

Law on Payment Services and Payment Systems*

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Chapter One

GENERAL PROVISIONS

Section I

Subject and Negative Scope

Subject

Article 1. This Law shall establish:

1. the requirements to the payment service providers' activity and types of payment services;
2. the terms and procedure for licensing and operation of payment institutions;
3. the requirements for information provision in payment services;
4. the rights and obligations of the parties in the provision of payment services;
5. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) the requirements for transparency and comparability of fees charged to consumers on their payment accounts, switching of payment accounts within Bulgaria and facilitating cross-border payment account-opening for consumers within the European Union;
6. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) the terms and procedure to enable consumers to open and use payment accounts with basic features;
7. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011; former item 5; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) the terms and procedure for licensing and conducting activities of electronic money institutions;
8. (new, Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011; former item 6; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) settlement finality in payment and securities settlement systems;

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9. (former item 6; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011; former item 7; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) the terms and procedure for licensing and conducting activities of payment systems;

10. (former item 7; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011; former item 8; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) the payment systems oversight;

11. (former item 8; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011; former item 9; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) the procedure for out-of-court settlement of disputes in relation to provision of payment services.

Negative Scope

Article 2. (1) The provisions of this Law shall not apply to:

1. payment transactions made exclusively in cash directly from the payer to the payee, without any intermediary intervention;

2. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) payment transactions from the payer to the payee through a commercial agent authorised to negotiate or conclude the sale or purchase of goods or services on behalf of the payer or the payee;

3. professional physical transport of banknotes and coins, including their collection, processing and delivery;

4. payment transactions consisting of the non-professional cash collection and delivery within the framework of a non-profit or charitable activity;

5. services where cash is provided by the payee to the payer as part of a payment transaction following an explicit request by the payment service user just before the execution of the payment transaction upon payment for the purchase of goods or services;

6. cash-to-cash money exchange operations, where the funds are not held on a payment account;

7. payment transactions based on any of the following documents drawn on the payment service provider with a view to placing funds at the disposal of the payee:

a) cheques, paper-based bills of exchange and promissory notes within the meaning of the Commercial Code or the relevant legislation of another Member State which is not party to the Geneva Convention under 'b';

b) paper cheques in accordance with the Geneva Convention of 19 March 1931 providing a uniform law for cheques and paper-based bills of exchange and promissory notes in accordance with the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;

c) paper-based vouchers;

d) paper-based traveller's cheques;

e) (amended; Darjaven Vestnik, issue 105 of 2011, effective as of 29 December 2011) postal money orders as defined by the Universal Postal Convention drawn up

in Bucharest on 5 October 2004 (ratified by a law; Darjaven Vestnik, issue 43 of 2006) (Darjaven Vestnik, issue 91 of 2006);

8. payment transactions related to securities asset servicing, including dividends, income or other distributions, or redemption or sale, carried out by persons referred to in paragraph 2 or by investment firms, credit institutions, collective investment undertakings or asset management companies providing investment services and any other entities allowed to have the custody of financial instruments;

9. services provided by technical service providers which support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and personal data protection services, data and entity authentication, provision of information technology (IT) and communication network, provision and maintenance of terminals and devices used for payment services;

10. (amended; Darjaven Vestnik, issue 59 of 2016) payment services based on instruments that can be used to acquire goods or services only in the premises used by the issuer or under a commercial agreement with the issuer either within a limited network of service providers or for a limited range of goods or services;

11. payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services;

12. payment transactions carried out between payment service providers for their own account, including their agents or branches;

13. payment transactions between a parent undertaking and its subsidiary or between subsidiaries of the same parent undertaking, without any intermediary intervention by a payment service provider other than an undertaking belonging to the same group;

14. services by providers to withdraw cash by means of automated teller machines acting on behalf of one or more card issuers, which are not a party to the framework contract with the customer withdrawing money from a payment account, on condition that these providers do not conduct other payment services.

(2) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) For payment transactions carried out within a payment or securities settlement system between settlement agents, central counterparties, clearing houses and/or central banks and other participants of the system, on the one hand, and payment service providers, on the other hand, as well as providers of services under paragraph 1, item 9 which are payment system operators, only Chapters Five ‘a’, Six, Seven, Nine and Ten shall apply.

Section II

Payment Service Providers and Types of Payment Services*Payment Service Providers*

Article 3. (1) For the purposes of this Law, ‘payment service providers’ shall mean:

1. banks within the meaning of the Law on Credit Institutions;
2. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) electronic money institutions within the meaning of this Law;
3. payment institutions within the meaning of this Law;
4. the European Central Bank and the national central banks of Member States, when not acting in their capacity as monetary authority or other public authorities;
5. (repealed; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011)

(2) Persons who are not payment service providers shall not provide payment services, with the exception of the activities referred to in Article 2.

(3) The payment service provider shall not control the purpose and legality of the transaction for which the payment service is provided, unless otherwise provided for by law.

(4) Payment service providers and payment systems shall process personal data of payment service users in compliance with the Law on Personal Data Protection. In the event of prevention, investigation and detection of payment fraud related to payment services, the personal data processing may be carried out without the consent of the concerned person.

Payment Services

Article 4. Payment services shall mean:

1. services related to placement of cash on a payment account, as well as the related operations of servicing of a payment account;
2. services related to cash withdrawals from a payment account, as well as the operations of servicing of a payment account;
3. execution of payment transactions, including transfers of funds on a payment account with the user’s payment service provider or with another payment service provider:
 - a) execution of direct debits, including one-off direct debits;
 - b) execution of payment transactions through a payment card or other similar instruments;
 - c) execution of credit transfers, including standing orders;
4. execution of payment transactions where the funds are covered by a credit line for a payment service user:
 - a) execution of direct debits, including one-off direct debits;
 - b) execution of payment transactions through a payment card or a similar device;
 - c) execution of credit transfers, including standing orders.

5. issuing and/or acquiring of payment instruments;
6. money remittance;
7. Execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator, acting only as an intermediary between the payment service user and the supplier of the goods or services.

Chapter Two

PAYMENT INSTITUTIONS

Section I

Granting Licenses

Payment Institution

Article 5. ‘A payment institution’ shall mean a legal entity established in a Member State that has been granted a license by the competent authorities in its Member State of origin to provide and execute payment services throughout the European Community.

Competent Authority

Article 6. The Bulgarian National Bank (BNB) shall issue a license for conducting activity as a payment institution where the registered office of the applicant is in the Republic of Bulgaria.

Prohibition for Operations without a License

Article 7. (1) Any persons who intend to provide payment services as a payment institution shall obtain a license as a payment institution before commencing the provision of payment services.

(2) Payment institutions are only authorised to provide the payment services included in their license.

Initial Capital

Article 8. As of the time of obtaining the license, the payment institution shall hold initial capital not less than the amount of:

1. BGN 40,000 – where the payment institution will provide only the payment services under Article 4, item 6;
2. BGN 100,000 – where the payment institution will provide only the payment services under Article 4, item 7;
3. BGN 250,000 – where the payment institution will provide any of the payment services under Article 4, items 1–5.

Own Funds

Article 9. (1) The payment institution shall at all times hold own funds in the amount not less than the following elements multiplied by the scaling factor k , where the payment volume (PV) represents one-twelfth of the total amount of payment transactions executed by the payment institution in the preceding year:

- a) 4.0 per cent of the slice of PV up to BGN 10 million,
plus
- b) 2.5 per cent of the slice of PV above BGN 10 million up to BGN 20 million,
plus
- c) 1 per cent of the slice of PV above BGN 20 million up to BGN 200 million,
plus
- d) 0.5 per cent of the slice of PV above BGN 200 million up to BGN 500 million,
plus
- e) 0.25 per cent of the slice of PV above BGN 500 million.

(2) The scaling factor k to be used for calculating the volume of own funds referred to in paragraph 1 shall be:

- a) 0.5 where the payment institution provides only the payment service under Article 4, item 6;
- b) 0.8 where the payment institution provides the payment service under Article 4, item 7;
- c) 1 where the payment institution provides any of the payment services under Article 4, items 1–5.

