions by the guarantor of funds from the guarantee.

4. PFSA shall be entitled to act for users in matters concerning withdrawal of funds under the bank guarantee agreement or the insurance guarantee agreement pursuant to the rules determined in the wording of such agreements.

5. The minister competent for financial institutions shall define, by way of regulation, the minimum sum guaranteed of insurance, the bank guarantee sum, the insurance guarantee sum, or the value of another security for the user's claims, considering the guidelines issued by EBA in that respect, provided that the number and value of payment transactions initiated by a domestic payment institution being the basis for calculating the required own funds for a domestic payment institution shall not be included while calculating such sum.

**Article 62.1.** In the course of proceedings into the case of issuing the authorisation referred to in Article 60.1 PFSA:

- 1) shall call upon the applicant to supplement its application, if the application does not meet the requirements specified in Article 61.1;
- 2) may request supplementary information or documents that are needed to resolve the matter.

2. PFSA shall issue a decision on the authorisation within three months from the date of receipt of the application or its supplement referred to in Article 62.1.1.

**Article 63.** In the authorisation referred to in Article 60.1, PFSA shall specify the payment services which the payment institution is authorised to provide.

**Article 64.1.** The authorisation referred to in Article 60.1 may be issued if the entity:

- 1) has the initial capital amounting at least to the equivalent in the Polish currency of:
  - a) the amount of EUR 125,000 if the applicant intends to provide all or several of the payment services listed in Article 3.1.1-5,
  - b) the amount of EUR 50,000 if the applicant intends to provide only the payment service referred to in Article 3.1.7,
  - c) the amount of EUR 20,000 if the applicant intends to provide only the payment service referred to in Article 3.1.6;
- 2) has own funds in the required amount;
- 3) ensures prudent and stable management of the activities covered by the application for the authorisation, in particular having the risk management and internal control system relevant to the type, scope and complexity of the payment services provided, ensuring proper fulfilment of the obligations relating to counteracting money laundering and terrorist financing and covering organisational arrangements designed to safeguarding users' funds in accordance with Article 78;
- 4) is managed by the persons referred to in Article 61.1.8, who guarantee prudent and stable management of its activities;

- 5) has financial resources to cover the initial capital that do not originate from a credit, loan, or are not otherwise encumbered and do not originate from illegal or undisclosed sources;
- 6) has a financial plan or programme of operations ensuring capability of a domestic payment institution to fulfil its liabilities arising under the business activity covered by the application for the authorisation;
- 7) does not have close links with third-party entities, which constitute an obstacle to the effective performance of supervisory functions;
- 8) does not have close links with third-party entities, in the case of which the provisions of law of a state other than a Member State apply to at least one natural or legal person with whom the applicant has close links or difficulties relating to the enforcement of such regulations would prevent the effective exercise of supervision over a domestic payment institution;
- 9) ensures compliance with the requirements set out in the provisions of Commission Delegated Regulation (EU) 2018/389 of 27 November 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for strong customer authentication and common and secure open standards of communication;
- 10) has a civil liability insurance, a bank guarantee, an insurance guarantee or other security for the user's claims in the event referred to in Article 61b.1.

2. The equivalent of the euro amounts in the Polish currency given in Article 64.1.1 shall be determined using the average exchange rate announced by the NBP on the date of issue of the authorisation.

3. (repealed)

**Article 64a.1.** The system of risk management and internal control referred to in Article 64.1.3 consists of:

- 1) organisational arrangements:
  - a) organisational structure and decision-making procedures covering a full range of business activities,
  - b) rules and procedures for meeting the obligations of an obliged institution within the meaning of Article 2.1 of the Act on Counteracting Money Laundering and Terrorist Financing;
- 2) principles of risk management:
  - a) principles of risk assessment, in particular the liquidity risk in the event of granting of a credit, referred to in Article 74.3, or in the case of carrying out other business activities besides the provision of payment services,
  - b) procedures for identification of risk, its measurement, estimation, monitoring, risk communication and risk mitigation procedures;
- 3) internal control including:
  - a) internal audit,
  - b) examination of compliance of a business activity with the Act, the provisions on counteracting money laundering and terrorist financing and with the internal regulations;
- 4) description of:
  - a) rules for handling funds received from users for execution of payment transactions in accordance with Article 78,
  - b) procedures of monitoring security-related incidents and monitoring and reviewing complaints by users, including complaints related to security, and also follow-up actions in the event of such incidents and complaints, together with a mechanism for incident reporting, including reporting obligations of a payment institution, which are referred to in Article 32g and Article 32h,
  - c) an internal communication system,
  - d) a procedure introduced to include in documentation, monitoring, and tracking sensitive payment data on payments and limiting access to such data,
  - e) business continuity arrangements, including exhaustive and precise indication of critical operations and defining effective contingency plans and procedures for the purposes of regular verification and reviews of adequacy and effectiveness of such plans,
  - f) principles and definitions applied for the collection of statistical data on performance, transactions, and frauds,

- g) a strategy in terms of security together with a detailed assessment of risk with regard to payment services provided by the applicant and security control and risk mitigation measures undertaken in order to provide appropriate protection for users against identified risks, including fraud and illegal use of specially protected data and personal data,
- h) internal control mechanisms.

2. The organisational measures referred to in Article 64a.1.1 shall be taken into account in particular in the description referred to in Article 64a.1.4.

3. Internal control referred to in Article 64a.1.3 includes in particular the procedures for monitoring execution of payment transactions, controls of the entities to which the execution of certain operational activities has been entrusted, and controls of agents and branches of a domestic payment institution that the applicant undertakes to perform at least once a year, including controls performed directly at the agent's premises or in a branch.

3a. The security control and risk mitigation measures referred to in Article 64a.1.4.g show the way in which a high technical security and data protection level is ensured, including in relation to software and information technology systems used by the applicant or an entity to which the applicant has entrusted performance of all or part of operational activities. Such measures also include the security measures referred to in Division IIa.

4. A payment institution performs ongoing verification and periodically evaluates the operation of the risk management and internal control system.

5. The minister competent for financial institution shall define, by way of regulation, guidelines concerning the measures referred to in Article 64a.3a, having regard to the necessity of ensuring proper operational risk management and security default risk with regard to provision of payment services, and also considering the guidelines issued by EBA in that respect.

**Article 65.** PFSA shall refuse to issue the authorisation referred to in Article 60.1 if the applicant does not meet the requirements defined in Article 64.1.

**Article 66.1.** A change in the payment services specified in the authorisation referred to in Article 60.1 that a payment institution is authorised to provide requires amendment of that authorisation; the provisions of Articles 61-65 shall apply accordingly.

2. In place of the information and documents referred to in Article 61.1, a statement may be submitted that the information contained in relevant documents that have been submitted by the domestic payment institution together with its application for the issue of the authorisation referred to in Article 60.1 is up to date.

**Article 67.1.** An authorisation to operate as a domestic payment institution lapses if the domestic payment institution:

- 1) does not commence operations in the area of payment services within 12 months of the date of the authorisation, provided that the date of commencement of operations in the area of payment services is deemed to be the date of execution of the first payment transaction;
- 2) does not conduct operations in the area of payment services for a period of more than six consecutive months.

2. In the circumstances referred to in Article 67.1 PFSA shall issue a decision stating that the authorisation has expired.

**Article 68.1.** If the activity of a hybrid payment institution not involving the provision of payment services or the issuance of electronic money infringes or may infringe the financial stability of that payment institution or could limit the ability of supervision, PFSA may, by way of decision, order a hybrid payment institution to legally and organisationally separate the activities in the scope of payment services and the issuance of electronic money by establishing a new entity that shall carry out such types of activities.

2. In the decision referred to in Article 68.1, PFSA:

- 1) shall set out the time to establish the new entity which shall carry out the activity in the scope of payment services or the issuance of electronic money, for a period not shorter than three months;



2) may set out conditions relating to the manner of separation of the activities in the scope of payment services or the issuance of electronic money.

3. The entity created by implementing the decision referred to in Article 68.1 shall inform PFSA of having been entered in the register of entrepreneurs within seven days of obtaining such entry.

4. Notification referred to in Article 68.3 shall be appended with the information and the documents referred to in Article 61.1.1, Article 61.1.2, and Article 61.1.4-10, regarding the entity created by implementation of the decision referred to in Article 68.1. A statement about the up-to-datedness of the information contained in the relevant documents submitted by a hybrid payment institution may be replaced by the information and the documents referred to in Article 61.1.4 and Article 61.1.6-10; such statement shall then be deemed to have been submitted by the entity. The provision of Article 62 shall apply accordingly.

5. In the case of determination of the conditions referred to in Article 68.2.2, the hybrid payment institution or the entity created by implementation of the decision referred to in Article 68.1, not later than on the date of submission of the notification referred to in Article 68.3, shall supply PFSA with the information and the documents that confirm that such conditions have been met.

6. The authorisation referred to in Article 60.1 given to the hybrid payment institution shall be transferred to the entity created by implementation of the decision referred to in Article 68.1 one month after the date of receipt of the notification referred to in Article 68.3 or material supplementary to it by PFSA if the requirements set out in Article 68.4 or Article 68.5 have not been met, unless within that period the PFSA has declared its objection to transfer of the authorisation.

7. PFSA, by way of decision:

- 1) shall declare its objection referred to in Article 68.6 if the circumstances referred to in Article 65 occur;
- 2) may declare its objection referred to in Article 68.6 if the conditions referred to in Article 68.2.2 have not been met.

8. From the date of transfer of the authorisation referred to in Article 60.1 the entity created by implementation of the decision referred to in Article 68.1 shall take over the rights and obligations of the hybrid payment institution in the scope of provision of payment services.

9. The authorisation referred to in Article 60.1 granted to a hybrid payment institution shall expire:

- 1) if the decision referred to in Article 68.1 is not implemented within the time referred to in Article 68.2.1;
- 2) after lapse of three months from the date on which the decision on the refusal referred to in Article 68.6 becomes final.

10. In the circumstances referred to in Article 68.9 PFSA shall issue a decision stating that the authorisation has expired.

11. Within seven days of the date of transfer of the authorisation referred to in Article 60.1 granted to a hybrid payment institution to the entity created by implementation of the decision referred to in Article 68.1 or the issue of the decision referred to in Article 68.10, PFSA shall make amendments to the register.

**Article 68a.** If the President of the NBP has become aware of the information that the activities of the payment institution in the scope of provision of payment services would constitute a threat to the stability of the payment system, the President of the NBP shall notify PFSA accordingly.

**Article 69.1.** The PFSA may withdraw the authorisation referred to in Article 60.1 if:

- 1) the payment institution has obtained the authorisation by submitting false information or in another unlawful manner;
- 2) the payment institution no longer meets the conditions for granting the authorisation depended, or has failed to notify PFSA about material circumstances that are indicative of the cessation to meet such conditions;
- 3) the payment institution carries out its business activity in violation of the authorisation or has permanently lost the capacity to fulfil its obligations;
- 4) the payment institution, continuing its business activity in the scope of providing payment services or electronic money issuance would constitute a threat to the stability of the payment system;

- 5) persons, who directly or indirectly, have a qualifying holding of shares or interests in the payment institution do not ensure prudent and stable management of the payment institution;
- 6) a managing person does not guarantee prudent and stable management of the payment institution;
- 7) close links between the domestic payment institution and other entities could make impossible effective exercise of supervision over the domestic payment institution;
- 8) provisions of law of a state other than a Member State applicable to at least one natural or legal person with whom the domestic payment institution has close links or difficulties relating to the enforcement of such regulations would prevent the effective exercise of supervision over such domestic payment institution;
- 9) the payment institution, which does not apply the protective measures to protect users' funds as referred to in Article 78.1, has not concluded on time the bank or insurance guarantee agreement or the insurance agreement referred to in Article 78.2.
  2. The decision to withdraw the authorisation shall become immediately enforceable.
  3. If interests of users or electronic money holders so require, in its decision to withdraw the authorisation, PFSA may specify the time and the conditions for the cessation of the provision of payment services or electronic money issuance by the payment institution.

**Article 70.1.** PFSA shall withdraw the authorisation upon request of the payment institution.

2. Proceedings into the case of the withdrawal of the authorisation upon request of the payment institution shall not be initiated if:
  - 1) the inspection referred to in Article 103 is carried out in the payment institution or the payment institution has been notified of intent to carry out such inspection;
  - 2) proceedings against the payment institution into the case of the imposition on the financial penalty referred to in Article 105.1.5 have been opened.
    3. The opened proceedings shall be suspended until the date on which the decision on imposition of the financial penalty becomes final.
    4. The provision of Article 69.3 shall apply to the decision on the withdrawal of the authorisation upon the payment institution's request.

**Article 71.** (repealed)

**Article 72.** In the event of a merger or demerger of the payment institution or the acquisition of its enterprise, the authorisation referred to in Article 60.1 shall not be transferred to the acquiring entity or the newly created entity formed by the merger or demerger or to the purchaser, subject to the reservation of Article 68.6.

**Article 72a.1.** An entity that intends to directly or indirectly purchase or subscribe shares or interests in a domestic payment institution in the number that ensures reaching or exceeding 20%, 30%, or 50%, respectively in the total number of votes in a decision-making body or the percentage in the share capital, or, if as a result of purchase of or subscription for shares or interests, such institution would become a subsidiary or co-subsiary of such entity, shall notify PFSA about such intent accordingly.

2. In the case referred to in Article 72a.1, the provisions of Article 25.2, Article 25.3, Article 25.7-9, Article 25a.1 and Article 25a.2, Article 25c-25e, and Article 25g of the Banking Act shall apply accordingly, provided that the regulations concerning a parent, subsidiary, or co-subsiary entity, which are referred to in such regulations, shall apply to a parent, subsidiary, or co-subsiary company.

3. If the entity submitting the notification referred to in Article 72a.1, is:

- 1) an EU electronic money institution, an EU payment institution, the provider, which is referred to in Article 96.2, an insurance company, a reinsurance company, a credit institution, an investment firm, or a management company, which have obtained the authorisation to carry out their business activities in the territory of a Member State other than the Republic of Poland, or
- 2) a parent company or an entity having a similar relation to an EU electronic money institution, an EU payment institution, the provider, which is referred to in Article 96.2, an insurance

company, a reinsurance company, a credit institution, an investment firm, or a management company, which have obtained the authorisation to carry out their business activities in the territory of a Member State other than the Republic of Poland

- it shall present in the notification relevant information to that extent, showing in particular the names and registered offices of the entities referred to in Article 72a.2.2, for which it is a parent entity or an entity having a similar relation.

4. If the circumstances referred to in Article 72a.3 do not exist, the notification shall contain a relevant statement to this end.

5. An entity that intends to directly or indirectly sell a qualifying holding of shares or interests in a domestic payment institution or to sell a holding of shares or interests, as a result of which its percentage in the total number of votes in a decision-making body or percentage in the share capital would decrease below 20%, 30%, or 50%, it shall notify PFSA about such intent. If the articles of association or an incorporation deed of a domestic payment institution provides for preference or limitation of shares or interests in terms of voting rights, the notification shall also refer to the percentage in the share capital in the amount corresponding to the figures defined in the first sentence and to the number of votes corresponding to it without preferences and limitations. The provisions of Article 25.2, Article 25.3, and Article 25.7 of the Banking Act shall apply accordingly.

**Article 72b.1.** The entity submitting the notification referred to in Article 72a.1 shall append it with the information:

- 1) allowing identification of the entity submitting the notification and determining the identity of persons managing its business activities and of persons to assume functions of managing persons in a domestic payment institution, if the entity submitting the notification plans to make changes in that respect, comprising:
  - a) (business) name,
  - b) first names and surnames of such persons,
  - c) the number in the register of entrepreneurs in the National Court Register, if the person submitting the notification has such number and the tax identification number (NIP), the registered office and the address or the place of residence and the address and the address of the principal place of business;
- 2) defined in Article 61.1.9.b and Article 61.1.9.c concerning the entity submitting the notification and the persons referred to in Article 72b.1.1;
- 3) allowing identification of the domestic payment institution referred to in Article 72a.1;
- 4) concerning professional, business, or statutory activities of an entity submitting the notification and the persons referred to in Article 72b.1.1, and in particular, the object of activity, scope, and location of its conduct and its performance so far, as well as education of an entity submitting the notification being a natural person, and of the persons referred to in Article 72b.1.1;
- 5) relating to a group that the entity submitting the notification belongs to, especially its structure, entities belonging to it and legal and factual capital, financial, and personal links with other entities;
- 6) relating to an economic and financial standing of the entity submitting the notification;
- 7) relating to actions aimed at purchasing or subscribing for shares or interests in the number ensuring reaching or exceeding the levels defined in Article 72a.1 or attaining a position of the parent company for a domestic payment institution, in particular a target percentage in the total number of votes in a decision-making body of a domestic payment institution, rights attached to such percentage, the manner and sources of funding the purchase of or subscription for shares or interests, agreements executed further to such actions, and actions undertaken in agreement with other entities;
- 8) relating to intentions of the entity submitting the notification concerning a future business activity of a domestic payment institution, especially in terms of marketing, operational, financial plans, and concerning organisation and management;
- 9) relating to any liabilities of the entity submitting the notification in the scope of prudent and stable management of a domestic payment institution.

2. The information concerning qualifications and professional experience and the information referred to in Article 61.1.9.b and Article 61.1.9.c shall not be required with respect to the entity

submitting the notification and the persons managing its business activity, if such entity is a domestic bank, a credit institution, a payment institution, an electronic money institution, an insurance company, a reinsurance company, a brokerage house, an investment firm, or a management company, which have obtained the authorisation to carry out their business activities in a Member State, if such circumstance has been indicated in the notification.

3. The minister competent for financial institutions shall define, by way of regulation, the documents that need to be appended to the notification for the purposes of presenting the information defined in Article 72b.1, having regard to ensuring the proportionality of the required information depending on the intended impact of the entity submitting the notification on management of a domestic payment institution.

**Article 72c.1.** By way of decision, PFSA shall submit its objection against the purchase of or subscription for shares or interests in a domestic payment institution, indicated in the notification referred to in Article 72a.1, if:

- 1) the entity submitting the notification has failed to supplement within the prescribed time deficiencies in the notification or documents and information appended to the notification,
  - 2) the entity submitting the notification has failed to provide on time additional information or documents requested by PFSA,
  - 3) it is justified by a need of prudent and stable management of a domestic payment institution due to a possible adverse impact of the entity submitting the notification on such institution or due to the assessment of a financial standing of the entity submitting the notification
- provided that the provisions of Article 25h.2 and Article 25h.4-6 and Article 25i-25k of the Banking Act shall apply accordingly.

2. While making the assessment referred to in Article 72c.1.3, PFSA shall also consider the obligations undertaken by the entity submitting the notification referred to in Article 72b.1.9.

3. In the event of the purchase of or subscription for shares or interests:

- 1) in violation of Article 72a.1, or
  - 2) despite submission of the objection referred to in Article 72c.1 by PFSA, or
  - 3) prior to the expiry of the date entitling PFSA to submit its objection referred to in Article 72c.1, or
  - 4) after the time set by PFSA, which is referred to in Article 25h.5 of the Banking Act, for the purchase or shares or interests in the scope defined in Article 72a.1
- the voting right attached to such shares or interests may not be exercised.

4. If the purchase of or subscription for shares in the cases referred to in Article 72c.3 results in exercising of the rights of a parent company of a domestic payment institution, persons managing a domestic payment institution appointed by a parent company or who are members of the management board, proxies, or persons holding managerial functions in a parent company may not participate in actions relating to the scope of representation of a domestic payment institutions. If it is impossible to determine which managing persons have been appointed by a parent company, appointment of a body responsible for managing a domestic payment institution is ineffective as of the date of obtaining the rights of a parent company of a domestic payment institution by such entity.

5. Resolutions of a decision-making body of a domestic payment institution adopted in violation of Article 72c.3 shall be invalid, unless they meet the requirement of a quorum and the majority of votes cast without including the invalid votes. In the cases referred to in Article 72c.3, the right to file an action to establish the invalidity of a resolution of a decision-making body of a domestic payment institution shall also be vested on PFSA. The provisions of Article 252 and Article 425 of the Act on the Code of Commercial Companies of 15 September 2000 (Journal of Laws of 2017, item 1577, as amended<sup>9)</sup>) shall apply accordingly.

6. In the cases referred to in Article 72c.3 and Article 72c.4, PFSA may, by way of decision, order the sale of shares or interests of a domestic payment institution within a prescribed time.

7. If the shares or interests are not sold within the time prescribed in Article 72c.6, PFSA may impose a financial penalty on a shareholder of a domestic payment institution in the amount of up to PLN 1,000,000 or revoke the authorisation referred to in Article 60.1. The provisions of Article 105.2,

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<sup>9</sup> Amendments to the consolidated text of the said act were announced in the Journal of Laws of 2018, item 398, 650, 1544, 2219, and 2244, and of 2019, item 55 and 60.

Article 105.4, and Article 105.5 and of Article 116 shall accordingly apply to the imposition of penalties.

8. If so required by the interests of users, and the applicant also demonstrates that there is no premise referred to in Article 72c.1.3, PFSA may, in particularly justified cases, by way of decision issued upon request of a shareholder or a parent company of a domestic payment institution, revoke the prohibitions referred to in Article 72c.3 or Article 72c.4. The applicant shall append the application with the information referred to in Article 72b.1.

**Article 72d.1.** If it is justified by a need of prudent and stable management of a domestic payment institution, due to the assessment of a financial standing of an entity that has obtained, directly or indirectly, the right to exercise a vote in its decision-making body at the levels defined in Article 72a.1 or as a result of the purchase of or subscription for shares or interests, it has become, directly or indirectly, a parent company of a domestic payment institution, or due to a possible impact of such entity on such institution, especially if it is established that such entity does not fulfil the obligations referred to in Article 72b.1.9, PFSA may, by way of decision, prohibit exercising of the right to vote attached to shares or interests of a domestic payment institution held by such entity or exercising the rights of a parent company such entity is entitled to. While assessing the conditions for issuing of such prohibition, the provision of Article 72c.2 and the provision of Article 25h.2 of the Banking Act shall apply accordingly.

2. A resolution of a decision-making body of a domestic payment institution shall be invalid, if during its adoption the right to vote has been exercised that is attached to shares or interests, in respect of which PFSA has issued the decision referred to in Article 72d.1, unless the resolution meets the requirement of a quorum and a majority of votes cast without the invalid votes. PFSA shall also have the right to file an action to establish the invalidity of the resolution. The provisions of Article 252 and Article 425 of the Act on the Code of Commercial Companies of 15 September 2000 shall apply accordingly.

3. If pursuant to Article 72d.1 PFSA has issued a decision on the prohibition to exercise the rights of a parent company of a domestic payment institution, the provision of Article 72c.4 shall apply accordingly.

4. In the case referred to in Article 72d.1, PFSA may, by way of decision, order the sale of shares or interests of a domestic payment institution within a prescribed time.

5. If the shares or interests are not sold within the time referred to in Article 72d.4, PFSA may impose a financial penalty on a shareholder of a domestic payment institution in the amount of up to PLN 1,000,000 or revoke the authorisation referred to in Article 60.1. The provisions of Article 105.2, Article 105.4, and Article 105.5 and of Article 116 shall accordingly apply to the imposition of penalties.

6. If the entity, which is referred to in Article 72a.1, has purchased or subscribed for the shares or the rights attached to the shares, referred to in Article 72a.1, and fails to meet the undertaken obligation referred to in Article 72b.1.9, PFSA may, by way of decision, impose on such entity a financial penalty up to the amount corresponding to the value of such shares or the rights attached to the shares. The value of shares or rights attached to the shares shall be determined as at the date of their purchase or subscription as at fair price, referred to in the Accounting Act.