(3) The payment institution's own funds may not fall below the amount required under paragraph 1 or Article 8, whichever the higher.

(4) Based on an evaluation of the risk-management processes, risk loss data base and internal control mechanisms of the payment institution, the BNB may require the payment institution to hold an amount of own funds which is up to 20 per cent higher than the amount referred to in paragraph 1.

(5) The structure and elements of the capital referred to in paragraph 1 and Article 8, the models and methods of its calculation, the periodicity, form and the contents of reports on the size of capital shall be laid down in an Ordinance.

Granting a License

Article 10. (1) The company that wishes to obtain a license for conducting activity as a payment institution should apply in writing to the BNB.

(2) The documents required for granting a license of a payment institution shall be laid down in an Ordinance of the BNB.

(3) When submitting his application for granting a license, the applicant shall provide the BNB with a written declaration that the information submitted with the application and the documents attached to the application are up-to-date, complete and truthful.

(4) To be granted license as a payment institution, the applicant must concurrently comply with the following conditions:

1. to be registered or be in the process of establishing a limited liability company or a joint-stock company;

2. to have paid the capital required under Article 8, corresponding to the types of payment services that the applicant intends to provide;

3. the origin of the company's paid-in capital or the funds used to acquire shares in the case of transfer of shares shall be transparent and legal;

4. the registered office and the head office recorded in the Commercial Register shall be the same as the location where the applicant's actual management will occur;

5. to apply reliable rules to ensure robust governance arrangements for its payment services business which include:

a) a clear organisational structure;

b) well-defined, transparent and consistent lines of responsibility;

c) effective procedures to identify, manage, monitor and report the risks to which the payment institution is or might be exposed;

d) adequate internal control mechanisms, including sound and effective administrative and accounting procedures;

e) a programme of anti-money laundering measures;

6. the business plan and the forecast budget calculation for the first three financial years shall demonstrate that the applicant is able to employ the appropriate and proportionate systems, resources and procedures to operate soundly;

7. to apply sound and adequate measures for safeguarding payment service users' funds and payment instruments used;

8. the persons managing and representing the applicant company and the members of its management and supervision bodies, including the representatives of legal entities, possess the appropriate knowledge and experience and have good repute, the requirements being established in a separate Ordinance;

9. the persons holding, directly or indirectly, qualifying holdings in the applicant's capital within the meaning of § 1, paragraph 1, item 6 of the Additional Provisions of the Law on Credit Institutions have provided evidence of their suitability taking into account the need to ensure the sound and prudent management of a payment institution;

10. no close links within the meaning of § 1, paragraph 1, item 10 of the Additional Provisions of the Law on Credit Institutions have been identified between the applicant and other natural or legal entities that would prevent the effective exercise of their supervisory functions;

11. at BNB's discretion, the laws, regulations or administrative provisions of a third country governing one or more natural or legal entities with which the payment institution has close links, or difficulties involved in the enforcement of these laws, regulations or administrative provisions, shall not prevent the effective exercise of BNB's supervisory functions.

(5) The rules referred to in paragraph 4, item 5 shall be comprehensive and proportionate to the nature, scale and complexity of the payment services provided by the payment institution.

Considering the Application for Granting a License

Article 11. (1) Before granting a license, the BNB shall research into the compliance of all submitted documents with the requirements for granting a license and the applicant's ability to comply with the requirements for engaging in the activity for which it wishes to be licensed. Where appropriate, the BNB may also consult other competent authorities.

(2) No later than three months of the application and all required documents being submitted, the BNB shall make a decision on granting or refusing a license.

Granting a License

Article 12. (1) The Bulgarian National Bank shall grant a license for payment institutions if the information and evidence accompanying the application complies with all the requirements of this Law and its implementing legislation and if, at BNB's discretion, the applicant complies with the license requirements.

(2) The license referred to in paragraph 1 shall be granted for an indefinite period of time and may not be transferred to other persons or be subject of legal succession.

(3) The Registry Agency shall register the payment services for which the payment institution has been licensed as part of its business activity on submission of the license granted by the BNB. Upon completing the registration by the Registry Agency, the BNB shall enter the payment institution in the register under Article 17.

(4) The payment institution must comply with the requirements referred to in Article 8 – 10 during the entire period of validity of the license granted.

Changes Subsequent to Granting the License

Article 13. (1) The payment institution holding the license shall without undue delay inform the BNB where any change affects the accuracy of information and documents provided in connection with the license granting.

(2) Where the payment institution intends to engage in other payment services outside the services it was licensed for, it shall apply for supplementing the license, with Articles 10–12 applied accordingly.

Refusal of a License

Article 14. The Bulgarian National Bank shall refuse to grant a license to payment institutions where:

1. it considers that the applicant fails to satisfy any of the requirements under Article 10;
2. the applicant fails to submit the required information and evidence or the documents submitted contain incomplete, confusing or false information.

Withdrawal of a License

Article 15. (1) The Bulgarian National Bank may withdraw a license issued to a payment institution only where:

1. the payment institution fails to commence the business licensed within 12 months as from the date on which the license is issued;
2. the payment institution has ceased to engage in business for more than six months;
3. serious breaches have been identified in the payment institution's activity;
4. the payment institution has obtained the license through false information and evidence;
5. the payment institution no longer fulfils the conditions for granting the license;
6. (repealed; Darjaven Vestnik, issue 59 of 2016)
7. the payment institution does not hold sufficient own funds or cannot be considered capable of continuing to repay its obligations to creditors;
8. at BNB's discretion, the payment institution would constitute a threat to the stability of the payment system by continuing its payment services business.

(2) (new; Darjaven Vestnik, issue 59 of 2016) A payment institution may state in writing to the BNB that it wishes to terminate the conduct of business to which it is licensed. Subject to BNB approval under Article 16, paragraph 2, the issued license shall be cancelled.

(3) (former paragraph. 2, amended; Darjaven Vestnik, issue 59 of 2016) The Bulgarian National Bank shall take adequate measures to provide information to the public about the withdrawal or cancellation of the license.

(4) (former paragraph. 3, amended; Darjaven Vestnik, issue 59 of 2016) Within a seven-day period after adopting a decision on withdrawal or cancellation of a license of a payment institution, the BNB shall file a request to the Registry Agency for the writing off of this activity from the line of business of the respective trader.

Cessation of Business Activity

Article 16. (1) The payment institution shall coordinate with the BNB, no less than one month in advance, any decision of voluntary liquidation or cessation of business.

(2) The Bulgarian National Bank shall grant its consent for a decision referred to in paragraph 1 when the payment institution is able to prove that:

1. it has created the necessary organisation and plan to cease its business without affecting the interests of payment services users;
2. ensure the complete and timely fulfilment of obligations concerning payment transactions carried out through the payment institution.

Register

Article 17. (1) The Bulgarian National Bank shall keep a public register of licensed payment institutions, their branches and agents.

(2) The register shall contain the following information about the payment institution:

1. the index number of the license issued by the BNB;
2. the unique identification number;
3. the name, registered office and head office;
4. the persons managing and representing the payment institution;
5. the services for which the payment institution was licensed;
6. the branches of the payment institution in Bulgaria and in other Member States, their addresses and the identity of the persons who manage and represent them;
7. the agents of the payment institution in Bulgaria and in other Member States, with the identity of legal entities by their unique identification number, registered office, head office and the persons who manage and represent them, and for natural persons – the full name;
8. the withdrawal of the license issued or cessation of the payment institution's business activity.

(3) The Register referred to in paragraph 1 shall be made accessible on the Internet and shall be updated regularly.

Section II

Activities Related to Payment Services

Additional Activities

Article 18. (1) Apart from the payment services referred to in Article 4, payment institutions shall be entitled to engage in the following activities:

1. provision of operational and ancillary services closely related to payment services, such as ensuring the execution of payment transactions, foreign exchange services, safekeeping activities, and the storage and processing of data;

2. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) activity of a payment system operator, with the exception of payment systems providing settlement finality within the meaning of Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems, amended by Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009;

3. other business activities in compliance with the applicable legislation.