7. The decision referred to in Article 72d.6 shall become immediately enforceable.

8. In the decision, referred to in Article 72d.6, PFSA may determine that the financial penalty shall be payable in monthly instalments.

9. If the entity referred to in Article 72a.1 fulfils the obligation referred to in Article 72b.1.9, prior to the expiry of the date indicated in the decision, referred to in Article 72d.6, PFSA shall issue a decision on remitting the financial penalty referred to in Article 72d.6:

- 1) in whole, or
- 2) in part corresponding to unpaid future instalments - in the case referred to in Article 72d.8.

10. Upon request of a shareholder or a parent company of a domestic payment institution PFSA shall revoke the decision issued pursuant to Article 72d.1, if the circumstances justifying such decision have ceased to exist.

11. If two or more entities act in agreement the subject of which is exercising the right to vote attached to shares or interests at the levels defined in Article 72a.1 or exercising the rights of a parent company, the provisions of Article 72d.1-10 shall apply accordingly.

**Article 72e.** In the event of an outstanding financial penalty, referred to in Article 72d.5 or Article 72d.6, PFSA may order a domestic payment institution, a shareholder of which is the entity on which the penalty has been imposed, to transfer any payments made by a domestic payment to such shareholder for the purpose of the outstanding penalty together with interest in the amount corresponding to such penalty together with interest.

**Article 73.** Information about the payment institution and about the payment services that it provides, including advertising that is published by the payment institution, at the commission of the payment institution or for the payment institution shall be presented in a reliable and comprehensible manner.

**Article 73a.1.** A domestic payment institution having an initial capital of not less than the equivalent of the amount of EUR 125,000 in the Polish currency is authorised to issue electronic money. A domestic payment institution issuing electronic money may also provide services closely related to its issuance.

2. A domestic payment institution may issue electronic money in the territory of the Republic of Poland only.

3. A domestic payment institution shall submit to PFSA, in writing, a notification of its intent to carry out a business activity of issuing electronic money, together with:

- 1) an application for entering information on electronic money issuance in the register;
- 2) a supplement to the programme of operations and the financial plan referred to in Article 61.1.4, including information about the planned amount of average outstanding electronic money for the remainder of the period covered by the programme; such information shall also be included in programmes of operations and financial plans for further periods.

4. The amount of average outstanding electronic money issued by a domestic payment institution calculated for a calendar month shall not exceed the equivalent of EUR 5,000,000 in the Polish currency calculated using the mean exchange rate announced by the National Bank of Poland for the last day of the month preceding such month. In the case of domestic payment institutions starting up their business activity of electronic money issuance in the period of the first six months of their activity such amount shall be calculated based on the average amount of outstanding electronic money specified in the programme of operations and the financial plan in accordance with Article 73a.3 and resulting from the issuance of electronic money.

5. Where a domestic payment institution is engaged in a business activity in the scope of payment services not related to electronic money issuance or the business activity referred to in Article 74.1 and Article 74.3, and the amount of outstanding electronic money is not known in advance, PFSA shall agree to the calculation done on the basis of a representative portion of financial obligations, if it considers that such a representative portion of the financial liabilities may be estimated on the basis of the existing data.

**Article 73b.1.** A domestic payment institution which issues electronic money is required to submit to PFSA information on:

- 1) the average outstanding electronic money - by the 15th day of each month, for which it is determined;
- 2) the total amount of outstanding electronic money issued by that institution, as at 31 December of each calendar year - on or before 31 January of the following year.

2. In the event of a breach of the obligation referred to in Article 73b.1.1, if the amount of the outstanding electronic money exceeds the amount set out in Article 73a.4, PFSA may impose on a domestic payment institution a financial penalty not exceeding PLN 500 for each day of delay, however, not more than PLN 100,000; the provisions of Article 105.2, Article 105.4 and Article 105.5, and of Article 116 shall apply accordingly.

**Article 73c.1.** If the amount referred to in Article 73a.4 has been exceeded, a domestic payment institution shall lose the right to issue electronic money with expiry of 30 days from the last day of the period in which the amount has been exceeded, unless it adjusts the scale of its business activity of electronic money issuance to the requirement referred to in Article 73a.4 within that period.

2. If within the period referred to in Article 73c.1, a domestic payment institution applies for the authorisation to operate as a domestic electronic money institution referred to in Article 132a.1, the provision of Article 73c.1 shall not apply until the application has been reviewed. However, a domestic payment institution is obliged to adjust the size of its business activity relating to electronic money issuance to the requirement referred to in Article 73a.4, within three months from the end of the period in which the amount has been exceeded. In the case of a refusal to grant the authorisation referred to in Article 132a.1, or discontinuance of the proceedings, the time of losing the authorisation to issue electronic money referred to in Article 73c.1 shall run from the date on which the decision on the refusal to grant the authorisation referred to in Article 132a.1 or to discontinue the proceedings has become final.

3. The loss of the authorisation by a domestic payment institution to issue electronic money does not affect the exercise of its liabilities and obligations related to the previously issued electronic money.

**Article 73d.** A domestic payment institution is obliged to protect the funds received in exchange for electronic money issued under the terms laid down in Article 132n. The provisions issued pursuant to Article 132o and the provisions of Article 132p shall apply accordingly.

**Article 73e.** PFSA shall inform the European Commission about the number of domestic payment institutions issuing electronic money and the total amount of outstanding electronic money issued by those institutions as at 31 December of each calendar year.

**Article 74.1.** A domestic payment institution may also:

- 1) provide additional services that are closely linked to the provision of payment services, such as:
  - a) currency exchange services,
  - b) secure storage services for funds received in order to carry out a payment transaction,
  - c) data storage and processing services;
- 2) operate payment systems;
- 3) engage in other business activity.

2. The provision of the currency conversion service by a domestic payment institution as part of payment transaction execution or the issuance of electronic money does not constitute the foreign exchange bureau activity within the meaning of Article 2.1.19 of the Act on Foreign Exchange Law of 27 July, 2002 (Journal of Laws of 2019 item 160).

3. Further to the execution of payment services a domestic payment institution may grant a credit for the execution of a payment transaction (a payment credit) only for the purpose of providing payment services referred to in Article 3.1.3-5, and provided that the credit is not granted:

- 1) for a period longer than 12 months;
- 2) from funds received or held for the purpose of executing a payment transaction.

**Article 75.** A domestic payment institution is required to keep documents related to the provision of payment services and a business activity involving electronic money issuance for a period of at least five years from the date of their generation or receipt.

## Chapter 2

### Own Funds and Financial Management of Domestic Payment Institutions

**Article 76.1.** With the exception of a domestic payment initiation services provider only, a domestic payment institution shall be obliged to have at all times own funds that are appropriate to the size of the business activity conducted and the type of payment services which may be provided by it on the basis of the authorisation.

2. The own funds of a domestic payment institution comprise:

- 1) initial capital of a payment institution;
- 2) revaluation capital of tangible fixed assets;
- 3) retained profit from previous years;

- 4) profit under approval and the net profit for the current reporting period, calculated in accordance with the applicable accounting principles, net of any anticipated charges and dividends, in amounts not exceeding the amount of profit verified by auditors;
- 5) supplementary capital;
- 6) other capital reserves.

2a. If a payment transaction is initiated through the intermediation of the payment initiation service provider to make a payment to the payee to which such provider provides a payment account service or the service referred to in Article 3.1.5, and such method of payment is offered to the payer by the payee in co-operation with such payment initiation service provider, the initiated payment transaction shall be included in payment transactions that are the basis for calculating the required own funds of such payment initiation service provider.

3. The own funds shall be reduced by:

- 1) treasury shares or interests held by a payment institution measured at the carrying amount net of impairment allowances;
- 2) any liabilities arising from preference shares;
- 3) intangible assets measured at their carrying amount;
- 4) loss carried forward previous years;
- 5) loss during the course of approval;
- 6) net losses for the current period.

3a. (repealed)

4. The amount of a domestic payment institution's own funds may not be less than the higher of:

- 1) the minimum value of the initial capital required in accordance with Article 64.1.1, or
- 2) the amount calculated in accordance with regulations issued on the basis of paragraph Article 76.6.

5. If a payment institution provides the payment credits referred to in Article 74.3 then the requirement referred to in Article 76.4 is increased by 5% of the average value of receivables as at the end of each month under the payment credits granted during the last financial year.

6. The minister competent for financial institutions, after consulting PFSA, shall define, by way of regulation, the method to be used for calculating the amount referred to in Article 76.4.2, taking into consideration the total value of payment transactions executed during the last financial year by a domestic payment institution and the type of payment services that a domestic payment institution may provide on the basis of the authorisation it holds.

7. PFSA may, by ways of decision, on the basis of the loss risk analysis and assessment of the risk management processes and the internal control mechanisms of a domestic payment institution:

- 1) require a domestic payment institution to increase its own funds, however, by not more than 120% of the amount referred to in Article 76.4.2;
- 2) permit a domestic payment institution to reduce the amount of its own funds, however, by not less than 80% of the amount referred to in Article 76.4.2.

**Article 77.1.** When calculating the own funds of a domestic payment institution which:

- 1) belongs to the same group as another domestic payment institution, a domestic bank, a branch of a foreign bank, a branch of a credit institution, a domestic electronic money institution, a branch of a foreign electronic money institution, an investment firm, an asset management company, or an insurance company,
- 2) engages in business as a hybrid payment institution  
- funds which have been included in the own funds of another group entity or of a hybrid payment institution calculated in relation to the capital requirements arising from separate regulations may not be in any way included in the calculation.

2. Guided by the need to ensure maintenance of the real level of the capital requirements specified in the Act, the minister competent for financial institutions, after consulting PFSA, may, by way of regulation, specify means of counteracting the multiple inclusion of the same items in the own funds in the cases referred to in Article 77.1.



**Article 78.1.** If a domestic payment institution accepts funds from users for execution of payment transactions, either directly or through the intermediation of another provider, it shall be required to protect them in accordance with the following principles:

- 1) funds which are accepted for the execution of payment transactions in the amount to be transferred to the payee or to another provider for transfer to the payee may not at any time during their safekeeping be commingled with funds held by a domestic payment institution for other purposes;
- 2) funds which are accepted for the execution of payment transactions that have not been transferred to the payee or to another provider by the end of the business day following the date of receipt of those funds, at least in the amount to be transferred to the payee or to another provider for transfer to the payee, shall be:
  - a) placed in a separate bank account established for this purpose in a domestic bank, a credit institution, or a branch of a foreign bank, or
  - b) invested in safe, liquid low-risk assets that are deposited in a separate account established for this purpose.

2. The provision of Article 78.1 shall not apply if the funds accepted for the execution of payment transactions are covered by a bank or an insurance guarantee agreement or by an insurance policy concluded with an insurance company, a domestic bank, a branch of a foreign bank or a credit institution which does not belong to the same group as a domestic payment institution, for an amount equal to the amount which, if the principles referred to in Article 78.1 were applied would be subject to separation from other funds held by a domestic payment institution and placement on a separate bank account or invested.

3. The bank guarantee or insurance guarantee agreement, or the insurance contract covers reimbursement of payments made by users by the guarantor or the insurance company in the event of non-performance or improper execution of a payment transaction under a contract for the provision of payment services by a domestic payment institution, up to the amount of payment made.

4. The bank or insurance guarantee agreement should include the authorisation for PFSA to issue an instruction of withdrawal of funds from the guarantee by the guarantor or the insurance company.

5. A domestic payment institution complying with the requirements defined in Article 78.2 is obliged to submit to PFSA documents confirming the conclusion of a subsequent guarantee or insurance agreement covering the entire period of conducting a business activity before the expiry of the term of the previous agreement.

6. In the case of domestic payment institutions that are commencing their business activities, the amount referred to in Article 78.2 shall be determined on the basis of the programme of operations and the financial plan referred to in Article 61.1.4.

7. If the value of funds allocated for the execution of future payment transactions is variable or unknown in advance, PFSA may consent to the application of the requirements specified in Article 78.2 on the basis of a representative amount if it considers that such a representative amount may be estimated on the basis of the existing information.

8. PFSA is authorised to act on behalf of users in handling the disbursement of funds from the bank or the insurance guarantee agreement pursuant to the rules specified in those agreements.

9. If a payment transaction is initiated through the intermediation of the payment initiation service provider to pay such payment initiation service provider, the funds received by the payment initiation service provider shall not be subject to protection.

10. The provisions of Article 78.1-3 shall accordingly apply to the transaction referred to Article 76.2a.

**Article 79.** The minister competent for financial institutions shall define, by way of regulation, the categories of assets referred to in Article 78.1.2.b and the maximum proportion of funds that may be invested into various categories of assets, having regard to proper security of the user's funds, including mitigation of investment risk.

**Article 80.1.** In the event of initiation of enforcement proceedings against a domestic payment institution, funds held on payment accounts and the accounts referred to in Article 78.1 shall be exempt from seizure on the basis of a judicial or administrative enforcement order.

2. In the event of declaring bankruptcy of a domestic payment institution, the funds held on payment accounts and the accounts referred to in Article 78.1 shall be excluded from the bankruptcy estate.

3. The exemption referred to in Article 80.1 does not cover users' claims against domestic payment institutions arising from non-execution or improper execution of payment orders by a domestic payment institution or against entities for which the institution bears liability towards the user, within the limits of liability of a domestic payment institution specified in Articles 144–146.

## Chapter 3

### Reporting by Domestic Payment Institutions

**Article 81.** A domestic payment institution shall submit to PFSA annual financial statements drawn up in accordance with the Accounting Act and also annual consolidated financial statements, if there is an obligation to prepare such accounts. The statements shall be delivered together with a report from the audit and an opinion of an entity authorised to audit financial statements and a copy of the resolution or decision of a body approving the financial statements not later than within 15 days following the approval of the annual financial statements by the company's approving body and of the annual consolidated financial statements by the parent company's approving body.

**Article 82.** An audit firm shall be required to immediately inform PFSA about circumstances and events confirmed during the audit process of financial statements that may constitute grounds for issuing a qualified opinion, a negative opinion, or a refusal to express an opinion or that point to a violation of the regulations specifying the conditions for issuing the authorisation to domestic payment institutions or regulating the conduct of business activities by domestic payment institutions or to a threat to the institution's continuing operations.

**Article 83.1.** A domestic payment institution submits to PFSA quarterly and additional annual financial and statistical statements that cover:

- 1) the value of financial resources held;
- 2) information about the credits referred to in Article 74.3 that have been granted in a quarter or year, including their number, their value, and the period for which they have been granted;
- 3) information about payment transactions executed, including their value, number, and currency structure;
- 4) a schedule of own funds together with an indication of their individual components and specification of their amounts;
- 5) information about the nature and scope of the business activity referred to in Article 74.1.

2. If so requested by a domestic payment institution, PFSA, by way of decision, may, in justified circumstances, exempt it from the obligations referred to in Article 83.1 or reduce their extent.

3. The minister competent for financial institutions, after consulting PFSA, shall specify, by way of regulation, the detailed scope, form, and manner of drawing up the financial statements referred to in Article 83.1 and the dates of their submission to PFSA, taking into consideration the need to provide PFSA with access to information that affects its assessment of the financial standing of a domestic payment institution, including information about the nature and extent of other business activity undertaken by a payment institution, which is referred to in Article 74.1.

## Chapter 4

### Use by a Domestic Payment Institution of the Services of Agents and Outsourcing the Performance of Certain Operational Functions to Other Entities

**Article 84.1.** A domestic payment institution may provide payment services through the intermediation of agents.

1a. A domestic payment institution may redeem electronic money through agents or any other entrepreneurs.

2. A contract between an agent and a domestic payment institution shall be concluded in writing or otherwise shall be null and void.

3. An agent may commence provision of payment services following its entry in the register.

**Article 85.1.** A domestic payment institution shall notify PFSA in writing of its intent to provide payment services through the intermediation of an agent and shall submit a request for entering an agent in the register.

2. The notification referred to in Article 85.1 shall include:

- 1) the first name and surname or (business) name of the agent;
- 2) the registered office and address or the place of residence and address and the address of the principal place of business of the agent;
- 3) a description of the internal control mechanisms related to counteracting money laundering and terrorist financing in accordance with the Act on Anti-Money Laundering;
- 4) first names and surnames and functions of the persons managing the agent, and also - in the case of agents other than providers, who are subject to supervision within the meaning of the Act on Financial Market Supervision or their subsidiaries - documents confirming that such persons have appropriate competences and that they have not been validly convicted for an offence against the administration of justice, an offence against economic transactions, an offence against trade in moneys and securities, the offence referred to in Article 165a of the Penal Code, an offence committed to gain a financial or personal benefit, or for a fiscal offence;
- 5) a list of payment services of a payment institution to the provision of which the agent is authorised, and
- 6) the tax identification number (NIP) of the agent, if any.

3. The description referred to in Article 85.2.3 shall be subject to an immediate update in the event of a material circumstance covered by the original notification.

4. Within 2 months from the date of receipt of the notification together with the application referred to in Article 85.1, PFSA shall enter or refuse to enter the agent into the register, about which it shall immediately notify a domestic payment institution.

5. A document confirming having appropriate competences by a person managing the agent may in particular be a statement by a domestic payment institution or a person managing the agent confirming having appropriate competences by such person.

**Article 86.1.** A domestic payment institution may, on the basis of a contract concluded in writing with another entrepreneur, outsource to that entrepreneur the performance of specific operational functions related to the provision of payment services or the activity of issuing electronic money.

2. A domestic payment institution shall keep records of the contracts referred to in Article 86.1 that contain the identity of the entrepreneur, the scope of the functions outsourced to them, the place where they shall be performed and the term of the contract.

3. If the contract referred to in Article 86.1 provides for the outsourcing of important operational functions, a domestic payment institution shall notify PFSA of its intent to conclude such a contract and of any amendment to it, its termination or its expiry at least 14 days prior to its conclusion, amendment, termination, or expiry.

4. An operational function is considered to be significant if failure to perform it or its improper performance could materially impair the continuity of the fulfilment of the requirements by a domestic payment institution constituting the conditions for granting the authorisation, or the performance of other obligations imposed on such payment institution by law, or jeopardise its financial performance, reliability, or the continuity of the provision of payment services or performance of the business activity in the scope of electronic money issuance.

5. A domestic payment institution may outsource to another entrepreneur the performance of important operational functions if such outsourcing of the performance of functions does not adversely affect the conduct of the business activity by the domestic payment institution in accordance with the regulations of the law and the authorisation issued to it and prudent and stable management of the domestic payment institution and:

- 1) the entrepreneur is authorised to perform activities in the scope of the subject matter of the contract if the regulations of the law create an obligation to possess such authorisation or it is professionally engaged in the performance of such activities;
  - 2) the entrepreneur has the required knowledge and experience and ensures the technical and organisational conditions necessary for the proper performance of the contract referred to in Article 86.1;
  - 3) the entrepreneur's financial condition provides for the proper performance of the contract referred to in Article 86.1;
  - 4) the entrepreneur facilitates effective supervision of the performance of the tasks outsourced to it by a domestic payment institution and management of risk associated with the outsourced functions and a domestic payment institution has knowledge that enables effective supervision of the performance of the outsourced functions and risk management;
  - 5) a domestic payment institution shall have access to the information and documents related to the performance of the functions outsourced to the entrepreneur, in particular, where the provision of such data takes place as a response to a request by PFSA;
  - 6) a domestic payment institution and the entrepreneur shall have operating plans to ensure the continuous, safe, and undisturbed performance of the business activity in the scope covered by the contract, also in the case of termination of the contract, and also action plans that provide ways of recovering data that protect against its loss caused by fortuitous events.
6. Outsourcing the performance of operational functions may not:
- 1) result in the cessation of the actual provision of payment services or the business activity of electronic money issuance by a domestic payment institution;
  - 2) include the right to represent a payment institution or to manage a payment institution within the meaning of Article 201.1 and Article 368.1 of the Act on the Code of Commercial Companies of 15 September 2000 and Article 48.1 of the Act on the Co-operative Law of 16 September 1982 (Journal of Laws 2018, item 1285).

**Article 87.1.** PFSA may require a domestic payment institution that outsources operational functions to other entrepreneurs, in particular:

- 1) to submit a copy of the concluded contract referred to in Article 86.1;
- 2) to provide explanations about the performance of the contract referred to in Article 86.1;
- 3) to submit documents that specify the status of the entrepreneur with which a domestic payment institution has concluded a contract, and in the case of outsourcing the performance of important operational functions also the documents needed for assessment of the entrepreneur's compliance with the requirements specified in Article 86.5.

2. PFSA, by way of decision, shall order a domestic payment institution to make amendments to or to terminate the contract referred to in Article 86.1 within a prescribed period if:

- 1) performance of the contract threatens prudent and stable management of a domestic payment institution;
- 2) an entrepreneur, who is a party to the contract, has lost the authorisation needed for the performance of the contract.

3. A domestic payment institution may appeal to an administrative court against PFSA's decision referred to in Article 87.2 within 14 days from the date of service of the decision ; the provision of Article 127.3 of the Act on the Code of Administrative Procedure of 14 June 1960 shall not apply. Lodging an appeal shall not delay enforcement of the decision.

4. PFSA may apply the measures referred to in Article 105.1 if a domestic payment institution does not ensure that the contract referred to in Article 86.1 is amended or terminated within the prescribed period.

**Article 87a.** A domestic payment institution shall immediately notify PFSA about changes concerning the use of services of other entrepreneurs to whom the performance of operational functions has been entrusted and of agents.

**Article 88.1.** In the scope of the provision of payment services and the business activity of electronic money issuance a domestic payment institution shall be liable towards users or electronic money holders for the acts of its agents and other entrepreneurs, through the intermediation of which

it provides payment services or redemption of electronic money, as well as towards the entities engaged in operational activities under the contract referred to in Article 86.1, as for its own acts.

2. Subject to Article 149, the liability referred to in Article 88.1 may not be excluded or limited.

3. The liability of an agent and other entrepreneurs through the intermediation of which a domestic payment institution provides payment services or performs electronic money redemption, and an entity performing operational functions under the contract referred to in Article 86.1, towards a domestic payment institution for any damage caused to users or electronic money holders as a result of non-performance or improper performance of the contract referred to in Article 84.2, the contract under which another entrepreneur performs electronic money redemption, or the contract referred to in Article 86.1, may not be excluded or limited.

**Article 89.** Domestic payment institutions shall ensure that the branches through which they conduct their business activities, as well as the agents and other entrepreneurs, through the intermediation of which they provide payment services or make electronic money redemption inform users or electronic money holders of that fact in a reliable manner.

**Article 90.** An agent must clearly identify the payment institution in the name and on behalf of which it acts providing its number from the register in a contract concluded with a user.

## DIVISION V

### **Undertaking and Pursuing Business Activities by Domestic Payment Institutions and Registered Account Information Services Providers in the Territory of a host Member State**

**Article 91.1.** A domestic payment institution may provide payment services under the authorisation referred to in Article 60.1 in the territory of another Member State through a branch in the course of a cross-border business activity or through the intermediation of an agent.

2. A registered account information service provider may provide an account information service in the territory of a Member State other than the Republic of Poland through a branch in the course of a cross-border business activity or through the intermediation of an agent.

**Article 92.1.** A domestic payment institution and a registered account information service providers shall notify PFSA in writing of their intention to provide payment services in the territory of a Member State other than the Republic of Poland through a branch in the course of a cross-border business activity or through the intermediation of an agent.

1a. A domestic payment institution and a registered account information service provider, intending to provide payment services in the territory of a Member State other than the Republic of Poland through a branch in the course of a cross-border business activity or through the intermediation of an agent, together with the notification referred to in Article 92.1, shall submit an application for entering the branch, information on the provision of services in the course of a cross-border business activity or the agent in the register.