(2) Where a payment institution in addition to payment services engage in other business activities, the BNB may require the establishment of a separate entity for the payment services business, where, at BNB's opinion, the other business activities impair or are likely to impair either the financial stability of the payment institution or the ability of the BNB as a supervisory authority to monitor the payment institution's compliance with all requirements laid down by this Law.

Granting of Credit

Article 19. (1) Payment institutions may grant credit related to payment services referred to in Article 4, items 4, 5 or 7, only if the following conditions are concurrently met:

1. the credit shall be ancillary and granted exclusively in connection with the execution of a payment transaction;

2. the credit granted in connection with a payment transaction shall be repaid within a period no longer than 12 months;

3. such credit shall not be granted from the funds received or held by the payment institution for the purpose of executing a payment transaction;

4. the own funds of the payment institution shall at all times and to the satisfaction of the BNB be appropriate in view of the overall amount of the credit granted.

(2) Where any of the conditions referred to in paragraph 1 is not in place, the BNB may prohibit granting of credit to the payment institution pending the rectification of the irregularity.

(3) When granting credit to users, the Law on Consumer Credit shall apply.

Section III

Requirements for the Business of Payment Institutions

Payment Accounts with Payment Institutions

Article 20. (1) Payment institutions may hold payment accounts used exclusively for payment transactions.

(2) Payment institutions may receive funds from payment service users with a view to the provision of payment services only.

(3) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) Any funds received by payment institutions from payment service users with a view to the provision of payment services shall not constitute a deposit or other repayable funds within the meaning of the Law on Credit Institutions or electronic money within the meaning of Article 76, paragraph 2.

(4) No interest shall be negotiated in favour of the payment service user on funds held in payment accounts with payment institutions.

Safeguarding Measures

Article 21. (1) The funds received from payment service users or through another payment service provider for payment transactions shall not be commingled at any time with the funds of any natural person or legal entity other than payment service users or with the own funds.

(2) Payment institutions shall deposit in a separate account with a bank under Article 2, paragraph 5 of the Law on Credit Institutions any funds received by payment service users or through another payment service provider for execution of payment

transactions that are not yet delivered to the payee or transferred to another payment service provider by the end of the business day following the day when the funds have been received. Funds on such accounts may not be subject to distraint or foreclosure by a payment institution in respect of persons other than payment service users.

(3) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) When instituting bankruptcy proceedings for a payment institution, the funds received from payment service users or through another payment service provider for execution of payment transactions shall not be included in the bankruptcy estate and shall be returned by the assignee in bankruptcy proportionally to the funds received from payment service users.

(4) Where a portion of the funds received by the payment institution is to be used for future payment transactions with the remaining amount to be used for non-payment services, that portion of the funds to be used for future payment transactions shall also be subject to the requirements under paragraphs 1 and 2.

Accounting

Article 22. (1) Payment institutions shall provide the BNB with financial statements reflecting their financial situation both separately and in consolidated form.

(2) For the purposes of supervision, payment institutions shall provide the BNB with separate financial statements regarding the payment services they provide under Article 4 and regarding additional activities referred to in Articles 18 and 19 with the frequency and content established by the BNB in an Ordinance.

(3) Payment institutions shall keep all appropriate accounting and other information and records regarding the payment services they provided, including any contracts concluded and any additional services provided, for at least five years.

Auditors

Article 23. (1) (amended; Darjaven Vestnik, issue 95 of 2016) Payment institutions' annual financial statements, as well as the annual reports referred to in Article 22, paragraph 2, shall be checked and certified by an audit firm which is a registered auditor under the provisions of the Law on Independent Financial Audit.

(2) In his report, the auditor shall provide his opinion on the fair presentation of the financial and property condition of the payment institution and its financial result.

(3) The auditor shall carry out a check and provide auditors' opinion also regarding the reliability of the internal control mechanisms of the payment institution and the conformity of the annual statements it prepared under Article 22, paragraph 2 with the requirements of this law and of its implementing legislation.

(4) The persons holding material interest in the payment institution other than payment services users, or are employees or agents of the payment institution, may not be selected as its auditors or take part in the audit of such an institution.

(5) The same person may not be the auditor of the same payment institution for a period exceeding five consecutive years.

(6) A person on whom punitive sanctions have been imposed during the past three years under the Law on Independent Financial Audit may not be the auditor of a payment institution.

Auditors' Obligations

Article 24. (1) Auditors shall forthwith notify the BNB in writing of any circumstances that became known to them in the course of the check and which:

1. represent a breach of the laws, regulations and BNB's official acts governing the payment institution's operation;

2. affect or might affect the normal operation of the payment institution;

3. result or might result in a situation where the payment institution will not be able to settle its monetary liabilities;

4. result in a refusal by the auditor to certify the statements or certification thereof with qualification;

5. are related to actions of an officer of the payment institution within the meaning of § 1, paragraph 1, item 1 of the Additional Provisions of the Law on Credit Institutions which cause or might cause material damages to the payment institution or its customers;

6. are related to incorrect or incomplete data in the statements and reports submitted by the payment institution to the BNB on a regular basis.

(2) Auditors of payment institutions shall be obliged, upon a written request by the BNB, to submit the relevant documentation concerning the circumstances under paragraph 1, as well as other information and documents obtained in the course of the audit.

(3) Auditors shall not be held responsible for any breach of relevant legal or contractual terms and conditions on confidentiality in the cases where they have provided information to the BNB in good faith under the terms of this Law.

Section IV

Use of Agents, Branches or Entities to Which Activities Are Outsourced

Branches and Agents

Article 25. (1) The payment institution may engage in the business for which it was licensed directly or through an agent.

(2) An 'agent' is a merchant which acts on behalf of the payment institution licensed by the BNB in providing payment services.

(3) The payment institution shall submit an application to the BNB to enter into the Register referred to in Article 17 its agents and branches accompanied by all the required documentation.

(4) Agents and branches may not start operation before they are registered.

(5) The procedure for submitting applications under paragraph 3 and the documents required for the registration and deletion from the register referred to in Article 17 of agents and branches of payment institutions shall be established in an Ordinance by the BNB.

Registration of Branches and Agents

Article 26. (1) After checking the information and documents provided by the payment institution, the BNB shall register branches or agents in the Register under Article 17.

(2) The Bulgarian National Bank shall refuse to register branches or agents if it finds that the documents submitted contain incomplete or false information or do not comply with the requirements of this Law and its implementing legislation.

(3) The Bulgarian National Bank shall delete from the register agents or branches if they no longer comply with the requirements of this Law and its implementing legislation, as well as where it has found that the registration was based on false information or documents.

(4) The Bulgarian National Bank shall delete from the register agents or branches on the basis of an application in writing submitted by the payment institution not less than seven days before the date the branch or agent ceases operations.

Liability of the Payment Institution

Article 27. (1) The payment institution shall remain fully liable for any acts of its employees, or any agent, branch or entity to which activities are outsourced.

(2) Agents or branches acting on behalf of the payment institution shall inform payment service users of this fact.

(3) When an agent is deleted from the Register, the documents and funds in connection with outstanding liabilities and unsettled relationships in the provision of payment services or additional activities shall be provided to the payment institution.

Requirements to the Use of Entities to Which Activities Are Outsourced

Article 28. (1) Where a payment institution intends to outsource operational functions of payment services, it shall inform the BNB.

(2) Outsourcing of important operational functions may not be undertaken in such way as to impair materially the quality of the payment institution's internal control or the ability of the BNB to monitor the payment institution's compliance with all requirements laid down in this Law.

(3) An operational function shall be regarded as important if a defect or failure in its performance would materially impair the continuing compliance of a payment institution with the requirements of this Law or its financial performance, or the soundness or the continuity of its payment services.

(4) When outsourcing important operational functions, the payment institutions shall comply with the following conditions:

- a) the outsourcing shall not result in the delegation of senior management functions to third parties;
- b) the relationship and obligations of the payment institution towards its payment service users under this Law shall not be altered;
- c) the conditions with which the payment institution is to comply in order to be licensed and remain so shall not be undermined.