2. The notification referred to in Article 92.1 shall contain:

- 1) the name of a Member State in the territory of which a domestic payment institution or a registered account information service provider intends to provide payment services through a branch in the course of a cross-border business activity or through the intermediation of an agent;
- 2) the (business) name, the registered office and address of a domestic payment institution or a registered account information service provider;
- 3) the (business) name and address of the branch or the first name and surname or the (business) name of the agent, the tax identification number (NIP), if any, and the registered office and address or the place of residence and the address and the address of the principal place of business;
- 4) a description of the organisational structure of the branch, a programme of operations and a financial plan for a period of at least three years, and also a description of internal control mechanisms, referred to in Article 64.1.3, with regard to the branch - and if a domestic payment

institution or a registered account information service provider intends to provide payment services through a branch;

- 5) a description of the internal control mechanisms, referred to Article 64.1.13 in the scope of counteracting money laundering and terrorist financing – if a domestic payment institution or a registered account information service provider intends to provide payment services through an agent;
- 6) first names and surnames of persons managing a branch or an agent, and in the case of agents other than providers subject to supervision within the meaning of the Act on Financial Market Supervision or their subsidiaries - also documents confirming that such persons have appropriate competences and that they have not been validly convicted for the offences referred to in Article 85.2.4;
- 7) a list of the payment services which a domestic payment institution intends to provide in the territory of a Member State referred to in Article 92.1 through a branch in the course of a cross-border activity or through the intermediation of an agent;
- 8) information on the date of the planned commencement of a business activity in the territory of a host Member State – in the case of a domestic payment institution or a registered account information service provider intending to provide payment services in the territory of a Member State other than the Republic of Poland in the course of a cross-border business activity.

3. PFSA shall call on the applicant to supplement the notification referred to in Article 92.1 within a prescribed period, if the notification does not meet the requirements set out in Article 92.2.

4. Within one month of the date of receipt of the notification referred to in Article 92.1, or of the supplementary information, PFSA shall forward to the competent supervisory authorities of a host Member State the notification referred to in Article 92.1 or, by way of decision, shall refuse to forward it.

5. PFSA shall refuse to send the notification referred to in Article 92.1 if:

- 1) the notification does not meet the requirements referred to in Article 92.2 and has not been supplemented within the designated period;
- 2) the organisational structure of a branch of a domestic payment institution or a registered account information service provider is inadequate for the intended business activities;
- 3) the intended business activity of a branch or performance of services through the intermediation of an agent would violate the regulations of law;
- 4) it possesses or has obtained from the competent supervisory authorities of a host Member State in which a domestic payment institution or a registered account information service provider intends to perform payment services, information which suggests that there are reasonable grounds to suspect that such activity is related to committing of an offence or to an offence that has been committed, which is referred to in Article 165a or Article 299 of the Penal Code or an attempt to commit such an offence has been made or committing such an offence is intended, or the commencement of the provision of services by a branch or through the intermediation of an agent could increase the risk of money laundering or terrorist financing.
6. A document confirming having appropriate competences by a person managing the agent may especially be a statement by a domestic payment institution or a person managing the agent confirming having appropriate competences by such person.

**Article 93.1.** Within 3 months of the date of receipt of the notification referred to in Article 92.1, after becoming acquainted with the information included in such notification and with the objections forwarded by the competent supervisory authorities of a host Member State, especially the information referred to in Article 92.5.4, PFSA shall:

- 1) forward its position on the notification to a competent supervisory authority of a host Member State;
- 2) shall enter a branch, information on the provision of services in the course of a cross-border business activity, or an agent, respectively, or shall issue a decision on a refusal to make such entry or on removal from the register, if such entry has been previously made.

2. If PFSA does not agree with the assessment and the objections referred to in Article 93.1, the position referred to in Article 93.1.1 shall include justification.

3. The position or decision referred to in Article 93.1 shall be forwarded by PFSA to a domestic payment institution, which has submitted to PFSA the notification referred to in Article 92.1, or to a registered account information service provider.

4. A domestic payment institution and the registered account information service provider shall notify PFSA about the date of commencement of a business activity in the scope of provision of payment services in the territory of a host Member State by a branch in the course of a cross-border business activity or through the intermediation of an agent. PFSA shall immediately forward such information to a competent supervisory authority of a host Member State.

5. The date referred to in Article 93.4 may not be earlier than the entry date of a branch, information on the provision of services in the course of a cross-border business activity, or an agent in the register.

**Article 94.** A domestic payment institution shall inform PFSA in writing about its intent to change the data referred to in Article 92.2, including a new agent and branch. The provisions of Article 92.3-6 and Article 93 shall apply accordingly.

**Article 94a.** A domestic payment institution shall inform PFSA about its intent to outsource to an entrepreneur from a Member State other than the Republic of Poland the performance of operational activities related to the provision of payment services.

**Article 95.** (repealed)

**Article 96.1.** An EU payment institution may perform payment services in the territory of the Republic of Poland through a branch, as cross-border activity or through the intermediation of an agent, in the scope covered by the authorisation issued by competent supervisory authorities.

2. A registered account information service provider providing services in the territory of a Member State other than the Republic of Poland may provide account information services through a branch in the course of a cross-border business activity or through the intermediation of an agent.

**Article 97.1.** Within a month from the receipt date of the information referred to in Article 92.2 by PFSA from the competent supervisory authorities of a home Member State, PFSA shall forward to such authorities the assessment and objections to the intended provision of payment services by an EU payment institution or the provider referred to in Article 96.2.

2. The objections referred to in Article 97.1 may especially cover circumstances concerning establishment of reasonable grounds by PFSA for suspicion that further to the intended provision of services by an EU payment institution or the provider referred to in Article 96.2 a registered account information service provider through a branch, in the course of a cross-border business activity or through the intermediation of an agent an offence is or has been committed, which is referred to in Article 165a or Article 299 of the Penal Code, or an attempt to commit such an offence has been made or committing such an offence is intended, or the commencement of the provision of services by a branch or through the intermediation of an agent could increase the risk of money laundering or terrorist financing.

3. An EU payment institution or the provider referred to in Article 96.2 may commence the provision of payment services in the territory of the Republic of Poland on the date indicated to a competent supervisory authority of a Member State as the date of the planned commencement of such business activity.

**Article 98.** (repealed)

**Article 98a.** In the case of the provision of a currency conversion service by an EU payment institution in the performance of a payment transaction or electronic money issuance, the provisions of Article 74.2 shall apply accordingly.

**Article 98b.1.** An EU payment institution or the provider referred to in Article 96.2, performing payment services through a branch or through the intermediation of an agent in the territory of the

Republic of Poland shall provide PFSA with an annual report on its business activity in the territory of the Republic of Poland by 31 March of the year following the end of the financial year.

2. An EU payment institution or the provider referred to in Article 96.2, performing payment services through a branch or through the intermediation of an agent in the territory of the Republic of Poland shall provide PFSA with an annual report covering the information on the payment transactions executed in the territory of the Republic of Poland by 31 March of the year following the end of the financial year, including the data on their value, number, and the currency structure.

3. The minister competent for financial institutions shall define, by way of regulation, a detailed scope, form, and manner of preparation of the reports referred to in Article 98b.1 and Article 98b.2, taking into account the necessity of ensuring access for PFSA to the information affecting the assessment of the financial standing of an EU payment institution or the provider referred to in Article 96.2.

## DIVISION VI

### **Supervision Over Domestic Payment Institutions and Business Activities of EU Payment Institutions in the Territory of the Republic of Poland**

**Article 99.1.** Activities in the scope of payment services and the issuance of electronic money conducted by domestic payment institutions, including their agents and other entrepreneurs through the intermediation of which a domestic payment institution provides payment services or performs electronic money redemption, and the entities performing certain operational functions under the contract referred to in Article 86.1 shall be subject to the supervision by PFSA, to the extent and under the terms laid down herein and in the Act on Financial Market Supervision, hereinafter referred to as “supervision”.

2. The purpose of such supervision is:

- 1) to ensure the financial security of domestic payment institutions;
- 2) to ensure the compliance of the business activities of domestic payment institutions, including the activities carried out by their agents and other entrepreneurs through the intermediation of which a domestic payment institution provides payment services or performs electronic money redemption, as well as the entities performing certain operational functions under the contract referred to in Article 86.1 with the provisions of the Act, Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001 and Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 and the authorisation referred to in Article 60.1;
- 3) protection of the interests of the users and electronic money holders.

**Article 100.** Activities undertaken as part of supervision consist in particular of:

- 1) assessing the financial condition of a domestic payment institution;
- 2) examining the quality of management of a domestic payment institution, including the risk management and internal control system;
- 3) (repealed)

**Article 101.** PFSA and persons performing supervisory activities shall not be liable for damages that result from actions compliant with the provisions of the acts or omissions related to the supervision exercised by PFSA.

**Article 102.1.** As part of the exercise of supervision PFSA may:

- 1) call on a domestic payment institution, stating reasons for the call, to provide within a prescribed period any information that is needed for the performance of the objectives of supervision referred to in Article 99.2;
- 2) require periodic reporting of specified data by a domestic payment institution that is needed for the assessment of the financial standing of a domestic payment institution;
- 3) issue recommendations to a domestic payment institution that concern:



- a) ensuring compliance of the business activity of a domestic payment institution with the provisions of the Act, Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September, 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001 and Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March, 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009,
  - b) increasing own funds if their amount is less than it would have resulted from the regulations of the Act or the decision referred to in Article 76.7,
  - c) taking measures needed to achieve and comply with the standards referred to in Article 64.1.1 and Article 76,
  - d) developing and applying procedures to ensure the maintenance and ongoing monitoring of the level of own funds,
  - e) taking measures necessary to prevent violation of the interests of the users or electronic money holders;
- 4) order a domestic payment institution to cease the distribution of profits or to cease the creation of new organisational units pending attainment of the standards referred to in Article 64.1.1 and Article 76;
  - 5) order a domestic payment institution to develop and implement a plan to restore correct financial relations.

2. PFSA may issue recommendations for best practices concerning prudent and stable management of domestic payment institutions with a view to protect the interests of the users or electronic money holders.

3. PFSA may, by way of decision, order an EU payment institution or the provider referred to in Article 96.2, performing payment services in the territory of the Republic of Poland through the intermediation of an agent, to appoint a central contact point in the territory of the Republic of Poland, if there are circumstances that make proper communication, including reporting information concerning compliance with the provisions in Divisions II and III, or exercising of supervision difficult.

**Article 103.1.** PFSA may conduct an inspection of the activities and the financial standing of a domestic payment institution.

2. As part of the inspection referred to in Article 103.1 PFSA may also perform an assessment of the business activity and the financial condition of an agent through the intermediation of which a payment institution provides payment services or of an entity that carries out operational functions on the basis of the contract referred to in Article 86.1. If the inspection referred to in Article 103.1 does not make it possible to establish everything that is necessary for the assessment of the business activity or the financial condition of an agent or an entity that carries out operational functions on the basis of the contract referred to in Article 86.1, then inspection activities may be conducted directly against the agent or the entity that carries out operational functions on the basis of the contract referred to in Article 86.1 as part of a separate inspection.

3. Inspection activities shall be performed by employees of the Office of PFSA after presentation of a PFSA identification card and service of an authorisation issued by the Chairman of PFSA or by a person authorised by him.

4. The employees referred to in Article 103.3, in the scope specified in the authorisation, shall have the right to:

- 1) enter the premises of the inspected entity;
- 2) free access to separate office space and to means of communication;
- 3) examine documents of the inspected entity and to demand copies and extracts from those documents;
- 4) inspect the data contained in the information technology system of the inspected entity and demand copies or extracts from such data, including in the form of electronic documents.

5. The provisions of Chapter 5 of the Act on Entrepreneurs Law of 6 March 2018 shall apply to an inspection of the entrepreneur's business activity.

6. The minister competent for financial institutions shall define, by way of regulation, a detailed manner and mode of performing inspection activities in domestic payment institutions, having regard

to the purposes of supervision exercised over such institutions and ensuring the effectiveness of such supervision.

**Article 104.1.** PFSA shall each time inform a competent supervisory authority of a host Member State of its intent to perform an inspection at the premises of the inspected entity in the territory of the host Member State.

2. PFSA may delegate to competent supervisory authorities of a host Member State the task of carrying out inspections at the premises of the entities referred to in Article 109.

3. The provisions of Article 103 shall apply to branches of EU payment institutions and their agents operating in the territory of the Republic of Poland if it is agreed with competent supervisory authorities of a home Member State that an inspection is to be carried out by PFSA.

**Article 105.1.** If it is found that a domestic payment institution is not performing or is improperly performing its obligation to provide the information referred to in Article 102.1.1, or to transfer the data referred to in Article 102.1.2, it has failed to perform within the prescribed time the recommendations referred to in Article 102.1.3, makes it difficult or impossible to carry out the inspection referred to in Article 103, or does not execute the orders defined in Article 102.1.4 and Article 102.1.5, and also if the business activity of a domestic payment institution is performed in violation of law or threatens the interests of the users or electronic money holders, PFSA may:

- 1) apply to an authority of the domestic payment institution with a motion to dismiss the manager, who is directly responsible for the established irregularities;
- 2) suspend performance of the functions of the manager referred to in Article 105.1, pending the adoption of a resolution by a domestic payment institution's authority at its next meeting on the motion for such manager's dismissal; suspension performance of the functions means exclusion from making decisions on behalf of a domestic payment institution in the scope of its ownership rights and obligations;
- 3) limit the scope of activities of a domestic payment institution or of its organisational units;
- 4) impose on a managing person, who is directly responsible for the established irregularities, a financial penalty of up to three times of the gross monthly remuneration of such person, calculated on the basis of their average gross remuneration for the last three months before the imposition of the penalty;
- 5) impose on a domestic payment institution a financial penalty of up to PLN 1,000,000;
- 6) revoke the authorisation referred to in Article 60.1.

2. While determining the amount of the penalty referred to in Article 105.1.5 PFSA shall take into account in particular the type and severity of the violation, the size of a business activity conducted, and the financial condition of a domestic payment institution.

3. The provision of Article 105.2 shall apply accordingly to the determination of the amount of the penalty referred to in Article 105.1.4

4. The measures referred to in Article 105.1.2-6 shall be applied by way of decision. Decisions in the matters referred to in Article 105.1.2, Article 105.1.3, and Article 105.1.6 shall take effect immediately.

5. A decision by PFSA to limit the scope of a business activity may include conditions and time limits and a decision to impose a financial penalty shall set a time limit for payment of the amount due.

6. PFSA may also suspend performance of the functions by a manager if:

- 1) such person has been charged under criminal proceedings or in a case of a fiscal offence;
- 2) such person has caused significant losses to a domestic payment institution.

7. PFSA shall immediately inform competent supervisory authorities of a Member State in which a domestic payment institution conducts cross-border business activities or operates through an agent or a branch if it revokes the authorisation referred to in Article 60.1.

**Article 105a.** Having conducted the assessment of the information on non-compliance by a domestic payment institution conducting a business activity through the intermediation of a branch or an agent in the territory of a Member State with the regulations of law applicable in a host Member State corresponding to the provisions of the Act, received from a competent supervisory authority of a host Member State, PFSA shall immediately undertake measures aimed at restoring a status that

is compliant with the regulations of such state governing the disclosure obligations in the scope of the provision of payment services and the rights and obligations in the scope of the provision of payment services and their use. PFSA shall immediately notify competent supervisory authorities of a host Member State and competent supervisory authorities of another interested Member State about the undertaken measures.

**Article 106.1.** If dissemination of the information referred to in Article 73 is misleading or may be misleading, PFSA may:

- 1) issue the recommendation to a payment institution referred to in Article 102.1.3.a concerning cessation of its dissemination distribution, provided that the provisions of Article 105.1.1-3 and Article 105.1.6 shall not apply;
- 2) order, by way of decision, publication of a correction in a specified form and within a specified time; when ordering the publication of a correction PFSA may specify its contents.

2. If the order referred to in Article 106.1.2 is not complied with, PFSA may, by way of decision:

- 1) impose on a managing person, who is directly responsible for failure to comply with the order, a financial penalty of up to three times the gross monthly remuneration of such person, calculated on the basis of their average gross remuneration for the last three months before the imposition of the penalty;
- 2) impose on a payment institution a financial penalty of up to PLN 1,000,000.

3. The provisions of Article 105.2, Article 105.4, and Article 105.5 shall accordingly apply to the imposition of the penalties referred to in Article 106.2.

**Article 107.1.** If an EU payment institution or its agent, while conducting a business activity in the territory of the Republic of Poland, breaches the regulations of Polish law, PFSA:

- 1) shall call on such institution in writing to comply with the regulations of Polish law and shall set a time limit for rectification of the established irregularities;
- 2) shall immediately notify competent supervisory authorities of a home Member State of the established irregularities.

2. If a breach of the regulations of Polish law concerns the provisions of Division II and III, following ineffective expiry of the time limit set in the call referred to in Article 107.1.1, PFSA may apply the measures referred to in Article 105.1.1 and Article 105.1.3, respectively, notifying competent supervisory authorities of the home Member State of the established irregularities and the measures taken.

3. If, despite the application of supervisory measures by competent supervisory authorities of the home Member State, an EU payment institution or its agent conducting a business activity in the territory of the Republic of Poland, still does not comply with the provisions of the Act, PFSA may apply the measures referred to in Article 105.1.1, Article 105.1.3, and Article 105.1.4, accordingly.

4. The provision of Article 107.3 shall also apply in cases whereby:

- 1) the measures applied by competent supervisory authorities of the home Member State prove insufficient given the occurring breaches or impossible to apply in the territory of the Republic of Poland;
- 2) the competent supervisory authorities of the home Member State, without justification, refuse to apply supervisory measures or unreasonably delay their application.

5. If application of the procedure referred to in Article 107.1 would result in excessive delay which could directly endanger significant interests of users, PFSA may accordingly apply the measures referred to in Article 105.1.1, Article 105.1.3, and Article 105.1.4, while omitting that procedure.

6. In the circumstances referred to in Article 107.2, Article 107.3, and Article 107.5, PFSA shall immediately notify the competent supervisory authorities of the home Member State, the European Commission, and EBA of the supervisory measures taken, and shall also justify their application.

6a. The measures referred to in Article 105.1.1, Article 105.1.3, Article 105.1.4, applied by PFSA are appropriate and proportionate to ensure the protection against a serious threat to the collective interests of the users in the territory of the Republic of Poland and do not result in preferential treatment of the users of a given payment institution in the territory of the Republic of Poland against the users of a given payment institution in other Member States.

6b. PFSA shall apply the measures referred to in Article 105.1.1, Article 105.1.3, and Article 105.1.4 until the serious established threats have been rectified, especially by the competent supervisory authorities of the home Member State or in co-operation with such authorities or EBA.

7. The regulations of Article 127.3 of the Act on the Code of Administrative Procedure of 14 June 1960 shall not apply to the decisions of PFSA issued on the basis of Article 107.2-5.

8. An EU payment institution may appeal to an administrative court against the decision of PFSA referred to in Article 107.2-5 within seven days from the date of service of the decision.

**Article 108.1.** In order to carry out the tasks arising from the Act, PFSA shall co-operate with competent supervisory authorities and other authorities or organs, and in particular with:

- 1) the European Central Bank;
- 2) the NBP and the central banks of other Member States;
- 3) public authorities in other Member States that are responsible for supervising payment systems;
- 4) EBA.

2. PFSA may conclude agreements on co-operation in the area of supervision with competent supervisory authorities.

**Article 109.** In order to perform the activities specified in Article 107 in relation to an EU payment institution, and also in Articles 102–105 in relation to a domestic payment institution providing payment services in the territory of a host Member State through the intermediation of an agent or a branch or in the course of a cross-border business activity, PFSA shall co-operate with the competent supervisory authorities of a home or a host Member State, respectively.

**Article 110.** On its own initiative, PFSA shall transfer to a competent supervisory authority of a host Member State material information or, upon the latter's request, the information required for the purposes of co-operation referred to in Article 109, particularly, in cases, where breaches of the law by an agent, a branch or in the course of a cross-border business activity have been confirmed or suspected.

**Article 111.1.** PFSA may provide information obtained in connection with the exercise of its functions under the Act:

- 1) to competent supervisory authorities in the circumstances referred to in Article 110;
- 2) to central banks of other Member States or other institutions of the Member States carrying out tasks in the scope of monetary policy and to other public authorities of other Member States carrying out tasks in the scope of supervision over payment systems;
- 3) to authorities and institutions of the European Union that are competent in the scope of matters relating to supervision over payment institutions or other providers or to supervision over payment systems;
- 4) to competent authorities of the Member States appointed as points of contact, which are referred to in Article 14e.1.

2. Provision of the information referred to in Article 111.1 shall take place, if:

- 1) it is certain that the information provided shall be used solely for the purposes of exercising tasks by those authorities of in the scope of supervision over providers, supervision over payment systems, or tasks in the scope of monetary policy;
- 2) it is guaranteed that the provision of information outside such authorities is possible only after obtaining prior consent of PFSA;
- 3) this does not breach the principles of the protection of information arising under separate regulations.

**Article 112.1.** Information obtained or generated in connection with exercising of supervision, the provision, disclosure, or confirmation of which could infringe upon the interests of the entities protected by law, which such information directly or indirectly concerns or could hinder exercising of supervision over payment institutions, is protected by professional secrecy in accordance with the provisions of Article 16 of the Act on Financial Market Supervision.

2. The obligation to protect secrecy referred to in Article 112.1 is not infringed by:

- 1) the provision of information in the situations referred to in Article 111.1;
- 2) the submission of a notification of a suspected offence;
- 3) the transfer of information to a person, an authority, or another entity pursuant to separate regulations.

3. In the case of information protected under separate regulations, the transfer of the information by PFSA, which is referred to in Article 112.1 may not infringe upon the principles of protection set out in such regulations.

**Article 113.1.** Domestic payment institutions must pay contributions to cover the costs of supervision. A contribution by a domestic payment institution shall may not exceed 1% of the amount referred to in Article 76.4.2 calculated for the last day of the year for which the contribution to be paid is due to cover the costs of supervision.

1a. The equivalent of the euro amount in the Polish currency, which is referred to in Article 76.4.2, shall be determined using the mean exchange rate announced by the NBP applicable on the last day of the year for which the contribution is due to cover the costs of supervision, and if the exchange rate is not announced on such day, the exchange rate from the preceding day shall be used.

2. (repealed)

3. (repealed)

4. (repealed)

5. The amounts due under the contributions referred to in Article 113.1 are subject to enforcement in the manner set out in the regulations of the Act on Enforcement Proceedings in Administration of 17 June 1966 (Journal of Laws 2018, item 1314, as amended<sup>10</sup>), hereinafter referred to as the “Act on Enforcement Proceedings in Administration”.

**Article 114.1.** Fees shall be paid for:

- 1) issuing or amending the authorisation referred to in Article 60.1, except for situations, where the amendment consists only of limiting the types of payment services that a payment institution is authorised to provide;
- 2) making an entry in the register, with the exception of an entry related to the issue or amendment of the authorisation referred to in Article 60.1.

2. The amount of the fee referred to in Article 114.1, may not exceed the equivalent of the amount of EUR 1,500 in the Polish currency, determined using the average exchange rate announced by the NBP, prevailing on the date of issuing or amending the authorisation or of making an entry in the register.

3. The fees referred to in Article 114.1 shall be allocated to cover the costs of supervision. The sum of the fees made in a given year by payment institutions shall decrease the total amount of contributions to cover the costs of supervision due from such institutions pursuant to Article 113.