(5) Payment institutions shall take the appropriate steps to ensure compliance with the requirements of this Law by persons entrusted with operational functions.

Section V

Right of Establishment and Freedom to Provide Services

Service Provision on the Territory of Another Member State Other Than Its Home Member State by a Payment Institution Licensed in the Republic of Bulgaria

Article 29. (1) A payment institution licensed in the Republic of Bulgaria may provide the payment services it was licensed for on the territory of another Member State through a branch, agent, or directly after notifying the BNB in writing on its intention for the first time to operate in another Member State.

(2) With the notification referred to in paragraph 1, the payment institution shall inform the BNB about:

1. the Member State on whose territory it intends to operate;
2. the method in which the payment institution shall operate: through a branch, agent or directly;
3. the type of payment services to be provided on the territory of the other Member State.

(3) Where a payment institution intends to provide payment services through a branch, in addition to the information referred to in paragraph 2, it shall provide the BNB with information about:

1. the persons responsible for the management and representation of the branch together with a description of their responsibilities;
2. the organisational structure and address of the branch;
3. the documents referred to in Article 25, paragraph 5.

(4) Within one month of receipt of the notification and all documents referred to in paragraphs 2 and 3, the BNB shall forward to the competent authorities in the host Member State information about the name and head office in the Republic of Bulgaria of the payment institution, as well as information under paragraph 2, items 2 and 3 and paragraph 3, and inform the payment institution on the notification forwarded and enter the operation in another Member State through a branch in the Register referred to in Article 17.

(5) If the payment institution intends to operate through a branch in another Member State by engaging an agent, the BNB shall inform in advance the competent authorities in the host Member State on its intention to list the agent in the Register referred to in Article 17. The BNB shall enter the agent in the Register after taking into account the opinion of the competent authorities in the host Member State.

(6) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) If the BNB is informed by the competent authorities of the host Member State that they have reasonable grounds to suspect that a payment institution licensed in Bulgaria will use or uses its agent or branch for money laundering or terrorist financing, or that the engagement of such agent or establishment of such branch could increase the risk of money laundering or terrorist financing, it may refuse to register the agent or branch, or may withdraw the registration, if already made, of the agent or branch.

(7) In connection with its supervisory powers, the BNB shall cooperate with the competent authorities of the host Member State when the payment institution licensed in the Republic of Bulgaria operates through a branch, agent, or directly on the territory of this Member State.

(8) The Bulgarian National Bank shall exchange with the competent authorities of the host Member State information and documents required for the exercising of supervisory functions, including information on breaches and suspected breaches by any branch, agent or entity to which activities have been outsourced of a payment institution licensed to operate in the Republic of Bulgaria, as well as any other material information required by the competent authorities of the host Member State or provided to them on BNB's initiative.

(9) The Bulgarian National Bank may carry out on-site inspections at the payment institution it licensed providing payment services in another Member State, after notifying in advance the relevant competent authorities of the respective Member State. The Bulgarian National Bank may delegate to the competent authorities of the host Member State the task of carrying out on-site inspections of the payment institution licensed by the BNB and operating in the respective Member State.

Service Provision on the Territory of the Republic of Bulgaria by a Payment Institution Licensed in Another Member State

Article 30. (1) A payment institution licensed in another Member State may provide on the territory of the Republic of Bulgaria the payment services it was licensed for through a branch, agent, or directly, after the BNB is notified by the competent authority which granted the license.

(2) The Bulgarian National Bank shall cooperate with the competent authorities of the home Member State when the payment institution licensed by these competent authorities operates through a branch, agent, or directly on the territory of the Republic of Bulgaria.

(3) The Bulgarian National Bank shall exchange with the competent authorities of the home Member State information and documents required for the exercising of

supervisory functions on the payment institution licensed by them, including information on breaches and suspected breaches by any branch, agent or entity to which activities have been outsourced, as well as any other material information required by the competent authorities of the home Member State or provided to them on BNB's initiative.

(4) The competent authorities of the home Member State may, upon prior notification to the BNB, carry out on-site inspections of the payment institution they licensed that is operating on the territory of the Republic of Bulgaria. The Bulgarian National Bank may, when delegated by the competent authorities of the home Member State carry out on-site inspections of the payment institution licensed in another Member State and operating in the Republic of Bulgaria.

(5) The BNB shall inform the competent authorities of the home Member State in which the payment institution was licensed when it has reasonable grounds to suspect that the payment institution licensed will use its agent or branch on the territory of the Republic of Bulgaria for money laundering or terrorist financing, or that the engagement of such agent or establishment of such branch could increase the risk of money laundering or terrorist financing.

Chapter Three

INFORMATION REQUIREMENTS WHEN PROVIDING PAYMENT SERVICES

Section I

General Provisions

Scope

Article 31. (1) The provisions of this Chapter shall apply to single payment transactions, framework contracts and payment transactions covered by them.

(2) The requirements of this Chapter shall apply only where both the payer's payment service provider and/or the payee's payment service provider are, or the sole payment service provider in the payment transaction is, located in the European Community.

(3) When the payment service user is not a consumer, the parties to a payment transaction may agree that the requirements of this Chapter shall not apply in whole or in part.

Derogation from Information Requirements for Low-value Payment Instruments and Electronic Money

Article 32. For payment instruments and electronic money which, according to the framework contract, concern only individual payment transactions that do not exceed BGN 60 or its equivalent in foreign currency, or have a spending limit of BGN 300 or

its equivalent in foreign currency, or store funds that do not at any time exceed BGN 300 or its equivalent in foreign currency, the following may be agreed:

1. the payment service provider shall have no obligation to provide information referred to in Articles 41, 42 and 45 and provide the payer only with information on the main characteristics of the payment service, including the way in which the payment instrument can be used, liability, charges levied and other material information needed to take an informed decision as well as an indication of where any other information and conditions specified in Article 41 are made available in an easily accessible manner;

2. the payment service provider shall not be required to propose changes in the conditions of the framework contract in the same way as provided for in Article 43;

3 after the execution of a payment transaction the payment service provider shall not be required to provide information referred to in Articles 46 and 47:

a) the payment service provider shall provide or make available only a reference enabling the payment service user to identify the payment transaction, the amount of the payment transaction, any charges and/or, in the case of several payment transactions of the same kind made to the same payee, information on the total amount and charges for those payment transactions;

b) the payment service provider shall not be obliged to provide or make available the information referred to in *a*) if he is not technically in a position to provide it. In this case, the payment service provider shall provide the payer with a possibility to verify the amount of funds stored.

Charges for Information

Article 33. (1) The payment service provider shall not charge the payment service user for providing information under this Chapter.

(2) The parties to a payment service provision contract may agree on charges for additional information or information provided more frequently than established in this Law, or transmission by means of communication other than those specified in the framework contract provided at the payment service user's request. In such cases, the payment service provider may impose charges for information that are appropriate and in line with the payment service provider's actual costs.

Currency and Currency Exchange

Article 34. (1) Payments shall be made in the currency agreed between the parties.

(2) Where a currency conversion service is offered prior to the initiation of the payment transaction and where that currency conversion service is offered at the point of sale or by the payee, the party offering the currency conversion service to the payer shall disclose to the payer all charges and commissions, as well as the exchange rate to be used for converting the payment transaction.

(3) The payer shall agree to the currency conversion service on the basis of the information referred to in paragraph 2.

Information about Charges Payable for the Use of Payment Instruments

Article 35. (1) Where, for the use of a given payment instrument, the payee requests a charge or offers a reduction, the payee shall inform the payer thereof prior to the initiation of the payment transaction.

(2) Where, for the use of a given payment instrument, the payment service provider or a third party requests a charge it shall inform payment service user thereof prior to the initiation of the payment transaction.

Section II

Single Payment Transactions

Scope

Article 36. (1) This Section shall apply to single payment transactions not covered by a framework contract.

(2) When a payment order for a single payment transaction is transmitted by a payment instrument covered by a framework contract, the payment service provider shall not be obliged to provide or make available information which is already given to the payment service user on the basis of a framework contract with another payment service provider or which will be given to him according to that framework contract.

Prior Information

Article 37. (1) Before the payment service user is bound by any single payment service contract or offer, the payment service provider, in an easily accessible manner, makes available to the payment service user the following prior information:

1. the type and characteristics of the information or unique identifier or other information that has to be provided by the payment service user in order for a payment order to be properly executed;

2. the maximum execution time for service to be provided;

3. all charges and commissions payable by the payment service user to the payment service provider and, where applicable, the breakdown of the amounts of any charges;

4. where applicable, the actual or reference exchange rate to be applied to the payment transaction;

5. in the case of money remittance, the time limit after which funds that have not been collected by the payee shall be returned to the payer; this limit may not exceed seven days of the date of the remittance order.

(2) The information referred to in paragraph 1 shall be given in easily understandable words and in a clear and comprehensible form, in an official language of the Member State where the payment service is offered or in any other language agreed between the parties.

(3) At the payment service user's request, the payment service provider shall provide the information referred to in paragraph 1 on paper or on another durable medium.

(4) If the single payment service contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to comply with paragraph 1, the payment service provider shall fulfil its obligations under that paragraph immediately after the execution of the payment transaction.

(5) The payment service provider's obligations under paragraph 1 may also be discharged by supplying a copy of the draft single payment service contract or the draft payment order including the information specified in paragraph 1 and the requirements in paragraph 2 have been complied with.

(6) Where applicable, depending on the specifics of the payment transaction, the payment service provider shall provide the payment service user, in an easily accessible manner, any other information referred to in Article 41, which is relevant to the payment transaction.

Information for the Payer after Receipt of the Payment Order

Article 38. (1) Immediately after receipt of the payment order, the payer's payment service provider shall provide or make available to the payer, in an easily accessible manner, the following information:

1. the reference number of the payment transaction and, where appropriate, information relating to the payee;
2. the amount of the payment transaction in the currency used in the payment order;
3. all charges and commissions payable by the payment service user for the payment transactions and, where applicable, the breakdown of the amounts of any charges;
4. where applicable, the exchange rate used in the payment transaction by the payer's payment service provider or a reference thereto when different from the rate provided in accordance with Article 37 and the amount of the payment transaction after that currency conversion;
5. the date of receipt of the payment order.

(2) The requirements of Article 37, paragraphs 2 and 3 shall apply to the information referred to in paragraph 1.

Information for the Payee after Execution of the Payment Order

Article 39. (1) Immediately after the execution of the payment transaction, the payee's payment service provider shall provide or make available to the payee, in an easily accessible manner, the following information:

1. the reference number of the payment transaction and any information transferred with the payment transaction;

2. the amount of the payment transaction in the currency in which the funds are at the payee's disposal;

3. all charges and commissions payable by the payee for the payment transactions and where applicable, the breakdown of the amounts of any charges;

4. where applicable, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before that currency conversion;

5. the credit value date for the payee's account.

(2) The requirements of Article 37, paragraphs 2 and 3 shall apply to the information referred to in paragraph 1.

Section III

Framework Contracts

Scope

Article 40. (1) This Section applies to payment transactions covered by a framework contract.

(2) 'Framework contract' shall mean a payment service contract which governs the future execution of individual and successive payment transactions and specifies the obligations and conditions for opening and keeping a payment account, and which contains at least the prior information under Article 41.

Prior Information

Article 41. In good time before the payment service user is bound by any framework contract or offer, the payment service provider provide the payment service user on paper or on another durable medium with the following prior information:

1. on the payment service provider:

a) the name, registered office and head office of the payment service provider, and where applicable, the geographical address of its agent or branch established in the Member State where the payment service is offered, and any other address, including electronic mail address relevant for communication with the payment service provider;

b) the particulars of the relevant supervisory authority and of the register with the competent authority in which the payment service provider is listed and the registration number, or equivalent means of identification in the Unified Identification Code (UIC);

2. on the payment services:

a) a description of the payment services to be provided;

b) the type and characteristics of the information or unique identifier that has to be provided by the payment service user in order for a payment order to be properly executed;

c) the form of and procedure for giving consent to execute a payment transaction and withdrawal of such consent;

d) a reference to the point in time of receipt of a payment order as defined in Article 60 and the cut-off time, if any, established by the payment service provider;

e) the maximum execution time for the payment services to be provided;

f) whether there is a possibility to agree on spending limits for the use of the payment instruments;

3. charges, commissions, interest and exchange rates related to the provided payment services:

a) all charges and commissions payable by the payment service user to the payment service provider and, where applicable, the breakdown of the amounts of any charges;

b) where applicable, the interest and exchange rates to be applied, and if reference interest or exchange rates are to be used, the method of calculating the actual interest, and the relevant date and index or base for determining such reference interest or exchange rate;

c) if agreed, the immediate application of changes in reference interest or exchange rate and information requirements related to the changes in accordance with Article 43;

4. on communication between parties to the contract:

a) where applicable, the means of communication, including the technical requirements for the payment service user's equipment agreed between the parties for the transmission of information or notifications under this Law;

b) the manner in and frequency with which information under this Law is to be provided or made available to the payment service user;

c) the language or languages in which the framework contract will be concluded and communication during this contractual relationship undertaken;

d) the payment service user's right to receive at any time the contractual terms of the framework contract in accordance with Article 42;

5. on safeguards:

a) a description of steps that the payment service user is to take in order to keep safe a payment instrument and how to notify the payment service provider in cases of loss, theft or misappropriation of a payment instrument pursuant to Article 53, item 2;

b) if agreed, the conditions under which the payment service provider reserves the right to block a payment instrument in accordance with Article 52;

c) the liability of the payer in accordance with Article 58, including information on the relevant amount;

d) how and within what period of time the payment service user is to notify the payment service provider of any unauthorised or incorrectly executed payment transaction in accordance with Article 55, as well as the payment service provider's liability for unauthorised payment transactions in accordance with Article 57;

e) the liability of the payment service provider for the execution of payment transactions in accordance with Article 68, Article 69 and Article 70, paragraph 1;

f) the conditions for refund in accordance with Article 59;

6. on changes in and termination of the framework contract:

- a) if agreed, information that the payment service user will be deemed to have accepted changes in the conditions of the framework contract unless he notifies the payment service provider that he does not accept them before the date of their proposed date of entry into force;
 - b) the duration of the contract;
 - c) reference to the right of the payment service user to terminate the framework contract and any agreements relating to it in accordance with Article 44;
7. on redress:
- a) any contractual clause on the law applicable to the framework contract and/or the competent courts;
 - b) reference to the out-of-court complaint and redress procedures available to the payment service user.

Manner of Information Provision

Article 42. (1) The information referred to in Article 41 shall be given in easily understandable words and in a clear and comprehensible form, in an official language of the Member State where the payment service is offered or in any other language agreed between the parties.

(2) If the framework contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to comply with Article 41, the payment service provider shall fulfil its obligations under that paragraph immediately after the conclusion of the framework contract.

(3) The payment service provider's obligations under Article 41 may also be discharged by supplying a copy of the draft framework contract if it contains all the information specified in Article 41 and the requirements in paragraph 2 have been complied with.

(4) At any time during the contractual relationship the payment service user shall have a right to receive, on request, the contractual terms of the framework contract, as well as the prior information under Article 41 on paper or on another durable medium.

Changes in the Framework Contract

Article 43. (1) Any changes in the framework contract concerning the prior information under Article 41 shall be provided in advance in the way as provided for in Article 42, paragraph 1 by the payment service provider to the payment service user no later than two months before their proposed date of application.

(2) Where applicable, together with the notification under paragraph 1, the payment service provider shall inform the payment service user that the latter is to be deemed to have accepted these changes if he does not notify the payment service provider that he does not accept them before the proposed date of their entry into force. In these cases, the payment service provider shall also specify that the payment service

user has the right to terminate the framework contract immediately and without any cost or charge before the date of the proposed application of the changes.