4. The fees referred to in Article 114.1 are subject to enforcement in the manner set out in the provisions of the Act on Enforcement Proceedings in Administration.

**Article 115.** The President of the Council of Ministers shall specify, by way of regulation:

- 1) the dates, the amount, and the manner of calculation of the payments referred to in Article 113.1,
- 2) the manner and dates of settling the amounts due under the payments referred to in Article 113.1,
- 3) the amount and also the manner and the payment dates of the fees referred to in Article 114 – taking into account the nature of the actions, which involve an obligation to pay fees and the need to ensure the effectiveness of exercised supervision, and also taking into account that the amount of payments to cover the costs of supervision and of fees should not significantly increase the operating costs of the entities obliged to pay them.

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<sup>10</sup> Amendments of the consolidated text of the said act were announced in the Journal of Laws of 2018, item 1356, 1499, 1629, 2192, 2193, and 2432.

**Article 116.1.** Proceedings regarding imposition of the penalty referred to in Article 105.1.4 and Article 105.1.5 and in Article 106.2 may not be instituted after six months from the date that PFSA has become aware of the information about circumstances which may give rise to the imposition of a penalty or if more than two years have passed since commitment of the action in question.

2. (repealed)

**Article 117.1.** The provisions of Article 142 and Article 145–157e of the Banking Act shall apply accordingly to recovery proceedings and liquidation of a domestic payment institution and branches of payment institutions.

2. PFSA also has the right to lodge a motion to declare a domestic payment institution bankrupt.

## DIVISION VIA

### Registered Account Information Services Provider

**Article 117a.1.** A business activity in the scope of the provision of solely an account information service is a regulated business activity within the meaning of the Act on Entrepreneurs Law of 6 March 2018.

2. The registered account information service provider may conduct a business activity other than the provision of payment services.

3. The registered account information service provider shall be obliged to conclude a civil liability insurance agreement for losses occurring pertaining to a business activity conducted by it or to have a bank guarantee, an insurance guarantee, or another security for the user's claims.

4. The scope and the amount of civil liability insurance, a bank guarantee, an insurance guarantee, or another security shall be adjusted to the liability that the registered account information service provider bears in the event of unauthorised access to the information on the account or unauthorised use of such information and to the territory in which such provider performs its services.

5. A bank or an insurance guarantee agreement shall include PFSA's authorisation to issue instructions for the guarantor to disburse funds under the guarantee.

6. PFSA shall be entitled to act on behalf of the users in matters relating to disbursement of funds under a bank guarantee agreement or an insurance guarantee agreement pursuant to the terms and conditions defined in such agreements.

7. The minister competent for financial institutions shall define, by way of regulation, a minimum sum guaranteed of insurance, a sum of a bank guarantee, a sum of an insurance guarantee, or the value of another security for the user's claims, having regard to the necessity of protecting interests of the users and considering the guidelines issued by EBA in that respect.

**Article 117b.1.** A business activity in the scope of providing solely an account information service may be conducted after obtaining an entry in the register of registered account information service providers.

2. The register of registered account information service providers is a register of the regulated business activity within the meaning of the provisions of the Act on Entrepreneurs Law of 6 March 2018 for the business activity referred to in Article 117a.1.

3. An entry in the register of registered account information service providers shall be made upon a written request of an entrepreneur containing the data referred to in Article 136c.2-5.

4. The application for making an entry in the register of registered account information service providers shall also contain:

- 1) the information and documents referred to in Article 61.1.2, Article 61.1.4, Article 61.1.6a, Article 61.1.8;
- 2) the description of:
  - a) the organisational structure referred to in Article 64a.1.1.a,
  - b) the rules of risk management referred to in Article 64a.1.2,
  - c) the rules governing an internal audit referred to in Article 64a.1.3.a,
  - d) referred to in Article 64a.1.4.a-e and Article 64a.1.4.g;

- 3) the document confirming that the applicant has business civil liability insurance, a bank guarantee, an insurance guarantee, or another security for the user's claims;
- 4) the statement of the applicant reading as follows: "I hereby represent that the data included in the application is complete and truthful. I am aware of and meet the conditions of conducting a business activity in the capacity of a registered account information service provider as set out in the Act on Payment Services of 19 August 2011 (Journal of Laws of 2019, item 659).", and also a clause reading as follows: "I am aware of criminal liability for making a false statement", which replaces an instruction made by an authority entitled to receive the statement of criminal liability for making a false statement.
5. PFSA shall enter the registered account information service provider into the register within 3 months from the receipt date of the application by PFSA for an entry or its supplement, together with the statement referred to in Article 117b.4.4.
6. A date when an entry is made in the register of registered account information service providers shall be considered a date of commencing a business activity in the capacity of the registered account information service provider.
7. PFSA shall issue ex officio a certificate on making an entry in the register of registered account information service providers.
8. The registered account information service provider shall notify PFSA about its intent to end a business activity or an activity in the capacity of the registered account information service provider, indicating the business activity completion date.
9. The registered account information service provider shall be obliged to inform PFSA about the number of users for which it has provided an account information service and the number of serviced accounts in the period of the previous calendar year by 31 January of the following year.

**Article 117c.1.** Registered account information service providers are obliged to pay contributions to cover the costs of supervision in the amount that constitutes a product of the number of the users for which a given provider has provided an account information service during the period of the previous calendar year, the amount of PLN 1 and the rate that does not exceed 15%.

2. Amounts due under the contributions referred to in Article 117c.1 shall be subject to enforcement pursuant to the provisions of the Act on Enforcement Proceedings in Administration.

3. The President of the Council of Ministers shall specify, by way of regulation:

- 1) the dates, the amount, and the manner of calculation of the contributions referred to Article 117c.1,
- 2) the manner and the settlement of the amounts due under the contributions referred to in Article 117c.1 – taking into account the need to ensure the effectiveness of exercised supervision, and also taking into account that the amount of contributions to cover the costs of supervision should not significantly increase the operating costs of the entities obliged to pay them.

**Article 117d.1.** A business activity in the scope of payment services conducted by the registered account information service providers shall be subject to supervision exercised by PFSA in the scope and pursuant to the principles defined in the Act and in the Act on Financial Market Supervision.

2. The purpose of supervision over registered account information service providers is to ensure compliance of their business activity with the provisions of the Act and also to protect the users' interests.

3. The provisions of Article 100, Article 101, Article 102.1.1 Article 101.2, Article 103, Article 106.1 and Article 112 shall accordingly apply to the supervision over the registered account information service providers.

4. Under supervision PFSA may issue recommendations to the registered account information service providers in the scope of:

- 1) ensuring compliance of their business activity with the provisions of the Act;
- 2) undertaking measures necessary to prevent violation of the users' interests.

5. If it has been established that the registered account information service provider fails to fulfil its obligation of providing information, which is referred to in Article 102.1.1, or improperly fulfils such obligation, has failed to implement, within the prescribed time, the recommendations referred to in Article 117d.4, makes it difficult or prevents conducting the inspection referred to in Article 103,

and also when the business activity of the registered account information service provider is conducted in violation of the regulations of law or when it poses a threat to the users' interests, PFSA may apply the measures referred to in Article 105.1.1-3.

6. In the cases referred to in Article 117d.5, PFSA may also:

- 1) impose on a managing person, who is directly responsible for the established irregularities, a financial penalty of up to three times of the gross monthly remuneration of such person, calculated on the basis of their average gross remuneration for the last three months before the month in which the penalty has been imposed;
- 2) impose on the registered account information service provider a financial penalty of up to PLN 500,000.

7. PFSA may issue a decision prohibiting performance of a business activity in the capacity of the registered account information service provider, in the event whereby:

- 1) the statement referred to in Article 117b.4.4 has been made contrary to the factual status;
- 2) it has established gross violation of the conditions required by law for conducting the business activity in the capacity of the registered account information service provider or the obligations provided under the provisions of the Act relating to conducting the business activity in the capacity of the registered account information service provider.

8. In the event of failure to implement the recommendation or order, referred to in Article 106.1, PFSA may:

- 1) impose the financial penalties referred to in Article 117d.6;
- 2) issue the decision referred to in Article 117d.7.

9. The decision referred to in Article 117d.7 shall become immediately enforceable.

10. The provisions of Article 105.2, Article 105.4, Article 105.5, and of Article 116 shall accordingly apply to the imposition of the penalties referred to in Article 117d.6 and Article 117d.8.1.

**Article 117e.** The provisions of Article 18, Article 23, Article 27, Article 42, Article 59s, Article 64a.2, Article 64a.3, Article 64a.3a, Article 94, Article 98a, Article 98b, Article 99, Article 104, Article 105.1.1-4 and Article 105.1.6, Article 106.2.1 and Article 106.3, Article 107-111, Article 116 and Article 117 and the secondary legislation provisions issued under Article 64a.5 shall apply accordingly to the registered account information service providers.

## DIVISION VIB

### Small Payment Institutions

**Article 117f.1.** A business activity in the scope of payment services conducted in the capacity of a small payment institution is the regulated business activity within the meaning of the provisions of the Act on Entrepreneurs Law of 6 March 2018.

2. The business activity referred to in Article 117f.1 may be conducted in the territory of the Republic of Poland only.

3. The average of the total amount of the payment transactions from the previous 12 months executed by a small payment institution, including agents, through the intermediation of which it provides payment services, may not exceed the amount that is the equivalent of EUR 1,500,000 per months.

4. While determining the average referred to in Article 117f.3, the total amount of the payment transactions for a given month shall be calculated using the mean exchange rate announced by the NBP prevailing on the last day of the month preceding such month.

5. A small payment institution may conduct its business activity other than the provision of payment services and the business activity referred to in Article 74.1.1 and Article 74.3.

6. The provision of Article 74.2 shall apply accordingly to the provision of a service of calculating the currency under the execution of a payment transaction by a small payment institution.

**Article 117g.1.** The business activity in the scope of payment services conducted in the capacity of a small payment institution may be performed after obtaining an entry in the register of small payment institutions.



2. The register of small payment institutions is a register of the regulated business activity within the meaning of the provisions of the Act on Entrepreneurs Law of 6 March 2018 referred to in Article 117f.1.

**Article 117h.1.** The business activity conducted in the capacity of a small payment institution may be performed, if:

- 1) a small payment institution has organisational arrangements that allow:
  - a) calculating the total monthly amount of the payment transaction,
  - b) performing the obligations relating to counteracting money laundering and terrorist financing in accordance with the Act on Anti-Money Laundering;
- 2) a person managing a small payment institution has not been validly convicted for an offence against the administration of justice, an offence against economic transactions, an offence against trade in moneys and securities, the offence referred to in Article 165a of the Penal Code, an offence committed to gain a financial or personal benefit, or for a fiscal offence.

2. A small payment institution shall be obliged to have:

- 1) a programme of operations and a financial plan for the period of the first 12 months of its business activity, including the requirement defined in Article 117f.3;
- 2) an updated procedure of managing risk to which it may be exposed.

3. A small payment institution providing the service referred to in Article 3.1.1 may store funds of the users on payment accounts of the users, provided that the total value of the accepted funds for one user may not exceed at any time the equivalent of EUR 2,000 in the Polish currency.

4. The provisions of Article 73 and Article 75 shall apply accordingly to small payment institutions.

5. The provision of Article 117f.4 shall apply accordingly to calculate the limit referred to in Article 117h.3.

**Article 117i.** A small payment institution may provide payment services through the intermediation of an agent and outsource to another entrepreneur the performance of certain operational activities related to the provision of payment services. The provisions of Articles 84-90 shall apply accordingly.

**Article 117j.1.** An entry in the register of small payment institutions shall be made upon a written application of an entrepreneur containing the data referred to in Article 136d.2-4.

2. The application referred to in Article 117j.1 shall be appended with:

- 1) a list of the payment services, which a small payment institution intends to provide, together with a presentation of such services in the form of a graphic chart with a description of such services together with indication a type of the services defined in Article 3.1.1-6 such services belong to;
- 2) a statement of the applicant reading as follows: "I hereby represent that the data included in the application is complete and truthful. I am aware of and meet the conditions of conducting a business activity in the capacity of a small payment institution as set out in the Act on Payment Services of 19 August 2011 (Journal of Laws of 2019, item 659).", and also a clause reading as follows: "I am aware of criminal liability for making a false statement", which replaces an instruction made by an authority entitled to receive the statement of criminal liability for making a false statement.

**Article 117k.1.** PFSA shall enter a small payment institution into the register within 3 months from the receipt date of the application to PFSA for an entry or its supplement, together with the statement referred to in Article 117j.2.2.

2. A date when an entry is made in the register of small payment institutions shall be considered a date of commencing a business activity in the capacity of a small payment institution.

3. PFSA shall issue ex officio a certificate on making an entry in the register of small payment institutions.

**Article 117l.** A small payment institution shall store the documents necessary to demonstrate compliance with the conditions required for the performance of a business activity for a period of at least five years from their generation or receipt.

**Article 117m.** A small payment institution shall notify PFSA about its intent to end a business activity or an activity in the capacity of a small payment institution, indicating the business activity completion date.

**Article 117n.** PFSA shall remove an entry of a small payment institution from the register of small institution if it receives the notification referred to in Article 117m, and also after obtaining information of an entrepreneur's death. Removal shall also be made after obtaining information from the Central Registration and Information on Business or the National Court Register on an entrepreneur's removal.

**Article 117o.** A small payment institution shall protect funds received from the users, including funds received through the intermediation of agents or another provider for the purpose of execution of payment transactions. The provisions of Article 78 and Article 80 and secondary legislation provisions issued under Article 79 shall apply accordingly.

**Article 117p.1.** A small payment institution shall notify PFSA:

- 1) each time the level of EUR 1,500,000 has been exceeded by:
  - a) the total amount of payment transactions in a given month, including those executed by agents, through the intermediation of which a small payment institution provides payment services,
  - b) an average monthly amount of payment transactions for each period of the last three months and the last twelve months, including those executed by agents, through the intermediation of which a small payment institution provides payment services;
- 2) institution of penal proceedings into a case of the offence referred to in Article 117h.1.2, or proceedings into a case of a fiscal offence against a managing person.
  2. The provision of Article 117f.4 shall apply accordingly to the calculation of the amount of the payment transactions referred to in Article 117p.1.1.
  3. The notifications referred to in Article 117p.1 shall be made within 14 days from the date:
    - 1) of expiry of the periods referred to in Article 117p.1.1;
    - 2) on which a small payment institution becomes aware of the institution of the proceedings referred to in Article 117p.1.2.
  4. If the obligation referred to in Article 117p.1 has been violated, PFSA may, by way of decision, impose a financial penalty on a small payment institution in the amount of up to PLN 1,000 for each day of delay, not more, however, than PLN 250,000. The provisions of Article 105.2, Article 105.4, Article 105.5, and Article 116 shall apply accordingly.

**Article 117q.1.** If the average total amount of the payment transactions referred to in Article 117f.3 has been exceeded, a small payment institution, regardless of the notification obligation referred to in Article 117p.1.1.b shall:

- 1) adjust the size of the conducted business activity in the scope of payment services to the requirement referred to in Article 117f.3, or
- 2) submit a motion for issuing the authorisation referred to in Article 60.1 within 30 days from the end of the period during which it has been exceeded.
  2. In the case referred to in Article 117q.1.2, until the motion has been considered, the provision of Article 117q.1.1 shall not apply. In the event of a refusal to issue an authorisation or discontinuation of the proceedings, the period prescribed in such provision shall commence from the date on which the decision has become final.

**Article 117r.1.** A small payment institution shall provide PFSA with:

- 1) information on the total value and number of the executed payment transactions, including by its agent, in a given:
  - a) quarter - by the last day of the month following the month ending a given quarter,
  - b) year - by 31 January of the year following a given year,

- c) month within the period referred to in Article 117q.1.1 and Article 117q.2 second sentence - by the fifteenth day of the month following a given month;
- 2) annual financial statements together with a copy of a resolution or a decision of an approving authority on approval of financial statements - within 15 days from the approval date of the annual financial statements by an approving authority, if it prepares such statements.
  2. The provisions of Article 117r.1.1.a and Article 117r.1.1.b and Article 117r.1.2 shall also apply if a small payment institution has not executed any payment transaction in a given period, also including through its agents, with the exception when a person conducting a business activity in the capacity of a small payment institution has had its business activity suspended in a given period.
  3. PFSA shall inform the European Commission about the number of small payment institutions and the total amount of the payment transactions executed in a given year by small payment institutions, including through their agents.

**Article 117s.1.** A business activity in the scope of payment services conducted by small payment institutions shall be subject to supervision exercised by PFSA to the extent and pursuant to the rules defined in the Act and the Act on Financial Market Supervision.

2. The purpose of supervision exercised over small payment institutions is to ensure compliance of business activities pursued by small payment institutions with the provisions of the Act and Regulation (EU) 2015/751, and also to protect the users' interests.

3. The provisions of Article 100, Article 101, Article 102.1.1, Article 102.1.2, Article 102.1.5 and Article 102.2, Article 103, Article 106.1, and Article 112 shall apply accordingly to supervision over small payment institutions.

4. Under supervision PFSA may issue recommendations to small payment institutions in the scope of:

- 1) ensuring compliance of a business activity of a small payment institution with the provisions of the Act, Regulation (EU) 2015/751 and Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009;
- 2) applying measures required to prevent violations of the users' interests.

5. If it has been established that a small payment institution does not fulfil the disclosure obligation referred to in Article 102.1.1 or the data provision obligation referred to in Article 102.1.2, or fulfils them improperly, or has failed to implement within the prescribed time the recommendations referred to in Article 117s.4 or the order referred to in Article 102.1.5, makes it difficult or impossible to carry out the inspection referred to in Article 103, and also if the business activity of a small payment institution is performed in violation of law or threatens the interests of the users PFSA may apply the measures defined in Article 105.1.1 -3.

6. In the cases referred to in Article 117s.5, PFSA may also:

- 1) impose on a managing person, who is directly responsible for the established irregularities, a financial penalty of up to three times of the gross monthly remuneration of such person, calculated on the basis of their average gross remuneration for the last three months before the month in which the penalty has been imposed;
- 2) impose a financial penalty on a small payment institution of up to PLN 500,000.

7. PFSA may issue a decision prohibiting performance of a business activity in the capacity of a small payment institution, in the event whereby:

- 1) the statement referred to in Article 117j.2.2 has been made contrary to the factual status;
- 2) it has established gross violation of the conditions required by law for conducting the business activity in the capacity of a small payment institution or the obligations provided under the provisions of the Act relating to conducting the business activity in the capacity of a small payment.

8. In the event of failure to implement the recommendation or order, referred to in Article 106.1, PFSA may:

- 1) impose the financial penalties referred to in Article 117s.6;
- 2) issue the decision referred to Article 117s.7.

9. The decision referred to in Article 117s.7, shall become immediately enforceable.

10. The provisions of Article 105.2, Article 105.4, and Article 105.5 and Article 116 shall accordingly apply to the imposition of the penalties referred to in Article 117s.6 and Article 117s.8.1.

**Article 117t.** If a business activity of a hybrid small payment institution in the scope not consisting of the provision of payment services violates or may violate the financial stability of such institution or could restrict the possibility of exercising supervision, PFSA may, by way of decision, order a hybrid small payment institution to legally and organisationally separate the business activity in the scope of payment services by establishing a new entity that shall conduct such activity. The provisions of Article 68.2-11 shall apply accordingly.

**Article 117u.1.** A small payment institution shall be obliged to make contributions to cover the costs of supervision in the amount that constitutes a product of the total amount of the payment transactions executed by a small payment institution, including by its agent and the rate that does not exceed 0.025%.

2. Amounts due under the contributions referred to in Article 117u.1 shall be subject to enforcement pursuant to the provisions of the Act on Enforcement Proceedings in Administration.

3. The President of the Council of Ministers shall specify, by way of regulation:

- 1) the dates, the amount, and the manner of calculation of the contributions referred to in Article 117u.1,
- 2) the manner and the settlement of the amounts due under the contributions referred to in Article 117u.1 - taking into account the need to ensure the effectiveness of exercised supervision, and also taking into account that the amount of contributions to cover the costs of supervision should not significantly increase the operating costs of the entities obliged to pay them.

## DIVISION VII

### Money Service Bureaus and Savings and Credit Unions

**Article 118.1.** A business activity in the scope of provision of payment services in the capacity of a money service bureau is a regulated activity within the meaning of the Act on Entrepreneurs Law of 6 March 2018.

2. The business activity referred to in Article 118.1 may be performed in the territory of the Republic of Poland only.

3. The average of the total amount of the payment transactions in the previous 12 months executed by a money service bureau, including by agents through the intermediation of which it provides payment services, may not exceed the amount of EUR 500,000 per month.

4. While determining the average referred to in Article 118.3, the total amount of the payment transactions for a given month shall be calculated using the mean exchange rate announced by the NBP prevailing on the last day of the month preceding such month.

5. A money service bureau may conduct its business activity other than the provision of payment services.

**Article 119.1.** The activity in the scope of provision of payment services in the capacity of a money service bureau may be performed after obtaining an entry in the register of money service bureaus.

2. The register of money service bureaus is a register of the regulated business activity within the meaning of the provisions of the Act on Entrepreneurs Law of 6 March 2018 referred to in Article 118.1.

**Article 119a.1.** An entry in the register of money service bureau shall be made upon a written application of an entrepreneur containing the data referred to in Article 136.2-4.

2. The application referred to in Article 119a.1 shall be appended with the statement of the applicant reading as follows: "I hereby represent that the data included in the application is complete and truthful. I am aware of and meet the conditions of conducting a business activity in the capacity of a money service bureau as set out in the Act on Payment Services of 19 August 2011 (Journal of Laws of 2019, item 659)." The applicant shall also include a clause in the application reading as

follows: “I am aware of criminal liability for making a false statement.” The clause replaces an instruction made by an authority entitled to receive the statement of criminal liability for making a false statement.

3. PFSA shall enter a money service bureau into the register within 7 days months from the receipt date of the application to PFSA for an entry, together with the statement referred to in Article 119a.2.

4. A date when an entry is made in the register shall be considered a date of commencing a business activity in the capacity of a money service bureau.

**Article 119b.** A person managing a money service bureau may not be a person who has been validly convicted for an offence against the administration of justice, an offence against economic transactions, an offence against trade in moneys and securities, the offence referred to in Article 165a of the Penal Code, an offence committed to gain a financial or personal benefit, or for a fiscal offence.

**Article 119c.1.** A money service bureau shall be obliged to ensure organisational arrangements providing for the performance of the obligations relating to counteracting money laundering and terrorist financing in accordance with the Act on Anti-Money Laundering.

2. The provisions of Article 73 and Article 75 shall apply accordingly to the money service bureau.

**Article 120.** (repealed)

**Article 121.** A money service bureau may provide payment services through the intermediation of an agent and may outsource to another entrepreneur the performance of specific operational functions related to the provision of payment services; the regulations of Articles 84-90 shall apply accordingly.

**Article 122.** (repealed)

**Article 122a.** PFSA shall issue ex officio a certificate on making an entry in the register.

**Article 123.** A money service bureau shall notify PFSA about its intent to end a business activity or an activity in the capacity of a money service bureau, indicating the business activity completion date.

**Article 124.** (repealed)

**Article 125.1.** A money service bureau is obliged to protect the funds received from users, including through the intermediation of an agent or another provider, in order to execute payment transactions.

2. A money service bureau fulfils the obligation referred to in Article 123.1 by concluding with a domestic bank, a credit institution, a branch of a foreign bank or an insurance company, which does not belong to the same group as a given money service bureau a bank guarantee agreement or insurance agreement or an insurance policy.