(3) Changes in the interest and exchange rates may be applied immediately and without notice under paragraph 1, provided that such a possibility is agreed upon in the framework contract and that the changes are based on the reference interest or reference exchange rates agreed and the possibility for immediate application of these changes was included in the prior information referred to in Article 41.

(4) In the cases referred to in paragraph 3, the payment service user shall be informed of any change in the interest rate at the earliest opportunity on paper or on another durable medium, unless the parties have agreed on a specific frequency or manner in which the information is to be provided or made available.

(5) Changes in interest or exchange rates which are more favourable to the payment service users may be applied without prior notice.

(6) Changes in the interest or exchange rates used in payment transactions shall be implemented and calculated in a neutral manner that does not discriminate against payment service users.

(7) The scope of provided payment services may be expanded by mutual consent of the parties, with the time limit referred to in paragraph 1 not applied.

(8) (new; Darjaven Vestnik, issue 59 of 2016) The provision of Article 147b of the Law on Consumer Protection concerning changes in the general terms and conditions shall not apply to changes in framework contracts made under the conditions and procedure referred to in this Article.

Termination

Article 44. (1) The payment service user may terminate the framework contract at any time, unless the parties have agreed on a period of notice, which may not be longer than 1 month.

(2) Upon termination of a framework contract concluded for an indefinite period or a framework contract for a period exceeding 12 months the payment services user shall not pay charge or penalty for the termination if 12 months have expired since the conclusion of the framework contract.

(3) In all other cases charges or penalties for the termination of the framework contract shall be appropriate and in line with the actual costs of the payment service provider.

(4) If agreed in the framework contract, the payment service provider may terminate a framework contract concluded for an indefinite period by giving at least 2-month notice. The notice is provided to the payment service user on paper or on another durable medium.

(5) Upon termination of a framework contract, charges for payment services levied on a regular basis shall be payable by the payment service user only proportionally up to the termination of the contract. If such charges are paid in advance, they shall be reimbursed proportionally.

(6) Paragraphs 1–5 shall not apply where the framework contract was terminated due to any of the parties' being in default.

Information before Execution of Individual Payment Transactions

Article 45. In the case of an individual payment transaction under a framework contract initiated by the payer, a payment service provider shall, at the payer's request for this specific payment transaction, provide explicit information on the maximum execution time and the charges and commission payable by the payer and, where applicable, a breakdown of the amounts of any charges.

Information for the Payer on Individual Payment Transactions under a Framework Contract

Article 46. (1) After the amount of an individual payment transaction is debited from the payer's account or, where the payer does not use a payment account, after the receipt of the payment order, the payer's payment service provider shall provide the payer without undue delay on paper or another durable medium the following information:

1. the reference number of the payment transaction and, where appropriate, information relating to the payee;
2. the amount of the payment transaction in the currency in which the payer's payment account is debited or in the currency used for the payment order;
3. all charges and interest payable by the payer for the payment transactions and the breakdown of the amounts and types of any charges;
4. the exchange rate used by the payment service provider for the payment transaction and the amount of the payment transaction after that currency conversion;
5. the debit value date or the date of receipt of the payment order.

(2) A framework contract may include a clause that the information referred to in paragraph 1 is to be provided or made available to the user periodically at least once a month and in an agreed manner which allows the payer to store and reproduce information unchanged.

Information for the Payee on Individual Payment Transactions under a Framework Contract

Article 47. (1) After the execution of an individual payment transaction under a framework contract, the payee's payment service provider shall provide the payee without undue delay on paper or another durable medium the following information:

1. the reference number and where appropriate information about the payer and any other information transferred with the payment transaction;
2. the amount of the payment transaction in the currency in which the payee's payment account is credited;
3. all charges and interest payable by the payee for the payment transactions and the breakdown of the amounts and types of any charges;

4. the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before that currency conversion;
5. the credit value date for the payee's account.

(2) A framework contract may include a clause that the information referred to in paragraph 1 is to be provided or made available to the user periodically at least once a month and in an agreed manner which allows the payee to store and reproduce information unchanged.

Chapter Four

RIGHTS AND OBLIGATIONS IN RELATION TO THE PROVISION AND USE OF PAYMENT SERVICES

Section I

General Provisions

Scope

Article 48. (1) The requirements of this Chapter shall apply only where both the payer's payment service provider and the payee's payment service provider are, or the sole payment service provider in the payment transaction is, located in the European Community.

(2) When the payment service user is not a consumer, the parties to a payment transaction may agree that Article 49, paragraph 1, Article 51, paragraph 1, Articles 56, 58, 59, 62, 68, 69 and Article 70, paragraph 1 shall not apply in their relationships. The parties may also agree on a time period other than that laid down in Article 55.

(3) The Bulgarian National Bank may establish in an ordinance the requirements and procedures for the execution of payment transactions and the use of certain payment instruments.

Charges Applicable

Article 49. (1) The payment service provider may not charge the payment service user for fulfillment of its information obligations or corrective and preventive measures, unless otherwise specified in this Chapter. If charges are to be levied, those shall be agreed between the payment service user and the payment service provider and shall be appropriate and in line with the payment service provider's actual costs.

(2) Where a payment transaction does not involve any currency conversion, the payee pays the charges levied by his payment service provider, and the payer pays the charges levied by his payment service provider.

(3) The payment service provider shall not prevent the payee from requesting from the payer a charge or from offering him a reduction for the use of a given payment instrument.

(4) In case of payment transactions executed by means of a payment card or another similar instrument, the payee may not request from the payer to pay charges for the use of the instrument.

(5) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) When payments are made in a foreign currency other than the currency of a Member State, the parties to the payment transaction may agree on paying charges in a manner other than the one specified in paragraph 2 and in Article 63, paragraph 4.

Derogation for Low Value Payment Instruments and Electronic Money

Article 50. (1) For payment instruments and electronic money which, according to the framework contract solely, concern individual payment transactions exceeding BGN 60 or its equivalent in foreign currency, or which either have a spending limit of BGN 300 or its equivalent in foreign currency, or store funds which do not exceed BGN 300 at any time or its equivalent in foreign currency, the payment service providers may agree on the following with payment service users:

1. Article 53, item 2, Article 54, paragraph 1, items 4–6 and Article 58, paragraphs 3 and 4 do not apply if the payment instrument does not allow its blocking or prevention of its further use;

2. Articles 56 and 57, and Article 58, paragraphs 1 and 2 do not apply if the payment service provider is not in a position for other reasons which are intrinsic to the payment instrument to prove that a payment transaction was authorised;

3. by way of derogation from Article 61, paragraphs 1, 2 and 3, the payment service provider is not required to notify the payment service user of the refusal of a payment order, if the non-execution is apparent from the context;

4. the payer may not revoke the payment order after transmitting the payment order or giving his consent to execute the payment transaction to the payee;

5. by way of derogation from Article 64, paragraphs 2–7, other execution periods apply.

(2) Articles 57 and 58 shall apply also to electronic money except where the payer's payment service provider does not have the ability to block the payment account or the payment instrument.

Section II

Authorisation of Payment

Consent and Withdrawal of Consent

Article 51. (1) A payment transaction is considered to be authorised only if the payer has given consent to execute the payment transaction. In the absence of such consent, a payment transaction shall be considered to be unauthorised.

(2) A payment transaction may be authorised by the payer prior to or, if agreed between the payer and his payment service provider, after the execution of the payment transaction.

(3) Consent to execute a payment transaction or a series of payment transactions shall be given in accordance with the procedure and in a manner agreed between the payer and his payment service provider.

(4) The order or consent of the payer for the execution of a payment transaction may be withdrawn by the payer at any time, but no later than the point in time of irrevocability under Article 62.

(5) Consent to execute a series of payment transactions may also be withdrawn with the effect that any future payment transaction is to be considered as unauthorised.

Limits of the Use of the Payment Instrument

Article 52. (1) In cases where a specific payment instrument is used for the purposes of giving consent, the payer and his payment service provider may agree on spending limits for payment transactions executed through that payment instrument.

(2) If agreed in the framework contract, the payment service provider may reserve the right to block a payment instrument for objectively justified reasons related to:

1. the security of the payment instrument;
2. the suspicion of unauthorised use of the payment instrument;
3. fraudulent use of the payment instrument;
4. in the case of a payment instrument with a credit line, a significantly increased risk that the payer may be unable to fulfil his liability to pay.

(3) In cases referred to in paragraph 2, the payment service provider shall inform the payer of the blocking of the payment instrument and the reasons for it, where possible, before the payment instrument is blocked and at the latest immediately thereafter, unless giving such information would compromise objectively justified security reasons or is prohibited by other relevant legislation.

(4) The payment service provider shall unblock the payment instrument or replace it with a new payment instrument once the reasons for blocking no longer exist.

Obligations of the Payment Service User in Relation to Payment Instruments

Article 53. The payment service user entitled to use a payment instrument shall have the following obligations:

1. to use the payment instrument in accordance with the terms governing the issue and use of the payment instrument;
2. to notify the payment service provider, or the entity specified by the latter, without undue delay on becoming aware of loss, theft or misappropriation of the payment instrument or of its unauthorised use;
3. as soon as he receives a payment instrument, take all reasonable steps to keep its personalised security features safe, including by not recording any information on

the payment instrument and not storing such information together with the payment instrument.

Obligations of the Payment Service Provider in Relation to Payment Instruments

Article 54. (1) The payment service provider issuing a payment instrument shall have the following obligations:

1. to make sure that the personalised security features of the payment instrument are not accessible to parties other than the payment service user entitled to use the payment instrument, without prejudice to the obligations on the payment service user under Article 53;

2. to refrain from sending an unsolicited payment instrument, except where a payment instrument already given to the payment service user is to be replaced;

3. to store for no less than 5 years any information which allows tracing the transactions executed with the payment instrument;

4. to ensure that appropriate means are available at any time to enable the payment service user to make a notification pursuant to Article 53, item 2, and on request for unblocking pursuant to Article 52, paragraph 4 – within the working time;

5. on request, the payment service provider shall provide the payment service user with the means to prove, for 18 months after notification under Article 53, item 2, that he made such notification;

6. to prevent without delay all use of the payment instrument once notification pursuant to Article 53, item 2, has been made.

(2) The payment service provider shall bear the risk of misuse in sending a payment instrument to the payer or of sending any personalised security features of the payment instrument.

Notification of Unauthorised or Incorrectly Executed Payment

Article 55. (1) The payment service user shall obtain rectification from the payment service provider only if he notifies his payment service provider without undue delay on becoming aware of any unauthorised or incorrectly executed payment transactions giving rise to a claim, including that within the meaning of Articles 68, 69 and Article 70, paragraph 1, but no later than 13 months after the debit date.

(2) It shall be deemed that the payment service user has become aware of an unauthorised or incorrectly executed payment transaction not later than upon receipt of information under Article 38, paragraph 1 or Article 46, paragraph 1.

(3) The time limit referred to in paragraph 1 shall not apply when the payment service provider failed to fulfil its obligation to provide information on the payment transaction in accordance with Chapter Three.

Evidence on Authentication and Execution of Payment Transactions

Article 56. (1) Where a payment service user denies having authorised an executed payment transaction or claims that the payment transaction was not correctly executed, it is for his payment service provider to prove that the payment transaction was authenticated, accurately recorded, entered in the accounts and not affected by a technical breakdown or some other deficiency.

(2) Authentication shall be a procedure which allows the payment service provider to verify the use of a specific payment instrument, including its personalised security features. The use of a specific payment instrument shall be established in the rules and procedures for the payment service provider for the execution of the appropriate payment transaction.

(3) Where a payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider shall in itself not necessarily be sufficient to prove either that the payment transaction was authorised by the payer or that the payer acted fraudulently or failed with intent or gross negligence to fulfil one or more of his obligations under Article 53.

Payment Service Provider's Liability for Unauthorised Payment Transactions

Article 57. (1) In the case of an unauthorised payment transaction, the payer's payment service provider refunds to the payer immediately the amount of the unauthorised payment transaction and, where applicable, restores the debited payment account to the state in which it would have been prior to the execution of the unauthorised payment transaction.

(2) The refunding under paragraph 1 shall be effected immediately after finishing the procedure under Article 56 but not later than 21 days after the receipt of the notification under Article 55.

(3) Paragraphs 1 and 2 shall apply to electronic money except where the payer's payment service provider does not have the ability to freeze the payment account or block the payment instrument.

Payer's Liability for Unauthorised Payment Transactions

Article 58. (1) By way of derogation from Article 57, the payer shall bear the losses relating to any unauthorised payment transactions resulting from the use of a lost, stolen or misappropriated payment instrument or, if the payer has failed to keep the personalised security features safe, up to a maximum amount agreed upon between the payment service provider and the user but not more than BGN 300.

(2) The payer shall bear all the losses relating to any unauthorised payment transactions if he incurred them by acting fraudulently or by failing to fulfil one or more of his obligations under Article 53 with intent or gross negligence. In these cases the payer shall bear the losses irrespective of their amount.

(3) After notification in accordance with Article 53, item 2, the payer shall not bear any financial consequences resulting from use of the lost, stolen or misappropriated payment instrument, except where he has acted fraudulently.

(4) If the payment service provider does not provide appropriate means for the notification at all times of a lost, stolen or misappropriated payment instrument, as required under Article 54, paragraph 1, item 4, the payer shall not be liable for the financial consequences resulting from use of that payment instrument, except where he has acted fraudulently.

(5) Paragraphs 1–4 shall apply to electronic money except where the payer’s payment service provider does not have the ability to freeze the payment account or block the payment instrument.

Refunds for Payment Transactions Initiated by or through a Payee

Article 59. (1) The payer is entitled to a refund from his payment service provider of an authorised payment transaction initiated by or through a payee which has already been executed, if the following conditions are met:

1. the authorisation did not specify the exact amount of the payment transaction when the authorisation was made; and

2. the amount of the payment transaction exceeded the amount the payer could reasonably have expected taking into account his previous spending pattern, the conditions in his framework contract and relevant circumstances of the case.

(2) The request for refund referred to in paragraph 1 is made by the payer within 56 days from the date on which the funds were debited. At the payment service provider’s request, the payer shall provide factual elements relating to the conditions under paragraph 1.

(3) Within 10 business days after receiving a request for a refund, the payment service provider shall either refund the full amount of the payment transaction or provide justification for refusing the refund, indicating the bodies to which the payer may refer the matter if he does not accept the justification provided. Where the payer and his payment service provider have so agreed in accordance with paragraph 5, the provider may not refuse to refund the amount.

(4) For the purposes of paragraph 1, item 2, the payer may not rely on currency exchange reasons if the reference exchange rate agreed with his payment service provider was applied.

(5) For direct debits the payer and his payment service provider may agree in the framework contract that the payer is entitled to a refund from his payment service provider even though the conditions for refund in paragraph 1 are not met.

(6) It may be agreed in the framework contract between the payer and the payment service provider that the payer has no right to a refund under paragraph 1 where he has given his consent to execute the payment transaction directly to his payment service provider and, where applicable, information on the future payment transaction was

provided or made available in an agreed manner to the payer for at least 28 days before the due date of the payment transaction.

Section III

Execution of Payment Transactions

Receipt of Payment Orders

Article 60. (1) The point in time of receipt is the time when the payment order transmitted directly by the payer or indirectly by or through a payee in accordance with the procedure and the manner of receipt of payment orders agreed between the parties, is received by the payment service provider.

(2) If the point in time of receipt is not on a business day for the payer's payment service provider, the payment order shall be deemed to have been received on the following business day.

(3) The payment service provider may establish a cut-off time near the end of a business day beyond which any payment order received shall be deemed to have been received on the following business day.