3. A bank guarantee or insurance guarantee agreement, or an insurance agreement covers reimbursement of payments made by users by the guarantor or the insurance company in the event of non-performance or improper performance of a payment transaction under an agreement for the provision of payment services by a money service bureau, up to the amount of payment made.

4. A bank or an insurance guarantee agreement shall include PFSA’s authorisation to issue instructions for the guarantor to disburse funds under the guarantee.

5. The guarantee or insurance agreement referred to in Article 125.2 may not be concluded for a period of less than 12 months.

6. A money service bureau shall be obliged to submit to PFSA documents confirming the conclusion of the first agreement for a bank guarantee or an insurance guarantee, or the first insurance agreement within 7 days from the conclusion date of such agreement, and then submit to PFSA documents confirming the conclusion of subsequent agreements for a bank guarantee or an

insurance guarantee, or insurance agreements before the expiry of the term of the previous agreement, within seven days from the date of its conclusion.

7. In the event of a breach of the obligation referred to in Article 125.6, PFSA may impose a financial penalty on a money service bureau not exceeding PLN 500 for each day of delay, not more, however, than PLN 100,000; the provisions of Article 105.2, Article 105.4, and Article 105.5 and Article 116 shall apply accordingly.

8. The minister competent for financial institutions shall define, by way of regulation, the minimum sum of the guarantees referred to in Article 125.2 and the date from which the obligation to conclude a guarantee agreement applies, taking into account the amounts of payment transactions.

8a. The minister competent for financial institutions shall define, by ways of regulation, templates of the bank guarantee and insurance guarantee agreement referred to in Article 125.2, guided by the need to take into account the necessary elements of the agreement.

9. The minister competent for financial institutions shall define, by way of regulation, the detailed scope of insurance referred to in Article 125.2 and the date from which the obligation to effect insurance applies and the minimum sum guaranteed, taking into account the amount of payment transactions.

10. PFSA is authorised to act on behalf of users in handling the disbursement of funds from the bank or the insurance guarantee agreement pursuant to the rules specified in those agreements.

**Article 126.1.** A money service bureau must notify PFSA:

- 1) each time the level of EUR 500,000 has been exceeded by:
  - a) the total amount of payment transactions in a given month, including those executed by agents, through the intermediation of which a money service bureau provides payment services,
  - b) an average monthly amount of payment transactions for each period of the last three months and the last twelve months, including those executed by agents, through the intermediation of which a money service bureau provides payment services;
- 2) of institution of penal proceedings into a case of the offence referred to in Article 119b, or proceedings into a case of a fiscal offence against a managing person.

2. The provision of Article 118.4 shall apply accordingly to the calculation of the amount of the payment transactions referred to in Article 126.1.1.

3. The notifications referred to in Article 126.1 shall be made within 14 days from the date:

- 1) of expiry of the periods referred to in Article 126.1.1;
- 2) on which a money service bureau becomes aware of the institution of the proceedings referred to in Article 126.1.2.

4. If the obligation referred to in Article 126.1 has been violated, PFSA may, by way of decision, impose a financial penalty on a money service bureau in the amount of up to PLN 500 for each day of delay, not more, however, than PLN 100,000; the provisions of Article 105.2, Article 105.4, Article 105.5, and Article 116 shall apply accordingly.

**Article 127.1.** If the average total amount of the payment transactions referred to in Article 118.3 has been exceeded, a money service bureau, regardless of the notification obligation referred to in Article 117p.1.1.b shall:

- 1) adjust the size of the conducted business activity in the scope of payment services to the requirement referred to in Article 118.3, or
- 2) submit a motion to make an entry in the register of small payment institutions, which is referred to in Article 117j.1, or
- 3) submit a motion for issuing the authorisation referred to in Article 60.1 within 30 days from the end of the period during which it has been exceeded.

2. In the case referred to in Article 127.1.2 or Article 127.1.3, until the motion has been considered, the provision of Article 127.1.1 shall not apply. In the event of a refusal to make an entry in the register of small payment institutions, a refusal to issue an authorisation or discontinuation of the proceedings, the period prescribed in such provision shall commence from the date on which the decision has become final.

**Article 128.1.** A money service bureau shall be obliged to provide PFSA with the information on the total value and the number of the executed payment transactions, including also by its agents:

- 1) repealed
- 2) in individual months of a given year - not later than by 31 January of the following year;
- 3) in a given month during the period referred to in Article 127.1.1 and Article 127.2 second sentence - not later than by the 15th day of the following month.

1a. The provision of Article 128.1.2 shall also apply in the event whereby a money service bureau has not executed any payment transaction in a given period, also including through its agents, with the exception when a person conducting a business activity in the capacity of a money service bureau has had its business activity suspended in a given period.

2. PFSA shall inform the European Commission of the number of the money service bureaus and the total amount of the payment transactions executed in a given year by money service bureaus, including by their agents.

**Article 129.1.** A business activity in the scope of payment services conducted by money service bureaus shall be subject to supervision exercised by PFSA to the extent and pursuant to the rules defined in the Act and the Act on Financial Market Supervision.

2. The purpose of supervision over money service bureaus is to ensure compliance of their business activity with the provisions of the Act and also to protect the users' interests.

3. The provisions of Article 100, Article 102.1.1, Article 102.1.2, Article 102.1.5, Article 103, Article 106.1, and Article 112 shall apply accordingly to supervision over money service bureaus.

4. Under supervision PFSA may issue recommendations to money service bureaus in the scope of:

- 1) ensuring compliance of their business activity with the provisions of the Act;
- 2) undertaking measures necessary to prevent violation of the users' interests.

5. If it has been established that a money service bureau fails to perform or improperly performs its disclosure obligation, which is referred to in Article 102.1.1, or the obligation of data provision referred to in Article 102.1.2, has failed to implement, within the prescribed time, the recommendations referred to in Article 129.4, or the order referred to in Article 102.1.5., makes it difficult or prevents conducting the inspection referred to in Article 103, and also when the business activity of a money service bureau is conducted in violation of the regulations of law or when it poses a threat to the users' interests, PFSA may apply the measures referred to in Article 105.1.1-3.

6. In the cases referred to in Article 129.5, PFSA may also:

- 1) impose on a managing person, who is directly responsible for the established irregularities, a financial penalty of up to three times of the gross monthly remuneration of such person, calculated on the basis of their average gross remuneration for the last three months before the penalty has been imposed;
- 2) impose a financial penalty on a money service bureau of up to PLN 500,000.

6a. PFSA may issue a decision prohibiting performance of a business activity in the capacity of a money service bureau, in the event whereby:

- 1) the statement referred to in Article 119a.2 has been made contrary to the factual status;
- 2) it has established gross violation of the conditions required by law for conducting the business activity in the capacity of a money service bureau or the obligations provided under the provisions of the Act relating to conducting the business activity in the capacity of a money service bureau.

7. In the event of failure to implement the recommendation or order, referred to in Article 106.1, PFSA may:

- 1) impose the financial penalties referred to in Article 129.6;
- 2) issue the decision referred to in Article 129.6a.

8. The provisions of Article 105.2, Article 105.4, and Article 105.5 and Article 116 shall apply accordingly to the imposition of the penalties referred to in Article 129.6.

9. The decision referred to in Article 129.6a shall become immediately enforceable.

**Article 130.1.** Money service bureaus must pay contributions to cover the costs of supervision in the amount that constitutes the product of the total amount of payment transactions performed by a bureau, including through its agents, and a rate of no more than 0.025%.

2. Amounts due under the contributions referred to in Article 130.1 shall be subject to enforcement pursuant to the provisions of the Act on Enforcement Proceedings in Administration.

3. The President of the Council of Ministers shall specify, by way of regulation:

- 1) the dates, the amount, and the manner of calculation of the payments referred to in Article 130.1,
- 2) the amount and also the manner and the payment dates of the fees referred to in Article 130.1 – taking into account the need to ensure the effectiveness of exercised supervision, and also taking into account that the amount of payments to cover the costs of supervision should not significantly increase the operating costs of the entities obliged to pay them.

**Article 131.1.** A savings and credit union shall notify PFSA of its commencement of activities in the scope of provision of payment services within 30 days of the date of commencement of activities, indicating:

- 1) its (business) name and the registered office and address;
- 2) its number in the register of entrepreneurs;
- 3) a list of the payment services provided;
- 4) the names and addresses of its branches.

2. National Co-operative Savings and Credit Union shall notify PFSA of the completion of activities by a savings and credit union within 14 days of receiving such information, indicating the business activity completion date of such co-operative savings and credit union.

3. The provision of Article 131.2 shall not apply if the completion of the business activity is a result of the decision referred to in Article 74c.3 or Article 74c.4 of the Act on Co-operative Savings and Credit Unions or declaration of bankruptcy.

**Article 132.** (repealed)

## DIVISION VIIA

### **Electronic Money Institutions and Branches of Foreign Electronic Money Institutions**

**Article 132a.1.** The issuance of electronic money and the provision of payment services in the capacity of a domestic electronic money institution shall require obtaining the authorisation of PFSA.

2. The authorisation referred to in Article 132a.1 may be issued to a legal person established in the territory of the Republic of Poland upon its request.

3. The application for the authorisation referred to in Article 132a.1 is subject to the provisions of Article 61.1 and the regulations issued pursuant to Article 61.3, except that the programme of operations and the financial plan shall also include information on the expected average outstanding electronic money.

4. The provisions of Article 61.2 shall apply accordingly to the applicant and the domestic electronic money institution.

**Article 132b.1.** The authorisation referred to in Article 132a.1 may be issued to entities with a minimum initial capital equivalent of the amount of EUR 350,000 in the Polish currency, calculated using the mean exchange rate published by the NBP on the issuance date of the authorisation.

2. The provisions of Article 64.1.2-10, and Article 64a.1-4 and secondary regulations issued under Article 64a.5 shall apply accordingly, except that the risk management and internal controls system referred to in Article 64.1.3 shall additionally contain a description of the procedures of handling funds received in exchange for electronic money issued in accordance with Article 132n and a description of the procedures for reviewing complaints of electronic money holders.

3. The provisions of Article 61a-63, Article 65-67, Article 69, Article 70, and Article 142a shall apply to a refusal to grant the authorisation referred to in Article 132a.1, a change in the scope of payment services specified in the authorisation, expiry of the authorisation as a result of failure to conduct a business activity or failure to start a business activity covered by that authorisation, and to revocation of the authorisation, as well as to the proceedings in a case of issuance, amendment, termination, and revocation of the authorisation.



4. Possession of organisational arrangements by the entity intended to protect the funds received in exchange for electronic money issued in accordance with Article 132n shall be an additional condition for granting the authorisation referred to in Article 132a.1.

5. PFSA may also revoke the authorisation referred to in Article 132a.1, if an electronic money institution, which does not follow the principles of protecting the funds received in exchange for electronic money issued, which are referred to in Article 132n.1, has not concluded a bank guarantee or an insurance guarantee agreement, or the insurance agreement referred to in Article 78.2, in accordance with Article 132n.2.

**Article 132c.1.** An entity which intends to purchase or subscribe, directly or indirectly, shares or interests of a domestic electronic money institution in a number sufficient to reach or exceed 10%, 20%, 30%, or 50% of the total number of votes in a decision-making body or a percentage in the share capital, respectively, or if, as a result of the purchase of or subscription for shares or interests, such institution would become a subsidiary or a co-subsiary of such entity, it shall be obliged to notify PFSA of such intent.

2. In the case referred to in Article 132c.1, the provisions of Article 25.2, Article 25.3, and Article 25.7-9, Article 25a.1 and Article 25a.2, Article 25c-25e, and Article 25g of the Banking Act shall apply accordingly, provided that the provisions relating to a parent company, subsidiary or co-subsiary company referred to in those provisions shall apply to a parent company, a subsidiary or co-subsiary company.

3. If an entity making the notification referred to in Article 132c.1 is:

- 1) an EU electronic money institution, an EU payment institution, an insurance company, a reinsurance company, a credit institution, an investment firm, or management company that has been authorised to perform its business activity in the territory of a Member State other than the Republic of Poland; or
- 2) a parent company or entity remaining in a similar relation to an EU electronic money institution, an EU payment institution, an insurance company, a reinsurance company, a credit institution, an investment firm, or management company that has been authorised to perform its business activity in the territory of a Member State other than the Republic of Poland

- it shall present in the notification applicable information in that respect, indicating in particular the name and the registered address of the entities referred to in Article 132c.2, in relation to which it is a parent company or an entity remaining in a similar relationship.

4. Unless the circumstances referred to in Article 132c.3.1 and Article 132c.3.2 apply, the notification contains a relevant statement in that respect.

5. An entity that intends to sell, directly or indirectly, a qualifying holding of shares or interests of a domestic electronic money institution, or to sell a qualifying holding of shares or interests, as a result of which its percentage in the number of votes in a decision-making body or percentage in the share capital would decrease below 10%, 20%, 30%, or 50%, it shall be obliged to notify PFSA of its intent. In cases where the articles of association of a domestic electronic money institution provide for preference or restrictions of shares or interests in terms of voting rights, the notification shall also include the percentage in the share capital in an amount corresponding to the amounts specified in the first sentence and the corresponding number of votes without preferences and restrictions; the provisions of Article 25.2, Article 25.3, and Article 25.7 of the Banking Act shall apply accordingly.

**Article 132d.1.** An entity submitting the notification referred to in Article 132c.1, along with the notification shall present the following information:

- 1) allowing identification of an entity submitting the notification and identification of its managing persons and persons to assume functions of managing persons of a domestic electronic money institution - as long as an entity making the notification plans any changes in this respect;
- 2) referred to in Article 61.1.9.b and Article 61.1.9.c relating to an entity submitting the notification and the persons referred to in Article 132d.1;
- 3) allowing the identification of a domestic electronic money institution referred to in Article 132c.1;
- 4) concerning professional, business, or statutory activities of an entity submitting the notification and the persons referred to in Article 132d.1, and in particular, the object of activity, scope,

and location of its conduct and its performance so far, as well as education of an entity submitting the notification being a natural person, and of the persons referred to in Article 132d.1;

- 5) regarding the group to which an entity making the notification belongs, in particular, its structure, its member companies and the legal and factual capital, financial, and personal relations with other entities;
- 6) concerning the economic and financial standing of an entity submitting the notification;
- 7) regarding actions aimed at purchasing or subscribing for shares or interests in a number sufficient to reach or exceed the levels referred to in Article 132c.1, or to gain a position of the parent company of a domestic electronic money institution, in particular a target number of votes in a decision-making body of a domestic electronic money institution, powers related to such percentage, the method and sources of financing the purchase of or subscription for shares or interests, agreements executed in connection with those actions, and actions taken in consultation with other entities;
- 8) regarding plans of an entity submitting the notification with respect to future activities of a domestic electronic money institution, in particular in the area of marketing, operational, and financial plans, and concerning the organisation and management matters;
- 9) regarding potential liabilities of an entity submitting the notification in terms of prudent and stable management of a domestic electronic money institution.

2. Information on qualifications and professional experience, as well as the information referred to in Article 61.1.9.b and Article 61.1.9.c is not required in relation to an entity submitting the notification and its management, if an entity submitting the notification is a domestic bank, a credit institution, a payment institution, an electronic money institution, an insurance company, a reinsurance company, a brokerage house, an investment firm, or a management company that has been authorised to perform activities in a Member State, provided such fact is disclosed in the notification.

3. The minister competent for financial institutions shall define, by way of regulation, the documents to be attached to the notification in order to present the information referred to in Article 132d.1, with a view to ensure an adequate proportion of the required information depending on the intended impact of an entity submitting the notification on management of a domestic electronic money institution.

**Article 132e.1.** PFSA shall make, by way of decision, an objection to the purchase of or subscription for shares or interests of a domestic electronic money institution, as indicated in the notification referred to in Article 132c.1, if:

- 1) an entity submitting the notification has failed to supplement within the prescribed period the deficiencies in the notification or the documents and in the information appended to the notification,
- 2) an entity submitting the notification has failed to submit within the prescribed period the additional information or documents requested by PFSA,
- 3) it is justified by a requirement of prudent and stable management of a domestic electronic money institution, because of a possible adverse impact of an entity submitting the notification on that institution or because of the assessment of the financial standing of an entity submitting the notification

- and the provisions of Article 25h.2 and Article 25h.4-6, and Articles 25i-25k of the Banking Act shall apply accordingly.

2. While making the assessment referred to in Article 132e.1.3, PFSA shall take into account the undertaken obligations of an entity submitting the notification referred to in Article 132d.1. 9.

3. In the case of the purchase of or subscription for shares or interests:

- 1) in violation of Article 132c.1, or
- 2) despite the objection made by PFSA referred to in Article 132e.1, or
- 3) before the deadline entitling PFSA to make the objection referred to in Article 132e.1, or
- 4) after the deadline set by PFSA referred to in Article 25h.5 of the Banking Act for the purchase of shares or interests to the extent set out in Article 132c.1

- the voting rights attached to such shares or interests may not be exercised.

4. If the purchase of or subscription for shares in the cases referred to in Article 132d.3 results in exercise of the powers of a parent company of a domestic electronic money institution, persons managing a domestic electronic money institution appointed by a parent company or being members of the management board, proxies, or persons performing managerial functions in a parent company may not participate in any activities relating to the representation of a domestic electronic money institution; if it is not possible to determine which managers have been appointed by a parent company, the appointment of an authority responsible for management of a domestic electronic money institution is ineffective as of the date such entity has obtained the powers of a parent company of a domestic electronic money institution.

5. Resolutions of a decision-making body of a domestic electronic money institution taken in violation of Article 132e.3 are invalid, unless they meet the requirements of a quorum and a majority of the votes cast, without invalid votes. In the cases referred to in Article 132e.3, also PFSA shall be entitled to bring an action for declaring invalidity of a resolution of a decision-making body of an electronic money institution. The provisions of Article 425 of the Act on the Code of Commercial Companies of 15 September 2000 shall apply accordingly.

6. In the case referred to in Article 132e.3 or Article 132e.4, PFSA may, by way of decision, order the sale of shares or interests of a domestic electronic money institution within a prescribed period.

7. If the shares or interests are not sold within the period referred to in Article 132e.6, PFSA may impose on a shareholder of a domestic electronic money institution a financial penalty of up to PLN 1,000,000, or revoke the authorisation referred to in Article 132a.1. The provisions of Article 105.2, Article 105.4, and Article 105.5 and Article 116 shall apply accordingly to the imposition of penalties.

8. Where so required by the interests of the users or electronic money holders, and the applicant demonstrates that the condition referred to in Article 132e.1.3 does not apply, PFSA may, in particularly justified cases, by ways of decision, issued upon request of a shareholder of a parent company of a domestic electronic money institution, repeal the prohibitions referred to in Article 132e.3 or Article 132e.4. Together with the application, the applicant shall submit the information referred to in Article 132d.1.

**Article 132f.1.** If it is justified by principles of prudent and stable management of a domestic electronic money institution, due to the assessment of a financial standing of an entity that has obtained, directly or indirectly, the right to exercise voting rights in such institution's decision-making body at the levels defined in Article 132c.1 or, as a result of the purchase of or subscription for shares or interests, it has become, directly or indirectly, a parent company of a domestic electronic money institution, or due to a possible impact of such entity on such institution, especially, if it is established that such entity does not fulfil the obligations referred to in Article 132d.1.9, PFSA may, by way of decision, prohibit exercising of the voting rights attached to shares or interests of a domestic electronic money institution held by such entity, or exercising of the rights of a parent company such entity is entitled to. While assessing the conditions for issuing of such prohibition, the provision of Article 132e.2 and Article 25h.2 of the Banking Act shall apply accordingly.

2. A resolution of a decision-making body of a domestic electronic money institution shall be invalid, if during its adoption, the voting rights attached to shares or interests, in respect of which PFSA has issued a decision referred to in Article 132f.1 have been exercised, unless the resolution meets the requirements of a quorum and a majority of the votes cast without the invalid votes. PFSA shall also have the right file an action to establish the invalidity of the resolution. The provisions of Article 425 of the Act on the Code of Commercial Companies of 15 September 2000 shall apply accordingly.

3. If, pursuant to Article 132f.1, PFSA has issued a decision on the prohibition to exercise the rights of a parent company of a domestic electronic money institution, the provision of Article 132e.4 shall apply accordingly.

4. In the case of issuing the decision referred to in Article 132f.1, PFSA may, by way of decision, order the sale of shares or interests of a domestic electronic money institution within a prescribed time.

5. If the shares or interests are not sold within the time referred to in Article 132f.4, PFSA may impose a financial penalty on a shareholder of a domestic electronic money institution in the amount

of up to PLN 1,000,000 or revoke the authorisation referred to in Article 132a.1. The provisions of Article 105.2, Article 105.4, Article 105.5 and of Article 116 shall accordingly apply to the imposition of penalties.

5a. If the entity, which is referred to in Article 132c.1, has purchased or subscribed for the shares or the rights attached to the shares, referred to in Article 132c.1, and fail to meet the undertaken obligation referred to in Article 132d.1.9, PFSA may, by way of decision, impose on such entity a financial penalty up to the amount corresponding to the value of such shares or the rights attached to the shares. The value of shares or rights attached to the shares shall be determined as at the date of their purchase or subscription at fair value, referred to in the Accounting Act.

5b. The decision referred to in Article 132f.5a shall become immediately enforceable.

5c. In the decision referred to in Article 132f.5a, PFSA may determine that a financial penalty shall be payable in monthly instalments.

5d. If the entity referred to in Article 132c.1 fulfils the obligation referred to in Article 132d.1.9 prior to the expiry of the date indicated in the decision referred to in Article 132f.5a, PFSA shall issue a decision on remitting the financial penalty referred to in Article 132f.5a:

- 1) in whole, or
- 2) in part corresponding to unpaid future instalments - in the case referred to in Article 132f.5c.

6. Upon request of a shareholder or a parent company of a domestic electronic money institution, PFSA shall revoke the decision issued pursuant to Article 132f.1, if the circumstances justifying such decision have ceased to exist.

7. The provisions of Article 132f.1-6 shall apply accordingly in the case where two or more entities work in agreement, the subject of which is exercising of the voting rights attached to shares or interests at the levels defined in Article 132c.1 or exercising of the rights of a parent company.

**Article 132fa.** In the event of an outstanding financial penalty, referred to in Article 132f.5 or Article 132f.5a, PFSA may order a domestic electronic money institution, a shareholder of which is the entity on which the penalty has been imposed, to transfer any payments made by a domestic electronic money institution to such shareholder for the purpose of the outstanding penalty together with interest in the amount corresponding to such penalty together with interest.

**Article 132g.1.** If the business activity of a hybrid electronic money institution in the scope of not involving the issuance of electronic money or the provision of payment services infringes or may infringe the financial stability of that institution or could limit the ability of exercising supervision, PFSA may, by way of decision, order a hybrid electronic money institution to separate legally and organisationally the activities in the scope of the issuance of electronic money by establishing a new entity that shall conduct such activity.

2. In the decision referred to in Article 132g.1, PFSA:

- 1) defines a period for the establishment of a new entity which will conduct a business activity in the scope of electronic money issuance and the provision of payment services, not shorter than three months;
- 2) may define conditions relating to the manner of separation of the activities in the scope of electronic money issuance and the provision of payment services.

3. The provisions of Article 68.3-5 shall accordingly apply to an entity established in the execution of the decision referred to in Article 132g.1, and to a hybrid electronic money institution.

4. The authorisation referred to in Article 132a.1 issued to a hybrid electronic money institution shall pass to the entity established in the execution of the decision referred to in Article 132g.1, after one month from the date of receipt of a notification by PFSA entering the entity established in the execution of the decision referred to in Article 132g.1 in the register of entrepreneurs or supplementing such notification, unless PFSA objects to the transfer of such authorisation within that period.

5. PFSA, by way of decision:

- 1) shall submit the objection referred to in Article 132g.4, if there are circumstances which would justify a refusal to issue the authorisation referred to in Article 132a.1 to the entity established in the execution of the decision referred to in Article 132g.1, as defined in Article 65;
- 2) may submit the objection referred to in Article 132g.4, if the conditions defined in Article 132g.2.2 have not been met.

6. On the date of transferring the authorisation referred to in Article 132a.1, the entity established in the execution of the decision referred to in Article 132g.1 enters into the rights and obligations of a hybrid electronic money institution with respect to the business activity covered by such authorisation.

7. The authorisation referred to in Article 132a.1 issued to a hybrid electronic money institution shall expire:

- 1) in the case of failure to implement the decision referred to in Article 132g.1 - on expiry of the time referred to in Article 132g.2.1;
- 2) after three months from the date on which the decision on the objection referred to in Article 132g.4 has become final.

8. The provisions of Article 68.10 and Article 68.11 shall apply accordingly.

**Article 132h.** In the case of a merger or demerger of an electronic money institution or acquisition of its undertaking, the authorisation referred to in Article 132a.1 shall not pass to an acquiring entity or an entity newly established as a result of the merger or demerger or to a buyer.

**Article 132i.** Information about an electronic money institution and its operations relating to the issuance of electronic money or the provision of payment services, including advertising information, published by an electronic money institution at its request or on behalf should be presented in a fair and understandable manner.

**Article 132j.1.** In addition to issuing electronic money and providing payment services, an electronic money institution may:

- 1) provide additional services closely related to the issuance of electronic money and the provision of payment services, such as:
  - a) currency exchange services,
  - b) services of safe storage of funds transferred in order to execute payment transactions,
  - c) services of data storing and processing;
- 2) operate payment systems;
- 3) conduct any other business activity.

2. The provision of currency exchange services by an electronic money institution as part of electronic money issuance or the execution of a payment transaction does not constitute an exchange office activity within the meaning of Article 2.1.19 of the Act on Foreign Exchange Law of 27 July 2002.

3. Further to the execution of payment services, an electronic money institution may grant payment credits referred to in Article 74.3, only for the purpose of providing payment services referred to in Article 3.1.3-5 and Article 3.1.7, and provided that such credit is not granted:

- 1) for a period longer than 12 months;
- 2) from the funds received or held for the purpose of executing a payment transaction.

**Article 132k.** If an electronic money institution provides payment services, the object of which is electronic money issued by such institution, such services, for the purposes of calculating own funds and determining contributions to cover the cost of supervision, shall be considered to be a business activity of issuing electronic money.

**Article 132l.** A domestic electronic money institution is required to store documents related to the business activity of issuing electronic money or the provision of payment services for at least five years from the date of their creation or receipt.

**Article 132m.1.** A domestic electronic money institution is required to have at all times own funds adjusted to the size of the business activity of electronic money issuance and the provision of payment services, and to the type of payment services it is allowed to provide on the basis of the authorisation obtained; the provisions of Article 76.2.3 and Article 77.1 shall apply accordingly.

2. The amount of own funds of a domestic electronic money institution may not be lower than the higher of:

- 1) the minimum amount of the initial capital;

- 2) the minimum amount of own funds which are the sum of:
  - a) the amount of own funds devoted for the business activity of electronic money issuance,
  - b) the amount of own funds devoted for the business activity in the scope of payment services not related to the issuance of electronic money, calculated in accordance with regulations issued under Article 132m.7.
3. Where a domestic electronic money institution provides payment credits referred to in Article 74.3, the requirement defined in Article 132m.2 shall be increased by 5% of the total value of the credits granted during the last financial year.
4. The amount of own funds of a domestic electronic money institution referred to in Article 132m.2.2.a) may not be lower than 2% of the average outstanding electronic money.
5. Where a domestic electronic money institution conducts a business activity in the scope of payment services not related to the issuance of electronic money or a business activity referred to in Article 132j.1 and Article 132j.3, and the amount of outstanding electronic money is not known in advance, PFSA shall express its consent to the calculation of the amount of own funds of a domestic electronic money institution referred to in Article 132m.2.2.a) on the basis of a representative portion of financial liabilities, if it considers that such a representative portion of financial liabilities may be estimated on the basis of the existing data.
6. In the case of domestic electronic money institution commencing their business activity during the first six months of their activity the amount of own funds referred to in Article 132m.2.2.a) is calculated based on the average outstanding electronic money as defined in the programme of operations and the financial plan, in accordance with Article 132a.3, and resulting from the issuance of electronic money.
7. The minister competent for financial institutions, after consultation with PFSA, shall determine, by way of regulation, the method of calculating the amount referred to in Article 132m.2.2.b), taking into account that it should not exceed 4% of one-twelfth of the total value of the payment transactions executed during the previous year by a domestic electronic money institution, and taking into account the type of payment services that such institution may provide on the basis of the authorisation held.
8. PFSA may, by way of decision taken on the basis of risk analysis and the assessment of risk-management processes and internal control mechanisms of a domestic national electronic money institution:
  - 1) request a domestic electronic money institution to increase the amount of own funds, however, to an amount not greater than 120% of the amount which would constitute the sum of the amounts calculated in accordance with Article 132m.4-6 and in accordance with regulations issued under Article 132m.7;
  - 2) allow a domestic electronic money institution reducing the amount of own funds, however, to an amount not lower than 80% of the amount which would constitute the sum of the amounts calculated in accordance with Article 132m.4-6 and in accordance with regulations issued under Article 132m.7.

**Article 132n.1.** A domestic electronic money institution shall be obliged to safeguard the funds received in exchange for electronic money issued by applying the following rules:

- 1) funds received in exchange for electronic money issued are not at any time during their storage commingled with funds held by a domestic electronic money institution under another title;
  - 2) funds received in exchange for electronic money issued are:
    - a) deposited on a separate bank account designated for this purpose in a domestic bank, a credit institution, or a branch of a foreign bank, or
    - b) invested in secure, liquid low-risk assets, deposited in a separate account designated for this purpose.
2. The provision of Article 132n.1 shall not apply if the funds are safeguarded as set out in Article 78.2; the provisions of Article 78.3-8 shall apply accordingly, except that the agreement referred to in Article 78.2 includes reimbursement of payments made by a party to this agreement on the issuance of electronic money in exchange for the issue of electronic money in the event of failure to issue an amount corresponding to the payment brought, up to the amount of unissued electronic money.

3. Funds received in exchange for the issuance of electronic money shall be safeguarded not later than from the fifth business day from the date of making the funds available to an electronic money institution.

4. A domestic electronic money institution shall immediately inform PFSA of any significant changes in the method of safeguarding the funds received in exchange for electronic money issued.

**Article 132o.** The minister competent for financial institutions, after consultation with PFSA, shall define, by way of regulation, categories of assets referred to in Article 132n.1.2.b, and the maximum proportion of funds that may be invested in various categories of assets, with a view to ensuring adequate safeguarding of the funds of electronic money holders, including reduction of investment risk associated with such assets.

**Article 132p.1.** In the event of initiation of enforcement proceedings against a domestic electronic money institution, funds located on payment accounts of users and the accounts referred to in Article 132n.1, shall be exempt from seizure on the basis of a judicial or administrative enforcement title.

2. In the event of declaring bankruptcy of a domestic electronic money institution, funds located on payment accounts of users and accounts referred to in Article 132n.1 shall be excluded from the bankruptcy estate.

3. The exemption referred to in Article 132p.1 does not include claims for reimbursement of payments made by a party to the agreement on the issue of electronic money towards the issuance of electronic money.

**Article 132q.** If a domestic electronic money institution conducts a business activity in the scope of payment services, it shall be obliged to safeguard the funds received from users directly or through another provider for the execution of payment transactions under the terms applicable for domestic payment institutions. The provisions of Article 78 and Article 80 and regulations issued pursuant to Article 79 shall apply accordingly.

**Article 132r.** A domestic electronic money institution shall submit to PFSA annual financial statements and annual consolidated financial statements as defined in Article 81, as well as quarterly and additional annual financial statements and statistical information covering the data referred to in Article 83.1.1-4, and information about the type and scope of the business activity referred to in Article 132j.1. The provisions of Article 82 and Article 83.2 and regulations issued pursuant to Article 83.3 shall apply accordingly.

**Article 132s.1.** A domestic electronic money institution may provide payment services through the intermediation of agents.

2. The provisions of Article 84.2, Article 85, and Article 90 shall apply accordingly.

**Article 132t.** A domestic electronic money institution may carry out redemption of electronic money through the intermediation of agents or other entrepreneurs.

**Article 132u.** Domestic electronic money institutions shall ensure that branches through which they operate, as well as the agents and other entrepreneurs, through the intermediation of which they provide payment services, carry out redemption or distribution of electronic money, should inform electronic money holders and users of this fact in a reliable way.

**Article 132v.1.** A domestic electronic money institution may, under an agreement concluded with another entrepreneur in writing, outsource to that entrepreneur the performance of certain operational functions related to the conducted business activity covered by the authorisation referred to in Article 132a.1. The provisions of Article 86.2-6 and Article 87.1 shall apply accordingly.

2. PFSA, by way of decision, shall order a domestic electronic money institution to amend or terminate the agreement referred to in Article 132v.1 within a prescribed time, if:

1) performance of the agreement threatens prudent and stable management of an electronic money institution;

2) an entrepreneur, which is party to the agreement, has lost the required rights necessary to perform that agreement.

3. A domestic electronic money institution may lodge a complaint against the decision of PFSA referred to in Article 132v.2 to an administrative court within 14 days from the date of receipt of the decision; the provisions of Article 127.3 of the Act on the Code of Administrative Procedure of 14 June 1960 shall not apply. Lodging a complaint does not suspend enforcement of the decision.

4. PFSA may apply the measures defined in Article 132za.1 and Article 132za.2, if a domestic electronic money institution has failed to amend or terminate the agreement referred to in Article 132v.1 within the prescribed time.

**Article 132w.** A domestic electronic money institution in scope of the provision of payment services and a business activity involving the issuance of electronic money shall be liable to electronic money users and holders for the actions of its agents and other entrepreneurs, through the intermediation of which it provides payment services or carries out electronic money redemption, as well as the entities engaged in operational functions under the agreement referred to in Article 132v.1, as for its own actions. The provisions of Article 88.2 and Article 88.3 shall apply accordingly.

**Article 132x.1.** A domestic electronic money institution may, in the territory of another Member State, carry out a business activity of issuing electronic money through a branch or as a cross-border business activity and execute payment services resulting from the authorisation referred to in Article 132a.1 through the intermediation of an agent, through a branch, or as a cross-border business activity.

2. A domestic electronic money institution shall notify PFSA of its intent to conduct a cross-border business activity, or, in writing, of its intent to issue electronic money in the territory of another Member State through a branch, or to provide payment services in the territory of another Member State through a branch or an agent, submitting at the same time a request for registration of a branch or agent in the register. The provisions of Article 92.2-5 and Articles 93-95 shall apply accordingly.

3. A domestic electronic money institution shall the PFSA of its intent to redeem electronic money or perform an operating activity involving its distribution in the territory of another Member State through an agent or through another entrepreneur. The provisions of Article 92.3-5 and Article 94 shall apply accordingly.

4. The notification referred to in Article 132x.3 shall include:

- 1) the name of a Member State in the territory of which a domestic electronic money institution intends to redeem electronic money or to perform an operating activity involving its distribution through an agent or through another entrepreneur;
- 2) the (business) name and the registered office and the address of a domestic electronic money institution;
- 3) the name and surname or the (business) name of an agent or another entrepreneur and the registered office and address or the place of residence and address, and the address of the principal place of business;
- 4) a description of internal control mechanisms related to counteracting money laundering and terrorist financing;
- 5) first names and surnames of the persons responsible for managing the business activity of an agent or another entrepreneur;
- 6) activities that the domestic electronic money institution intends to pursue in the territory of the Member State referred to in Article 132x.1 through an agent or another entrepreneur.

**Article 132y.** An EU electronic money institution may pursue a business activity of issuing electronic money in the territory of the Republic of Poland through a branch or as a cross-border business activity, or provide payment services through a branch as a cross-border business activity, or through the intermediation of an agent, to the extent resulting from the authorisation issued by competent supervisory authorities. The provisions of Article 97 shall apply accordingly.

**Article 132z.1.** A business activity in the scope of electronic money issuance and the provision of payment services carried out by domestic electronic money institutions, including their agents and other entrepreneurs, through the intermediation of which a domestic electronic money institution



provides payment services or redeems electronic money, and entities performing certain operational functions on the basis of the agreement referred to in Article 132v.1 shall be subject to supervision by PFSA, to the extent and pursuant the terms defined in this Act and the Act on Financial Market Supervision, hereinafter referred to as “supervision over domestic electronic money institutions”.

2. The purpose of supervision over domestic electronic money institutions is to:

- 1) ensure financial security of domestic electronic money institutions;
- 2) ensure compliance of operations of domestic electronic money institutions, including the activities carried out by their agents and other entrepreneurs, through the intermediation of which a domestic electronic money institution provides payment services and redeems electronic money, as well as entities performing certain operational functions under the agreement referred to in Article 132v.1, with the provisions of the Act, Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 concerning cross-border payments in the Community and repealing Regulation (EC) No 2560/2001, Regulation (EU) No 260/2012 of the European Parliament and the Council of 14 March, 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009, and the authorisation referred to in Article 132a.1;
- 3) safeguard the interests of the electronic money users and holders.

3. The provisions of Article 100, Article 101, Article 102.1.1, Article 102.1.2 and Article 102.1.5, Article 103 and Article 104 shall accordingly apply to supervision over domestic electronic money institutions.

4. As part of supervision over domestic electronic money institutions, PFSA may:

- 1) issue recommendation to domestic electronic money institutions relating to:
  - a) ensuring compliance of a business activity of a domestic electronic money institution with the provisions of the Act, Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September, 2009 concerning cross-border payments in the Community and repealing Regulation (EC) No 2560/2001 and Regulation (EU) No 260/2012 of the European Parliament and the Council of 14 March, 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009,
  - b) increasing own funds, if their amount is lower than it would result from the provisions of the Act or the decision referred to in Article 132m.8,
  - c) taking measures necessary to achieve and comply with the standards referred to in Article 132b.1 and Article 132m,
  - d) developing and applying procedures to ensure the maintenance and ongoing monitoring of a level of own funds,
  - e) taking measures necessary to prevent violations of the interests of the electronic money users and holders;
- 2) order a domestic electronic money institution to withhold profit-sharing payments or to withhold the creation of new organisational units until the time of reaching the standards referred to in Article 132b.1 and Article 132m.

5. PFSA may issue recommendations concerning best practices for prudent and stable management of domestic electronic money institutions with a view to protect the interests of the electronic money holders and users.

**Article 132za.1.** If it is found that a domestic electronic money institution does not perform or improperly performs the obligation of providing the information referred to in Article 102.1.1 or of transferring the data referred to in Article 102.1.2, it has failed to perform within the prescribed period the recommendations referred to in Article 132z.4.1, makes it difficult or impossible to carry out the inspection referred to in Article 103, or does not execute orders referred to in Article 132z.4.2 or Article 102.1.5, and also where the business activity operations of a domestic electronic money institution is carried out in violation of law or threatens the interests of electronic money holders or users, PFSA may apply the measures referred to in Article 105.1.1-3. The provisions of Article 105.4 and Article 105.5 shall apply accordingly.

2. In the cases referred to in Article 132za.1, PFSA may also:

- 1) impose on a managing person, who is directly responsible for the established irregularities, a financial penalty of up to three times of the gross monthly remuneration of such person, calculated on the basis of their average gross remuneration for the last three months before the imposition of the penalty;
  - 2) impose on a domestic electronic money institution a penalty of up to PLN 1,000,000;
  - 3) revoke the authorisation referred to in Article 132a.1; the provisions of Article 105.4 and Article 105.7 shall apply accordingly.
3. If the disseminated information referred to in Article 132i is or may be misleading, PFSA may:
- 1) issue to an electronic money institution the recommendation referred to in Article 132z.4.1.a to discontinue its dissemination; the provisions of Article 132za.2.3 and the provisions of Article 105.1.1-3 shall not apply;
  - 2) order, by way of decision, the announcement of a correction in the specified form and within the prescribed period; when ordering the announcement of a correction, PFSA may specify its content.
4. PFSA may impose the financial penalties referred to in Article 132za.2.1 and Article 132za.2.2 also in the event of failure to implement the order referred to in Article 132za.3.2.
5. The provisions of Article 105.2, Article 105.4, and Article 105.5 and Article 116 shall accordingly apply to the imposition of the penalties referred to in Article 132za.2.1 and Article 132za.2.2.
6. PFSA may also suspend a managing person in the case:
- 1) of presenting charges to such person under criminal proceedings or proceedings for a fiscal offence;
  - 2) that person causes substantial financial losses of a domestic electronic money institution.

**Article 132zb.1.** If an EU electronic money institution or its agent conducting its business activity in the territory of the Republic of Poland violates the provisions of Polish law, PFSA shall apply the measures referred to in Article 107.1. The provision of Article 107.2 shall apply accordingly.

2. If, despite the supervisory measures applied by the competent authorities of a home Member State, an EU electronic money institution or its agent pursuing a business activity in the territory of the Republic of Poland continues not to comply with the provisions of the Act, PFSA may respectively apply the measures defined in Article 105.1.1 and Article 105.1.3, and Article 132za.2.1.

3. The provision of Article 132zb.2 shall also apply in cases where:

- 1) the measures applied by the competent supervisory authorities of a home Member State have proven to be inadequate to the breach occurring or impossible to apply in the territory of the Republic of Poland;
- 2) the competent authorities of a home Member State, without justification, refuse to apply the supervisory measures or unreasonably delay their application.

4. If the application of the procedure referred to in Article 132zb.1 would result in undue delay, which might directly threaten important interests of the electronic money users or holders, PFSA may apply the measures referred to in Article 105.1.1 and Article 105.1.3, and Article 132za.2.1, without following such procedure.

5. The provisions of Article 107.6-8 shall apply accordingly.

**Article 132zc.** With respect to exercising supervision over domestic electronic money institutions, the provisions of Articles 108-112 shall apply accordingly.

**Article 132zd.** With respect to the rehabilitation proceedings and liquidation of domestic electronic money institutions and branches of electronic money institutions, the provisions of Article 142 and Articles 145-157 of the Banking Act shall apply accordingly. The provision of Article 117.2 shall apply accordingly.

**Article 132ze.1.** Domestic electronic money institutions are obliged to pay contributions to cover the costs of supervision. The contributions are paid in the amount equal to a product determined as at 1 January of the year of being an arithmetic average of the sums of financial

liabilities relating to electronic money issued calculated at the end of each calendar day during the preceding twelve calendar months, and the rate not exceeding 0.075%.

2. When calculating the average referred to in Article 132ze.1, the liabilities of a domestic electronic money institution resulting from the implementation of the activities excluded by Article 6 are not taken into account, regardless of whether the exclusion is dependent on the provision of other services.

3. Domestic electronic money institutions providing payment services, apart from the contributions to cover the cost of supervision referred to in Article 132ze.1 are obliged to pay contributions to cover the cost of supervision under the terms defined in Article 113. Provisions issued pursuant to Article 115 relating to contributions shall apply accordingly.

4. The amounts due under the contributions referred to in Article 132ze.1 are subject to enforcement in the manner set out in the regulations of the Act on Enforcement Proceedings in Administration.

**Article 132zf.1.** The following shall be subject to a fee:

- 1) issuing and amending the authorisation referred to in Article 132a.1, except in the case where the amendment involves only limiting the type of payment services to the provision of which a domestic electronic money institution is authorised;
- 2) making an entry in the register, with the exception of the entry associated with the issuance or amendment of the authorisation referred to in Article 132a.1.

2. The fees referred to in Article 132zf.1 are used to cover the costs of supervision. The sum of the fees paid in a given year by domestic electronic money institutions reduces the total amount of the contributions to be paid to cover the cost of supervision due from such institutions in accordance with Article 132ze; the provisions of Article 114.2 and Article 114.4 shall apply accordingly.

**Article 132zg.** The President of the Council of Ministers shall specify, by way of regulation:

- 1) the dates, the amount, and the manner of calculation of the payments referred to in Article 132ze.1,
- 2) the manner and dates of settling the amounts due under the payments referred to in Article 132ze.1,
- 3) the amount and also the manner and the payment dates of the fees referred to in Article 132zf - taking into account the nature of the actions, which involve an obligation to pay fees and the need to ensure the effectiveness of exercised supervision over domestic electronic money institutions, and also taking into account that the amount of payments to cover the costs of supervision and of fees should not significantly increase the operating costs of the entities obliged to pay them.

**Article 132zh.1.** Pursuing a business activity in the scope of the issuance of electronic money by a branch of a foreign electronic money institution in the territory of the Republic of Poland requires the authorisation of PFSA.

2. With regards to branches of a foreign electronic money institution, the provisions concerning domestic electronic money institutions, including Article 132zi and Article 132zj, shall apply accordingly.

**Article 132zi.1.** In addition to the business activity of issuing electronic money, a branch of a foreign electronic money institution may also provide additional services closely related to the issuance of electronic money.

2. The authorisation referred to in Article 132zh.1 may be issued, if the funds earmarked for the operations of a branch of a foreign electronic money institution, separated from the initial capital of a foreign electronic money institution are at least equivalent to the amount of EUR 350,000 in the Polish currency, calculated using the average exchange rate announced by the National Bank of Poland prevailing on the issuance date of the authorisation.

3. A branch of a foreign electronic money institution may not, based on the authorisation referred to in Article 132zh.1, conduct the business activity of issuing electronic money in the territory of another Member State, including a cross-border business activity.

**Article 132zj.1.** Branches of foreign electronic money institutions are obliged to pay contributions to cover the costs of supervision. The contributions are paid in the amount equal to a product of an arithmetic average sum of the financial liabilities determined as at 1 January of the year relating to the electronic money issued calculated at the end of each calendar day during the preceding twelve calendar months and the rate not exceeding 0.075%. The provisions of Article 132ze.2 and Article 132ze.4 shall apply accordingly.

2. The following shall be subject to a fee:

- 1) issuing and amending the authorisation referred to in Article 132zh.1;
- 2) making an entry in the register, with the exception of the entry associated with the issuance or amendment of the authorisation referred to in Article 132zh.1.

3. The sum of the fees paid in a given year by the branch of foreign electronic money institutions reduces the total amount of the contributions to be paid to cover the cost of supervision due from such institutions in accordance with Article 132zj.1; the provisions of Article 114.2 and Article 114.4 shall apply accordingly.

4. The provisions issued under Article 132zg shall accordingly apply to the contributions referred to in Article 132zj.1 and the fees referred to in Article 132zj.2.

**Article 132zk.** PFSA shall notify the European Commission of all authorisations granted to the branches of foreign electronic money institutions.

## DIVISION VIIB

### Payment Schemes

**Article 132zl.** Actions undertaken by the President of the NBP under supervision referred to in Article 14.2 shall in particular consist in:

- 1) issuing an authorisation to operate a payment scheme and an authorisation to change the operating rules of a payment scheme;
- 2) making an assessment of the functioning of payment schemes;
- 3) requesting presentation of information or documents required for the assessment of the functioning of a payment scheme;
- 4) obtaining information on a conducted business activity;
- 5) issuing recommendations;
- 6) issuing a decision on stopping temporarily, partially, or completely the functioning of a payment scheme or on revoking an authorisation to operate a payment scheme;
- 7) imposing financial penalties.

**Article 132zm.1.** Operation of a payment scheme shall require an authorisation of the President of the NBP.

2. A change of the functioning rules of a payment scheme shall also require an authorisation of the President of the NBP.

3. The President of the NBP shall issue the authorisation referred to in Article 132zm.1 and Article 132zm.2, if the rules governing access to a payment scheme are determined pursuant to objective, equal, and proportionate criteria, and restrictions in access to such scheme may not be bigger than it is necessary in view of the protection against specific types of risk, such as settlement risk, operational risk, and business risk and in view of the financial and operational protection of the stability of a payment scheme.

**Article 132zn.1.** A payment organisation shall submit an application for the issuance of the authorisation referred to in Article 132zm.1 or Article 132zm.2 at least three months prior to the planned commencement of the functioning of a payment scheme or at least three months prior to the planned introduction of changes in the functioning rules of a payment scheme.

2. An execution date of the first agreement on issuance of a given payment instrument with an issuer conducting a business activity in the territory of the Republic of Poland or a date of issue of the first payment instrument in the territory of the Republic of Poland shall be considered as the commencement of the functioning of a payment scheme referred to in Article 132zn.1.

3. The application referred to in Article 132zn.1 shall be appended by a payment organisation with documents and shall provide the information confirming compliance of a payment scheme with the requirements defined in Article 132zp, and shall also indicate its business name and registered office and the name and registered office of an entity responsible for the operation of a payment scheme in compliance with such requirements, together with determination of its scope of responsibilities.

4. If a payment scheme is a card-based payment scheme, the application referred to in Article 132zn.1 shall be appended by a payment organisation also with the documents and shall provide the information confirming compliance of the functioning rules of a payment scheme determined by it with the requirements defined in Regulation (EU) 2015/751.

5. The President of the NBP shall refuse to issue the authorisation referred to in Article 132zm.1 or Article 132zm.2, if:

- 1) the functioning rules of a payment scheme are not compliant with the provisions of law, or
- 2) security or effectiveness of the functioning of a payment scheme or a payment system in which payments within a payment scheme are executed, processed, settled or in which payments are cleared has not been provided, or
- 3) the functioning rules of a payment scheme do not meet the requirements defined in Article 132zm.3 or Article 132zp.4.

6. The President of the NBP shall issue the authorisation referred to in Article 132zm.1 or Article 132zm.2, or shall refuse its issuance within a period of 3 months from the receipt date of the application or its supplement.

**Article 132zo.1.** The authorisation referred to in Article 132zm.1 or Article 132zm.2 shall not be required, if:

- 1) a payment organisation is at the same time the only issuer of a payment instrument and the only entity providing the service referred to in Article 3.1.5, or
- 2) a payment organisation is subject to supervision of a competent supervisory authority of a Member State other than the Republic of Poland or a competent authority of the European Union.

2. In the case referred to in Article 132zo.1.2 in order to commence the operation of a payment system in the territory of the Republic of Poland, a payment organisation shall inform the President of the NBP on subjecting the functioning rules of a payment scheme to the assessment by a competent supervisory authority of a Member State other than the Republic of Poland or a competent authority of the European Union at least a month before the planned commencement of the functioning of a payment scheme in the territory of the Republic of Poland. In such case, a payment organisation shall attach a description of a relevant document confirming performance of the assessment of the functioning rules of a payment scheme together with the documentation that has been subject to such assessment and the information on the types of payment instruments that shall be issued in the territory of the Republic of Poland.

3. In the case referred to in Article 132zo.1.2 in order to introduce changes in the functioning rules of a payment system, a payment organisation shall inform the President of the NBP at least a month before the planned introduction of such changes, attaching the documents and information relating to such changes.

4. In the case referred to in Article 132zo.1.2, a payment organisation may commence the operation of a payment scheme in the territory of the Republic of Poland or change its functioning rules, if the President of the NBP within a month of provision of the documents and information does not establish that the functioning rules of a payment scheme do not sufficiently ensure security or effectiveness of the functioning of a payment scheme or infrastructure, payment systems, or payment schemes to which a payment scheme is linked.

5. In the case referred to in Article 132zo.1.2, if the President of the NBP establishes that the functioning rules of a payment scheme do not ensure sufficient security or the effectiveness of the functioning of a payment scheme or infrastructure, payment systems, or payment schemes to which a payment scheme is linked, he shall call upon a payment organisation to apply for the authorisation referred to in Article 132zm.1.

6. The provision of Article 132zo.1.2 shall not apply if a change of the functioning rules of a payment scheme relates only to the functioning of a payment scheme in the territory of the Republic of Poland. In such case Article 132zn.1 and Article 132zn.3-6 shall apply accordingly.

7. In the case referred to in Article 132zo.1.2, if a payment scheme is a card-based payment system, a payment card organisation shall provide the President of the NBP with information confirming compliance of the functioning rules of a payment card system established by it with the requirements defined in Regulation (EU) 2015/751 at least two months before the planned date of commencement of the functioning of a payment card system in the territory of the Republic of Poland. A payment card system may commence its functioning in the territory of the Republic of Poland, if the President of the NBP, within two months of the provision of the information, does not establish non-compliance of the functioning rules of a payment card system with the requirements defined in Regulation (EU) 2015/751.

**Article 132zp.1.** A payment organisation shall be responsible for compliance of the functioning of a payment scheme with the provisions of law and for ensuring security and the effectiveness of the functioning of a payment scheme. If another participant is responsible for certain functions within a payment scheme, a payment organisation shall indicate such entity and define the scope of its responsibilities.

2. A name of a payment scheme shall clearly be differentiated from names of other payment schemes and payment systems.

3. The functioning rules of a payment scheme shall:

- 1) define its name and types of payment instruments offered within a payment scheme;
- 2) indicate currencies in which processing and settling of payment transactions executed with payment instruments issued within a payment scheme shall be done;
- 3) indicate infrastructure, payment systems and payment schemes to which the functioning of a payment scheme shall be related;
- 4) indicate a processing entity providing payment transaction processing within the meaning of Article 2(28) of Regulation (EU) 2015/751, if a payment scheme is a four-party payment card scheme referred to in Article 2(17) of Regulation (EU) 2015/751;
- 5) define in an exhaustive and unambiguous manner the requirements for issuers of payment instruments, merchants, users and entities to which a payment organisation outsources tasks related to the ongoing functioning of a payment scheme, including providers of technical infrastructure, especially to allow determining responsibility with regard to processing and settling of payment transactions;
- 6) ensure transparency of flows of funds among entities participating in a payment scheme and users;
- 7) indicate a manner of managing individual types of risk present further to the functioning of a payment scheme;
- 8) provide entities participating in a payment scheme and users with reliable information on risk, especially financial risk related to participation in a payment scheme;
- 9) ensure secure and effective processing, settling, and clearing of payment transaction for the purpose of mitigating financial risk in the process of processing, settling, and clearing;
- 10) provide a level of security, reliability, and operational continuity of a payment scheme corresponding to the level of generated risk;
- 11) not cause threats to the stability of a payment system;
- 12) ensure effectiveness, reliability, and transparency of payment scheme management;
- 13) indicate organisational arrangements of a payment organisation in terms of the structure and decision-making procedures concerning a business activity consisting in the processing of payment transactions and the manner of determining the costs of such business activity, if a payment organisation is not, at the same time, the only issuer of a payment instrument and the only entity providing the service referred to in Article 3.1.5, unless the processing of payment transactions has been outsourced to a third-party entity.

4. A payment scheme may not introduce:

- 1) restrictions on effective participation in other payment schemes;
- 2) rules that would introduce a different way of treating the providers referred to in Article 4.2;
- 3) restrictions in terms of a type of an entity or a legal form of a conducted business activity.

**Article 132zq.1.** By the last day of the month following the month ending a given quarter, a payment organisation shall provide the NBP with quarterly information on the total number and the value of processed and settled domestic payment transactions and shall immediately provide the information on events occurring pertaining to operation of a payment scheme that have or may have an adverse impact on the effective and secure functioning of a payment scheme.

2. In relation to the payment scheme referred to in Article 132zo.1.2 the information referred to in Article 132zq.1 may be obtained by the NBP from a competent supervisory authority indicated by a payment organisation, if the scope and frequency of provision of such information is the same.

3. By the last day of the month following the month ending a given quarter, a card payment organisation shall provide the NBP with quarterly information required for checking whether the amount of interchange fees applied in accordance with Article 3 and Article 4 of Regulation (EU) 2015/751 is correct.

4. Upon request of the President of the NBP a payment organisation shall provide the NBP with the information and documents to the extent defined in Article 1 32zp.3, which are required for the assessment of compliance of the functioning rules of a payment scheme with provisions of law and to ensure security and the effectiveness of its functioning, within two weeks from the receipt date of such request. In justified cases, the President of the NBP, upon request of a payment organisation, may extend the period for the provision of the information and documents by another two weeks.

5. A payment organisation shall be obliged to provide the NBP with consolidated texts of the documents defining the functioning rules of a payment scheme within a month from the receipt date of the authorisation to change the functioning rules of a payment scheme.

6. The President of the NBP may, by way of decision, issue recommendations to a payment organisation in the scope of ensuring compliance of the functioning of a payment scheme with provisions of law and security and the effectiveness of its functioning, within a time prescribed in a recommendation.

7. A payment organisation that fails to implement the recommendations referred to in Article 132zq.6, in the scope of violating the obligations defined in:

- 1) Article 6-8, Article 10, or Article 11 of Regulation (EU) 2015/751, shall be subject to a financial penalty of up to PLN 1,000,000;
- 2) Article 3, Article 4, or Article 5 of Regulation (EU) 2015/751, shall be subject to a financial penalty of up to PLN 5,000,000.

8. While determining the amount of the financial penalty referred to in Article 132zq.7, the President of the NBP shall in particular consider the type and importance of violation of the provisions of Regulation (EU) 2015/751, impact of such violation of the correct functioning of a financial service market, the size of a conducted business activity, and the financial condition of a payment organisation that has committed such violation.

9. (repealed)

10. (repealed)

**Article 132zr.1.** The President of the NBP may issue a decision on stopping temporarily, partially, or completely the functioning of a payment scheme or on revoking an authorisation to operate a payment scheme, if it has been established that:

- 1) operation of a payment scheme:
  - a) is contrary to the provisions of law,
  - b) does not ensure security or the effectiveness of its functioning,
  - c) creates a threat to the users, stability of a payment system, security or the effectiveness of the functioning of related payment systems;
- 2) a payment scheme has not been operating for the last 12 months;
- 3) a payment organisation has failed to provide the information and the documents referred to in Article 132zq.4 within the prescribed time;
- 4) a payment organisation has failed to implement a recommendation issued by the President of the NBP within a time prescribed in such recommendation;
- 5) changes to the functioning rules of a payment scheme have been made without obtaining the authorisation referred to in Article 132zm.2.

2. A payment organisation shall cease operating a payment scheme to the extent and at the date indicated in the decision referred to in Article 132zr.1.

**Article 132zs.1.** The NBP shall maintain and put up on its website a list of payment schemes operated in the territory of the Republic of Poland. The list shall contain the information on the name and registered office of a payment organisation or other entities responsible for the functioning of a payment scheme, the name of a payment scheme and types of payment instruments issued within such scheme.

2. If the decision referred to in Article 132zr.1 is issued, the President of the NBP shall put up on the website information about stopping temporarily, partially, or completely the functioning of a payment scheme or shall remove a payment scheme from the list referred to in Article 132zs.1, as from the date on which the decision has become final.

**Article 132zt.** The provisions of this Division shall not apply to the payment schemes that are operated pursuant to Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 by competent authorities responsible for ensuring compliance with that Regulation.

**Article 132zu.1.** The documents and information referred to in Article 132zn.1, Article 132zn.3, Article 132zn.4, Article 132zo.2, Article 132zo.3, and Article 132zo.7, and Article 132zq.4 and Article 132zq.5 shall be provided electronically.

2. The documents and information referred to in Article 132zq.1 and Article 132zq.13 shall be provided electronically using suitable certificates issued by the NBP or other ways of authentication used by the NBP.

3. The documents and information referred to in Article 132zn.3 and Article 132zn.4, Article 132zo.2 second sentence and in Article 132zq.4 and Article 132zq.5 and the documents and information attached in the case referred to in Article 132zo.3 may be provided in English. In the case of the actions referred to in Article 5 of the Act on the Polish Language of 7 October 1999 (Journal of Laws of 2018, item 931 and 1669), they may be done in Polish or English.

**Article 132zv.** The minister competent for financial institutions, after consulting the President of the NBP shall define, by way of regulation:

- 1) the assessment criteria of a payment scheme and a detailed scope of the documents and information referred to in Article 132zn.3 and Article 132zn.4,
  - 2) a detailed scope of the documents and information referred to in Article 132zo.2 and Article 132zo.7,
  - 3) a detailed scope of the information referred to in Article 132zq.1 and Article 132zq.3
- having regard to the necessity of ensuring the correctness, security, and effectiveness of the functioning of a payment scheme and the related infrastructure, payment systems and payment schemes and the completeness and reliability of the provided information and documents.

## DIVISION VIII

### The Register of Providers and Electronic Money Issuers

**Article 133.1.** PFSA shall maintain a register in an information technology system.

2. The register shall be public and accessible to third parties through the website of PFSA.

3. The register shall consist of:

- 1) the register of domestic payment institutions, including also their agents and branches;
- 2) the register of savings and credit unions, including also their branches;
- 3) the register of money service bureaus, including also their agents and branches;
- 4) the register of domestic electronic money institutions, including also their agents and branches;
- 5) the register of branches of foreign electronic money institutions;



- 6) the register of registered account information service providers, including also their agents and branches, if they provide payment services in a Member State other than their home Member State;
- 7) the register of small payment institutions, including also their agent;
- 8) the register of entities conducting the business activity referred to in Article 6.11.a or Article 6.11.b, to which the provision of Article 6c.1 applies, containing the information provided in the notification referred to in Article 6c.1, being a description of the offered services;
- 9) the register of entities conducting the business activity referred to in Article 6.12, containing the information provided in the notification referred to in Article 6d.1, being a description of the offered services.

**Article 134.** The register of domestic payment institutions contains respectively:

- 1) the number of an entry in the register;
- 2) the data on a domestic payment institution, including:
  - a) its business (name),
  - b) its number in the register of entrepreneurs,
  - c) its registered office and address;
- 3) the information about the payment services that a domestic payment institution is authorised to provide, including:
  - a) the issue date of the authorisation referred to in Article 60.1 and of amendments to it,
  - b) the list of payment services falling within the scope of the authorization referred to in Article 60.1;
- 3a) the information on the issuance of electronic money by a domestic electronic money institution;
- 4) the data of agents of a domestic payment institution pursuing agency activities in the provision of payment services, including:
  - a) the first name and surname or (business) name of an agent,
  - b) the registered office and address or the address of the principal place of business of an agent;
- 5) the data on branches of a domestic payment institution established in a Member State other than the Republic of Poland, including:
  - a) the (business) name of a branch,
  - b) the address of a branch;
- 6) the information about provision of the payment services by a domestic payment institution in another Member State, including:
  - a) a list of the states in which a domestic payment institution provides its payment services,
  - b) the information specified in Article 134.4 or Article 134.5 concerning an entity through which a domestic payment institution provides its payment services in another Member State or the information on provision of such services as cross-border ones,
  - c) a list of the payment services provided.

**Article 135.** The register of savings and credit unions contains, respectively:

- 1) the number of an entry in the register;
- 2) the data on a savings and credit union, including:
  - a) its business (name),
  - b) its number in the register of entrepreneurs,
  - c) its registered office and address;
- 3) a list of the payment services provided;
- 4) the data on branches of a savings and credit union, including:
  - a) the business (name) of a branch,
  - b) the address of a branch.

**Article 136.** The register of money service bureaus contains, respectively:

- 1) the number of an entry in the register;
- 2) the data on a money service bureau, including:
  - a) business (name),

- b) the number in the register of entrepreneurs of the National Court Register, if a money service bureau has such number and the tax identification number (NIP),
- c) the registered office and address or the place of residence and address and the address of the principal place of business,
- d) indication of the payment service provided;
- 3) the data on agents of a money service bureau, including:
  - a) the first name and surname or (business) name of an agent,
  - b) the registered office and address or the address of the principal place of business of an agent;
- 4) the data on branches of a money service bureau, including:
  - a) the business (name) of a branch,
  - b) the address of a branch.

**Article 136a.** The register of domestic electronic money institutions contains, respectively:

- 1) the number of an entry in the register;
- 2) the data on a domestic electronic money institution, including:
  - a) its business (name),
  - b) its number in the register of entrepreneurs,
  - c) its registered office and address;
- 3) the information on the payment services to the provision of which a domestic electronic money institution is authorised, including:
  - a) issue date of the authorisation referred to in Article 132a.1, and its amendments,
  - b) a list of the payment services covered by the authorisation referred to in Article 132a.1;
- 4) the data on the agents of a domestic electronic money institution engaged in agency activities involving the provision of payment services, including:
  - a) the first name and surname or (business) name of an agent,
  - b) the registered office and address or the address of the principal place of business of an agent;
- 5) the data on branches of a domestic electronic money institution, including:
  - a) the business (name) of a branch,
  - b) the address of a branch;
- 6) the data on the issuance of electronic money or the provision of payment services by a domestic electronic money institution in another Member State, including:
  - a) a list of countries in which a domestic electronic money institution issues electronic money or provides payment services,
  - b) the data referred to in Article 136a.4 or Article 136a.5 on an entity through the intermediation of which a domestic electronic money institution conducts a business activity in another Member State,
  - c) a list of the payment services provided.

**Article 136b.** The register of branches of a foreign electronic money institution contains, respectively:

- 1) the number of an entry in the register;
- 2) the data on a branch of a foreign electronic money institution, including:
  - a) the business (name) of a branch,
  - b) the number in the register of entrepreneurs,
  - c) the address of a branch;
- 3) the data on a business activity related to the issuance of electronic money, including the date of the authorisation referred to in Article 132zh.1, and its amendments.

**Article 136c.** The register of registered account information services providers contains:

- 1) the number of an entry in the register;
- 2) the data on a registered account information service provider, including:
  - a) the first name and surname or (business) name,

- b) the number in the register of entrepreneurs of the National Court Register, if a registered account information service provider has such number and the tax identification number (NIP),
  - c) the place of residence and address or the registered office and address of the principal place of business,
  - d) indication of the payment service provided;
- 3) the data on agents of a registered account information service provider pursuing agency activities in the provision of payment services, including:
    - a) the first name and surname or (business) name of an agent,
    - b) the place of residence and address or the registered office and address of the principal place of business;
  - 4) the data on branches of a registered account information service provider, including:
    - a) the business (name) of a branch,
    - b) the address of a branch;
  - 5) the data on the provision of payments services in another Member State by a registered account information service provider, including:
    - a) a list of Member States in which a registered account information service provider provides payment services,
    - b) the data referred to in Article 136c.3 or Article 136c.4 on an entity through the intermediation of which a registered account information service provider provides payment services in another Member State,
    - c) indication of the payment service provided.

**Article 136d.** The register of small payment institutions contains:

- 1) the number of an entry in the register;
- 2) the data on a small payment institution, including:
  - a) the first name and surname or (business) name,
  - b) the number in the register of entrepreneurs of the National Court Register, if a small payment institution has such number and the tax identification number (NIP),
  - c) the place of residence and address or the registered office and address of the principal place of business,
  - d) a list of the payment services, which is referred to in Article 117j.2.1;
- 3) the data on agents of a small payment institution, including:
  - a) the first name and surname or (business) name of an agent,
  - b) the place of residence and address or the registered office and address of the principal place of business pursued by an agent;
- 4) the data on branches of a small payment institution, including:
  - a) the business (name) of a branch,
  - b) the address of a branch.

**Article 136e.** The register of entities conducting the business activity referred to in Article 6.11.a or Article 6.11.b to which the provision of Article 6c.1 applies, contains:

- 1) the number of an entry in the register;
- 2) the data on an entity, including:
  - a) the first name and surname or (business) name,
  - b) the number in the register of entrepreneurs of the National Court Register, if such entity has such number and the tax identification number (NIP),
  - c) the place of residence and address or the registered office and address of the principal place of business,
  - d) the information provided in the notification referred to in Article 6c.1, including a description of the services offered and an indication of the exclusion referred to in Article 6.11.a or Article 6.11.b.

**Article 136f.** The register of entities conducting the business activity referred to in Article 6.12 contains:

- 1) the number of an entry in the register;

- 2) the data on an entity, including:
  - a) the first name and surname or (business) name,
  - b) the number in the register of entrepreneurs of the National Court Register, if such entity has such number and the tax identification number (NIP),
  - c) the place of residence and address or the registered office and address of the principal place of business,
  - d) the information provided in the notification referred to in Article 6d.1, including a description of the services offered and an indication of the exclusion referred to in Article 6.12.

**Article 137.1.** An entry in the register and removal of an entry from the register shall be made upon request, unless the Act provides otherwise.

2. An entry in the register shall also be understood to mean an amendment to it.

2a. After an entity has been removed from the register, information shall remain in the register that such removal has been made by including an annotation next to the name of such entity reading "Removed".

3. PFSA shall, ex officio, correct entries in the register that contain clerical errors or obvious mistakes.

**Article 138.1.** An entry in the register of a domestic payment institution or a domestic electronic money institution, and an entry in the register of an amendment of the scope of payment services provided by them, as well as an entry in the register of a branch of a foreign electronic money institution shall be made ex officio within 14 days from the date of issue of the authorisation referred to in Article 60.1, Article 132a.1, or Article 132zh.1, or its amendment.

1a. An entry in the register upon request of the entities referred to in Article 138.1 shall be made within 30 days of the date of receipt of the request for making an entry with the exclusion of cases, where the provisions of the Act provide for a separate date for making an entry.

2. An entry of a savings and credit union in the register shall be made by PFSA ex officio within 14 days of the date of receipt of the notification referred to in Article 131.1.

**Article 139.1.** Domestic payment institutions, small payment institutions, registered account information service providers, money service bureaus, savings and credit unions, domestic electronic money institutions, and branches of foreign electronic money institutions, entities conducting the business activity referred to in Article 6.11.a or Article 6.11.b to which the provision of Article 6c.1 applies and the entities conducting the business activity referred to in Article 6.12 are obliged to ensure the conformity of the information entered at their request in the register with the factual status.

2. The entities referred to in Article 139.1 are obliged to inform PFSA about every change in the information contained in an entry in the register not later than 14 days after the date on which they become aware of the information about the change, by submitting an appropriate request.

3. In the event of a breach of the obligation referred to in Article 139.2, PFSA may impose on the entity referred to in Article 139.1 a financial penalty not exceeding PLN 500 for each day of delay and of not more than PLN 100,000; the provisions of Article 105.2, Article 105.4, and Article 105.5 and Article 116 shall apply accordingly.

**Article 140.** A refusal to make an entry in the register occurs by way of administrative decision.

**Article 141.1.** PFSA may refuse to make an entry in the register if the application is incomplete and if supplementary information has not been supplied within the prescribed time or the information contained in the application is inconsistent with the factual status.

2. PFSA shall refuse to make an entry in the register of a natural person who has been validly prohibited from conducting a business activity in the scope covered by the entry.

3. In the case of a payment service bureau, PFSA shall refuse to make an entry also, if the applicant has been removed from the register pursuant to Article 142.1a.1 within a period of three years preceding submission of the application.

**Article 142.1.** PFSA shall, ex officio, remove an entry from the register in the event of:

- 1) the revocation or expiry of the authorisation referred to in Article 60.1, Article 132a.1, and Article 132zh.1;
- 2) winding up of a business activity by a savings and credit union pursuant to the notification referred to in Article 131.2;
- 3) winding up of a business activity by a money service bureau or a business activity as a money service bureau pursuant to the notification referred to in Article 123, not earlier than on the date given in the notification;
- 4) a final judgement against a natural person entered in the register prohibiting to conduct a business activity in the scope covered by the entry;
- 5) winding up of a business activity pursued by an entity conducting the business activity referred to in Article 6.11.a or Article 6.11.b or the business activity referred to in Article 6.11.a or Article 6.11.b pursuant to the notification referred to in Article 6c.8, not earlier than on the date given in the notification;
- 6) winding up of a business activity pursued by an entity conducting the business activity referred to in Article 6.12 or the business activity referred to in Article 6.12 pursuant to the notification referred to in Article 6d.8, not earlier than on the date given in the notification;
- 7) winding up of a business activity pursued by a small payment institution or a business activity conducted in the capacity of a small payment institution pursuant to the notification referred to in Article 117m, not earlier than on the date given in the notification;
- 8) winding up of a business activity pursued by a registered account information service provider or a business activity conducted in the capacity of a registered account information service provider pursuant to the notification referred to in Article 117b.8, not earlier than on the date given in the notification.

1a. PFSA shall, ex officio, remove a money service bureau from the register of money service bureau, if:

- 1) the decision referred to in Article 129.6a has been issued;
- 2) (repealed)
- 3) a bureau has been removed from the register of entrepreneurs of the National Court Register or the Central Registration and Information on Business.

1b. A money service bureau, which, ex officio, has been removed from the register of money service bureau in the case referred to in Article 142.1a.1, may be entered in the register again, not earlier than after expiry of three years from the removal date.

1c. The provisions of Article 142.1a and Article 142.1b shall accordingly apply to a registered account information service provider and to small payment institution.

2. PFSA may, ex officio, remove an entry from the register in the scope applicable to an agent or a branch of a domestic payment institution or a domestic electronic money institution in the event of receiving from competent supervisory authorities of a host Member State in which a domestic payment institution or a domestic electronic money institution conducts its business activity in the scope of payment services or the issuance of electronic money through a given agent or a given branch, information that indicates that there are reasonable grounds to suspect that further to such business a criminal offence referred to in Article 165a or Article 299 of the Penal Code is being committed or has been committed, there have been attempts at committing such offence or committing such an offence is intended, or the provision of services by an agent or a business activity of a branch could increase the risk of money laundering or terrorist financing. The removal of an entry from the register occurs by way of a decision.

**Article 142a.1.** PFSA shall immediately notify EBA about the information entered in the register, including about the case of removal from the register, together with the provision of reasons for such removal.

2. PFSA shall ensure the correctness and ongoing updates of the information provided to EBA.

**Article 142b.1.** PFSA shall provide on its website the information on EU payment institutions and EU electronic money institutions that have reported their intent to provide payment services or to conduct a business activity related to the issuance of electronic money in the territory of the Republic of Poland, including:

- 1) the data on an EU payment institution or an EU electronic money institution, including:
    - a) the business (name),
    - b) the registered office and the address;
  - 2) the number or other marking of the authorisation granted to an EU payment institution or an EU electronic money institution by a competent supervisory authority of a home Member State, provided that such number or such marking has been given;
  - 3) a list of the payment services that an EU payment institution or an EU electronic money institution intends to provide within a cross-border business activity or the information on intention to conduct a business activity related to the issuance of electronic money;
  - 4) the data on a branch, including:
    - a) the business (name) of a branch,
    - b) the address of a branch;
  - 5) the data on agents of an EU payment institution or an EU electronic money institution, including:
    - a) the first name and surname or (business) name of an agent,
    - b) the place of residence and address or the registered office and address of the principal place of business pursued by an agent.
2. The information referred to in Article 142b.1 shall be updated on an ongoing basis.

## DIVISION IX Civil and Criminal Liability

### Chapter 1

#### Liability for the Execution of Payment Transactions

**Article 143.1.** A payment order shall be deemed to have been executed to a proper payee, if it has been made in accordance with the information referred to in Article 23.1.1 or in Article 27.2.b and in the case of indication a unique identifier in the body of a payment order if it has been made in accordance with the unique identifier, regardless of any other additional information provided by the user.

2. If the unique identifier provided by the user is incorrect, the provider shall not bear responsibility under Articles 144-146. The payer's provider, and in the case referred to in Article 143a.1.2, also the payee's provider, shall, however, be obliged to undertake actions aimed at recovering the amount of a payment transaction executed using the incorrect unique identifier, especially in the manner and pursuant to the rules defined in Article 143a-143c. The parties may reserve in the agreement that the payer's provider shall have the right to collect a fee from the payer to recover the funds. The provision of Article 36.2 shall apply accordingly.

2a. In order to fulfil the obligation referred to in Article 143.2 second sentence, the provider shall hold a reimbursement account.

3. When executing payment transactions using a bank account, the unique identifier shall be a number of the bank account, unless the parties agree in a framework contract on another unique identifier.

**Article 143a.1.** In order to fulfil the obligation referred to in Article 143.2 second sentence, the payer's provider, not later than within three business days from making the notification of the information on a payment transaction by the payer executed using the incorrect unique identifier, if:

- 1) it holds a payee's payment account, shall notify the payee in writing about:
  - a) provision of the information on a payment transaction by the payer that has been executed using the incorrect unique identifier and about a possibility reimbursing the amount of such transaction into the reimbursement account of the payee's provider without collecting fees from the payee,
  - b) the obligation of providing the payer with the payee's personal data to allow claiming the reimbursement of the amount of the payment transaction executed using the incorrect unique identifier, if the payee fails to reimburse it at the time referred to in Article 143b.1,
  - c) expiry of the date referred to in Article 143b.1,

- d) the number of the reimbursement account;
- 2) it does not hold the payee's payment account - it shall request the payee's provider to undertake actions aimed at recovering the amount of a payment transaction executed using the incorrect unique identifier, at the same time providing information required for undertaking them.

2. In the case referred to in Article 143a.1.2, in order to fulfil the obligation referred to in Article 143.2 second sentence, by the payee's provider, the provision of Article 143a.1 shall apply accordingly.

3. The payee shall reimburse the amount of a payment transaction executed using the incorrect unique identifier into the reimbursement account of the payee's provider. The payee's provider may not collect fees or charges from the payee for reimbursement.

4. If the payer's provider holds a payment account of the payee, and the payee has reimbursed the amount of a payment transaction executed using the incorrect unique identifier, the payer's provider, not later than within one business day from crediting the reimbursement account with the amount of a payment transaction executed using the incorrect unique identifier, shall have the payment account of the payer, who has been charged with it, credited with such amount.

5. If the payer's provider does not hold the payee's payment account, and the payee has reimbursed the amount of a payment transaction executed using the incorrect unique identifier, the payee's provider, not later than within one business day from crediting the reimbursement account it holds, it shall have the reimbursement account of the payer's provider credited with the amount of a payment transaction executed using the incorrect unique identifier, and then, the payer's provider, not later than within one business day from crediting the reimbursement account it holds, shall credit with such amount the payment account of the payer referred to in Article 143a.4.

6. If having the payer's payment account referred to in Article 143a.4 and Article 143a.5 credited is not possible, the payer's provider, not later than within three business days from crediting the reimbursement account, shall inform the payer about a possibility of reimbursing the amount of a payment transaction executed using the incorrect unique identifier into a payment account number indicated by the payer or by disbursing the funds.

7. If the payer has indicated the payment account number referred to in Article 143a.6, the payer's provider, not later than within one business day from its indication, shall have such account credited with the amount of a payment transaction executed using the incorrect unique identifier. If the payer has failed to indicate the payment account number, the disbursement of the funds shall be made immediately upon the payer's request.

**Article 143b.1.** If, within a month from making the notification referred to in Article 143a.1, the actions referred to in Article 143a have not resulted in recovering of the amount of a payment transaction executed using the incorrect unique identifier, not later than within three business days from receipt of the written request of the payer to be provided with the payee's data, the payer's provider:

- 1) who holds the payee's payment account, shall provide the payer with:
  - a) the first name and surname or the name of the payee,
  - b) the place of residence and the address or the registered office and address of the payee,
- 2) who does not hold the payee's payment account, shall request the payee's provider to be provided with the data referred to in Article 143a.1.1

- to allow the payer claiming the amount of a payment transaction executed using the incorrect unique identifier.

2. In the case referred to in Article 143b.1.2, the payee's provider shall provide the payer's provider with the data referred to in Article 143b.1.1, not later than within three business days from receipt of the request. The payer's provider shall transfer the received data to the payer not later than within three business days from the date of its receipt.

**Article 143c.1.** In the event of a money remittance service of transferring funds into the payment account of the payee's provider, provided by a money service bureau, a money service bureau shall be the payer, who is referred to in Article 143a and Article 143b.

2. A money service bureau, not later than within three business days from the date of provision of the information by a person ordering a money remittance about the money remittance executed



using the incorrect unique identifier, shall notify its provider about a payment transaction executed using the incorrect unique identifier. The provision of Article 143a shall apply accordingly.

3. The amount of a payment transaction executed using the incorrect unique identifier shall be reimbursed into a payment account of a money service bureau that has been charged with the amount of such transaction. If having the payment account referred to in the first sentence credited is impossible, the transaction amount shall be reimbursed into another account indicated by a money service bureau.

4. A money service bureau, not later than within three business days from crediting of the payment account referred to in Article 143c.3 with the amount of a payment transaction executed using the incorrect unique identifier shall inform a person ordering a money remittance about a possibility of reimbursing the amount of such transaction by disbursing the funds. The disbursement of the funds shall be made immediately upon request of the person ordering the money remittance.

5. If, within a month from making the notification referred to in Article 143c.2, the actions referred to in Article 143c.2-4 have not resulted in recovering the amount of a payment transaction executed using the incorrect unique identifier, a money service bureau, not later than within three business days from the date of receipt of the written request of the person ordering the money remittance for the provision of the payee's data referred to in Article 143b.1.1, shall transfer the request in writing to its provider. The provision of Article 143b shall apply accordingly.

6. A money service bureau shall transmit the received data to a person ordering a money remittance not later than within three business days from the receipt of such data from its provider.

**Article 144.1.** If a payment order is directly submitted by the payer, the provider shall be liable to the payer for failure to execute or improper execution of a payment transaction, subject to the reservation of Article 44.2, Article 143.2, and Article 149, unless it proves that the account of the payee's provider has been credited in accordance with Article 54.

2. If the payer's provider bears liability in accordance with Article 144.1, it shall immediately reimburse the payer with the amount of the unexecuted or improperly executed payment transaction or, if the payer uses a payment account, shall restore the debited payment account to the status, it would have been in if failure to execute or improper execution of the payment transaction had not occurred. As concerns crediting of the payer's payment account, the value date may not be later than the date of charging it with such amount.

2a. If a payment order is submitted by a payer to a payment initiation service provider, the provider holding the account shall reimburse the payer with the amount of the unexecuted or improperly executed payment transaction, and, if necessary, shall restore the debited account to the status, it would have been in, if such improper execution had not occurred.

2b. The payment initiation service provider is charged with a burden of proving that the provider holding the account has received a payment order pursuant to Article 49 and that - within its competence - the payment transaction has been authenticated, correctly recorded and it has not been affected by a technical failure or any other defect related to failure to execute or improper execution of the transaction, including its delayed execution.

2c. If the payment initiation service provider is liable for failure to execute or improper execution of a payment transaction, including its delayed execution, it shall immediately compensate the provider holding the account, upon its request, for the incurred losses or shall reimburse the amount paid as a result of making reimbursement to the payer.

3. If the account of the payee's provider has been credited in accordance with Article 54, the payee's provider shall be liable to the payee for failure to execute or improper execution of the payment transaction.

4. If the payee's provider bears liability in accordance with Article 144.3 it shall immediately place at the payee's disposal the amount of a payment transaction or, if the payee uses a payment account, it shall credit the payee's payment account with an appropriate amount to put the payment account in the status it would have been in if failure to execute or improper execution of the payment transaction had not occurred. As concerns crediting of the payee's payment account, the value date may not be later than the value date with which the amount would have been credited, if the transaction had been executed in accordance with Article 59.

5. If a payment transaction is executed with delay, the payee's provider shall ensure, upon the payer's provider acting on behalf of the payer that the value date in relation to crediting the payer's



payment account is not later than the value date with which the amount would have been credited, if the transaction had been properly executed.

**Article 145.1.** If a payment order is initiated by the payee or through its intermediation, subject to the reservation of Article 44.2, Article 143.2, and Article 149, its provider shall be liable to the payee for the correct transfer of the payment order to the payer's provider in accordance with Article 56.

2. If the payee's provider is liable in accordance with Article 145.1, it shall immediately forward the payment order once again to the payer's provider.

2a. If a payment order has been submitted with delay, the amount of the payment order shall be credited to the payee's payment account with the value date not later than the value date with which the amount would have been credited, if the transaction had been properly executed. The payer's provider shall provide the payee's provider with the information on delay in submission of the payment order.

3. Subject to the reservation of Article 44.2, Article 143.2 and Article 149 the payee's provider shall be liable to the payee for failure to execute or improper execution of the payment transaction in the event of a breach of Article 58.

4. If the payee's provider is liable in accordance with Article 145.3, it shall make the amount of the payment transaction available to the payee immediately after it is credited to the account of the payee's provider.

4a. The amount referred to in Article 145.4 shall be credited to the payee's payment account with the credit value date not later than the value date with which the amount would have been credited, if the transaction had been executed properly.

5. In the event of failure to execute or improper execution of the payment transaction for which the payee's provider is not liable in accordance with Article 145.1 and Article 145.3 liability to the payee shall be borne by the payer's provider; in such case Article 144.2 shall apply.

6. The obligation referred to in Article 145.5 does not apply to the payer's provider, if the payer's provider has proved that the payee's provider has received the amount of a given payment transaction, even if a payment transaction has been executed with delay. In such case, the payee's provider shall credit the amount to the payee's payment account with the credit value date not later than the value date with which the amount would have been credited, if the payment transaction had been executed properly.

**Article 146.1.** In the case of failure to execute or improper execution of a payment transaction:

- 1) initiated by the payer, its provider, irrespective of the liability borne under Article 144.1 shall, at the request of the payer, immediately take actions to trace the payment transaction and notify the payer about their outcome, provided that such actions are taken free of charge;
- 2) initiated by the payee or through its intermediation, its provider, irrespective of the liability borne under Article 145.1 and Article 145.3 shall, at the request of the payee, immediately take actions to trace the payment transaction and notify the payee about their outcome, provided that such actions are taken free of charge.

2. The liability of the provider specified in Article 144 and Article 145 also covers fees and interest that has been charged to the user as a result of failure to execute or improper execution of the payment transaction.

**Article 147.** The liability of the provider specified in Articles 144–146 does not exclude the user's claims arising from a contract concluded with the provider and under the regulations of law applicable to that contract.

**Article 148.** Where failure to execute or improper execution of a payment transaction is the result of an action or omission of a provider other than the payer's or the payee's provider or other entity intermediating in the execution of a payment transaction, the payer's or the payee's provider may demand from it reimbursement of the sums paid in accordance with Articles 144-146; the provision of Article 147 shall apply accordingly. This shall include compensation if any of the providers fails to apply strong authentication of the user.

**Article 149.** Liability for failure to execute or improper execution of a payment transaction is excluded in the event of force majeure or if failure to execute or improper execution of a payment order results from other regulations of law.

## Chapter 2

### Penal Provisions

**Article 150.1.** Whoever, not being authorised, is engaged in conducting a business activity in the scope of the provision of payment services or the issuance of electronic money, shall be subject to a fine up to PLN 5,000,000 or to imprisonment for up to two years, or to both penalties combined.

2. The same penalty shall be applicable to those, who, not being authorised, use in the business (name) or to describe the business activity carried out, or in advertising the terms “payment services”, “issuing electronic money”, “payment institution”, “small payment institution”, “money service bureau”, “electronic money institution”, or “branch of a foreign payment institution”.

3. A person, who commits the offence specified in Article 150.1 or Article 150.2 in the name of or for the benefit of a natural person, a legal person or an organisational unit that is not a legal person on which the law confers a legal capacity, shall be subject to the same penalty.

**Article 151.1.** Whoever, not being authorised to do so by a provider, concludes in the provider’s name or on the provider’s behalf a contract for a payment service shall be subject to a fine of up to PLN 3,000,000 or to imprisonment for two years or to both penalties combined.

2. Anyone, who commits the act specified in Article 151.1 in the name of or for the benefit of a natural person, a legal person or an organisational unit that is not a legal person on which the law confers a legal capacity, shall be subject to the same penalty.

**Article 152.1.** Whoever, being responsible in a payment institution, a small payment institution, a money service bureau, an electronic money institution, or a branch of a foreign electronic money institution for providing information to PFSA, provides information that is inconsistent with the factual status, or otherwise misleads that authority shall be subject to a fine of up to PLN 1,000,000 or to imprisonment for up to two years, or to both penalties combined.

2. If a perpetrator acts unintentionally, they shall be subject to a fine of up to PLN 500,000 or to imprisonment for up to a year or to both penalties combined.

**Article 152a.1.** Who operates a payment scheme without the required authorisation of the President of the NBP or not being otherwise authorised to operate it, shall be subject to a fine of up to PLN 5,000,000.

2. Anyone, who commits the act specified in Article 152a.1 in the name of or for the benefit of a natural person, a legal person, or an organisational unit that is not a legal person on which the law confers a legal capacity, shall be subject to the same penalty.

**Article 153.1.** Whoever, being obliged to preserve the confidentiality of information referred to in Article 11.3, discloses it in a manner contrary to the authorisation specified in the Act, shall be subject to a fine of PLN 500,000 or to imprisonment for up to two years or to both penalties combined.

2. If a perpetrator commits the offence referred to in Article 153.1 so as to obtain a financial or personal benefit, they shall be subject to a fine of up to PLN 1,000,000 or a penalty of imprisonment of up to three years, or to both these penalties combined.

**Article 153a.1.** Whoever, contrary to the obligations referred to in Article 14a-14c, does not provide the NBP with the required information, shall be subject to a fine of up to PLN 1,000,000.

2. Anyone, who commits the act specified in Article 153a.1 in the name of or for the benefit of a natural person, a legal person, or an organisational unit that is not a legal person on which the law confers a legal capacity, shall be subject to the same penalty.

**Article 153b.1.** Whoever places the statement referred to in Article 14g.1, which is contrary to the facts, shall be subject to a fine of up to PLN 1,000,000.

2. Anyone, who commits the act specified in Article 153b.1 in the name of or for the benefit of a natural person, a legal person, or an organisational unit that is not a legal person on which the law confers a legal capacity, shall be subject to the same penalty.

**Article 153c.** Whoever, contrary to the obligations referred to in Article 6c.1, does not provide PFSA with the required information, and shall be liable to a fine of up to PLN 500,000.

**Article 153d.** A payer, who obtains and uses the data referred to in Article 143b.1 for purposes other than claiming the amount of a payment transaction executed using the incorrect unique identifier, shall be subject to a fine of up to PLN 30,000.

## DIVISION X

### Amendments to the Applicable Regulations

**Article 154-167.** (omitted)

## DIVISION XI

### Transitional and Final Provisions

**Article 168.** (omitted)

**Article 169.** Consent to a direct debit referred to in Article 63d.2.2 of the Banking Act of 29 August 1997 (Journal of Laws of 2002, item 665, as amended<sup>11</sup>) that has been granted prior to the effective date hereof, shall be applicable with respect to a direct debit executed pursuant to the rules defined herein, unless the payer has submitted a statement on revoking such consent. The statement on revoking the consent referred to in Article 63d.2.2 of the Banking Act of 29 August 1997 shall be effective with respect to a direct debit transaction under which the debiting date of the account would be the day following the day on which such statement has been submitted.

**Article 170-178.** (omitted)

**Article 179.** The provision of Article 19.4 of the Act amended by Article 166, in its wording given to it herein, shall apply to receivables the payment date of which expires following the effective date hereof.

**Article 179a.1.** A three-party payment card scheme within the meaning of Article 2(18) of Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (OJ L 123 of 19.05.2015, p. 1), which fulfils the conditions defined in that provision for being recognised as a four-party payment card scheme, shall be exempt from the obligations provided for in Chapter II of the Regulation until 9 December 2018.

2. The provision of Article 179a.1 shall apply with respect to domestic payment transactions within the meaning of Article 2(9) of the Regulation referred to in Article 179a.1, if such transactions, executed within a three-party payment card scheme, which is referred to in Article 179a.1, do not exceed 3% per annum the value of all domestic payment transactions within the meaning of Article 2(9) of the Regulation referred to in Article 179a.1.

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<sup>11</sup> Amendments of the consolidated text of the said act were announced in the Journal of Laws of 2002, item 1070, 1178, 1208, 1271, 1385, 1387, and 2074, of 2003, item 424, 535, 594, 2260, and 2276, of 2004, item 594, 623, 870, 959, 1264, 1546, and 1808, of 2005, item 719, 727, 1398, and 1538, of 2006, item 708, 1119, 1401, and 1775, of 2007, item 272 and 769, of 2008, item 1056, 1179, 1315, and 1546, of 2009, item 97, 341, 545, 609, 1045, 1075, 1176, 1316, 1317, 1323, and 1540, of 2010, item 226, 530, 853, 1228, and 1724, and of 2011, item 388, 715, 763, 779, 781, and 984.

**Article 180.1.** The maximum limit of expenditures from the State Budget for 2011-2020 amounts to TPLN 73,010.73, provided that in individual years, it shall amount to:

- 1) 2011 – TPLN 6,150;
- 2) 2012 – TPLN 6,396;
- 3) 2013 – TPLN 6,632.65;
- 4) 2014 – TPLN 6,891.33;
- 5) 2015 – TPLN 7,166.98;
- 6) 2016 – TPLN 7,432.16;
- 7) 2017 – TPLN 7,692.28;
- 8) 2018 – TPLN 7,953.82;
- 9) 2019 – TPLN 8,216.30;
- 10) 2020 – TPLN 8,479.22.

2. If there is a danger that the limit of expenditures referred to in Article 180.1 for a given budget year is exceeded, a corrective mechanism shall be applied consisting in:

- 1) limiting tangible expenditures of the Office of the Polish Financial Supervision Authority relating to execution of tasks that arise from exercising supervision over payment institutions and money service bureaus, or
- 2) rationalising the frequency of performing actions under supervision exercised by the Polish Financial Supervision Authority over payment institutions and money service bureaus.

3. The Polish Financial Supervision Authority and the Office of the Polish Financial Supervision Authority, respectively shall be an authority competent for the implementation of the corrective mechanism referred to in Article 180.2.

4. The minister competent for financial institutions shall be an authority competent for monitoring the utilisation of the limit of expenditures referred to in Article 180.1.

**Article 181.** The Act shall come into effect after expiry of 30 days from its announcement<sup>12</sup>, with the exception of:

- 1) Article 159, which shall come into effect as of 18 December 2011;
- 2) Article 167, which shall come into effect as of 1 January 2012.

*This translation was prepared as at 4 March 2020. It is an unofficial translation of the document of the Payment Services Act of 19 August 2011 (Journal of Laws 2011 No. 199 item 1175 as amended), published originally in Polish. The translation has been prepared by PONIP for information purposes only and PONIP shall not be held responsible for its content and possible subsequent updates. In case of any discrepancies between the original version and the translation of the text, the original document shall prevail. [www.ponip.pl](http://www.ponip.pl)*

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<sup>12</sup> The Act was announced on 23 September 2011.