(4) If the payment service user initiating a payment order and his payment service provider agree that execution of the payment order shall start on a specific day or at the end of a certain period or on the day on which the payer has set funds at his payment service provider's disposal, the point in time of receipt is deemed to be the agreed day. If the agreed day is not a business day for the payment service provider, the payment order received shall be deemed to have been received on the following business day.

Refusal of Payment Orders

Article 61. (1) Where the payment service provider refuses to execute a payment order, the refusal and, if possible, the reasons for it and the procedure for correcting any factual mistakes that led to the refusal shall be notified to the payment service user, unless the provision of such information is prohibited by other relevant Community or Bulgarian national legislation.

(2) The payment service provider shall provide or make available the notification under paragraph 1 in an agreed manner at the earliest opportunity, within the periods specified in Article 64, paragraphs 2–8.

(3) The framework contract may include a condition that the payment service provider may charge for such a notification if the refusal is objectively justified.

(4) In cases where all the conditions set out in the payer's framework contract are met, the payer's payment service provider shall not refuse to execute an authorised payment order irrespective of whether the payment order is initiated by a payer or by or through a payee, unless prohibited by other relevant legislation.

(5) For the purposes of Article 65, paragraphs 1–5, Articles 68, 69 and Article 70, paragraph 1, a payment order of which execution has been refused shall be deemed not to have been received.

Irrevocability of a Payment Order

Article 62. (1) The payment service user may not revoke a payment order once it has been received by the payer's payment service provider.

(2) Where the payment transaction is initiated by or through the payee, the payer may not revoke the payment order after transmitting the payment order or giving his consent to execute the payment transaction to the payee.

(3) In the cases under Article 60, paragraph 4 the payment service user may revoke a payment order at the latest by the end of the business day preceding the day agreed for debiting the funds.

(4) In the event of a direct debit and the payer also may revoke the payment order at the latest by the end of the business day preceding the day agreed for debiting the accounts.

(5) After the time limits specified in paragraphs 1–4 but not later than upon crediting the payee's account, the payment order may be revoked only if agreed between the payment service user and his payment service provider; in the cases specified in paragraphs 2 and 4, the payee's consent is required.

(6) If agreed in the framework contract, the payment service provider may charge for revocation of a payment order.

Amounts Transferred and Amounts Received

Article 63. (1) The payment service provider of the payer, the payment service provider of the payee and any intermediaries of the payment service providers shall transfer the full amount of the payment transaction and refrain from deducting charges from the amount transferred.

(2) No partial transfers are allowed for individual payment orders or direct debit requests.

(3) The payee and his payment service provider may agree that the payment service provider deduct its charges from the amount transferred before crediting it to the payee. In such a case, the full amount of the payment transaction and charges shall be separated in the information given to the payee.

(4) If any charges other than those referred to in paragraph 3 are deducted from the amount transferred, the payment service provider of the payer shall ensure that the payee receives the full amount of the payment transaction initiated by the payer, and if the payment transaction is initiated by or through the payee, his payment service provider shall ensure that the full amount of the payment transaction is received by the payee.

Section IV

Execution Time and Value Date*Execution Time of Payment Transactions in BGN, EUR and Payment Transactions, Related to Only One Currency Conversion between the Bulgarian Lev and the Euro*

Article 64. (1) Execution time of payment transactions under this Article shall apply to:

1. payment transactions in Bulgarian levs;
2. payment transactions in euro;
3. payment transactions involving only one currency conversion between the Bulgarian lev and the euro, provided that the currency conversion is carried out in the Republic of Bulgaria and, in the case of cross-border payment transactions where they take place in euro;

(2) The payer's payment service provider shall ensure that the amount of the payment transaction is credited to the payee's payment service provider's account at the latest by the end of the next business day after the point in time of receipt of the payment order. This time period may be extended by another business day for the payment transactions initiated on paper.

(3) When executing payment transactions in Bulgarian levs between payment service providers participating in a payment system under Article 103 or a payment system under Article 107, paragraph 2, the payment service provider of the payer shall ensure that the amount of the payment transaction is credited to the payee's account on the same business day the payment order was received.

(4) The payment service provider referred to in paragraph 3 shall inform the user on the working hours in which it accepts payment orders for execution on the same business day.

(5) The payment service provider of the payee shall indicate the value date and make available the amount of the payment transaction to the payee's payment account after the payment service provider has received the funds in accordance with Article 66.

(6) The payee's payment service provider shall transmit a payment order initiated by or through the payee to the payer's payment service provider within the time limits agreed between the payee and his payment service provider, enabling settlement on the agreed due date.

(7) Where the payee does not have a payment account with the payment service provider, the funds shall be made available to the payee by the payment service provider who receives the funds for the payee within the period specified in paragraphs 2–6.

(8) Where cash is placed on a payment account by a consumer with that payment service provider in the currency of that payment account, the payment service provider shall ensure that the amount is made available and value dated immediately after the point of time of the receipt of the funds. Where the payment service user is

not a consumer, the amount shall be made available and the value dated no later than the business day, following the day of the receipt of the funds.

Execution Time of Payment Transactions in Other Currency

Article 65 (1) In case of payment transactions other than those specified in Article 64, paragraph 1 the terms under Article 64 shall apply unless otherwise agreed between the payment service user and his provider.

(2) In case of payment transactions within the European Community, the terms agreed under paragraph 1 shall not exceed 4 business days after the receipt of the payment order.

Credit Value Date and Debit Value Date of the Payment Account

Article 66. (1) The credit value date for the payee's payment account is no later than the business day on which the amount of the payment transaction is credited to the payee's payment service provider's account.

(2) The payment service provider of the payee shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the payee's payment service provider's account.

(3) The debit value date for the payer's payment account is no earlier than the point in time at which the amount of the payment transaction is debited to that payment account.

Section V

Liability

Incorrect Unique Identifier

Article 67. (1) If a payment order is executed in accordance with the unique identifier, the payment order shall be deemed to have been executed correctly with regard to the payee specified by the unique identifier.

(2) If the unique identifier provided by the payment service user is incorrect, the payment service provider shall not be liable for non-execution or defective execution of the payment transaction.

(3) In case of non-execution of a payment transaction due to an incoherent unique identifier, the payment service provider of the payer shall refund the amount of the payment transaction on the next business day.

(4) In the cases of paragraphs 2 and 3 the payment service provider will act in due diligence and refund the amount of the payment transaction. When agreed in the framework contract, the payment service provider may charge for such refund.

(5) If the payment service user provides information additional to that specified in Article 37, paragraph 1, item 1 and Article 41, item 2(b), the payment service provider shall be liable only for the execution of payment transactions in accordance with the unique identifier provided by the payment service user.

***Non-execution or Defective Execution of Payment Transactions
Initiated by the Payer***

Article 68. (1) Where a payment order is initiated by the payer, his payment service provider shall be liable to the payer for correct execution of the payment transaction, unless he can prove to the payer or to the payee's payment service provider that the payee's payment service provider received the amount of the payment transaction in accordance with Article 64, paragraph 2, in which case, the payee's payment service provider shall be liable to the payee for the correct execution of the payment transaction.

(2) Where the payer's payment service provider is liable under paragraph 1, he shall without undue delay refund to the payer the amount of the non-executed or defective payment transaction and, where applicable, restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place.

(3) Where the payee's payment service provider is liable under paragraph 1, he shall immediately place the amount of the payment transaction at the payee's disposal and, where applicable, credit the corresponding amount to the payee's payment account.

(4) In the case of a non-executed or defectively executed payment transaction where the payment order is initiated by the payer, his payment service provider shall, on request act in due diligence to trace the payment transaction and notify the payer of the outcome.

***Non-Execution or Defective Execution of Payment Transactions
Initiated by the Payee***

Article 69. (1) Where a payment order is initiated by or through the payee, his payment service provider shall be liable to the payee for correct transmission of the payment order to the payment service provider of the payer in accordance with Article 64, paragraph 6. Where the payee's payment service provider is liable under this paragraph, he shall immediately re-transmit the payment order in question to the payment service provider of the payer.

(2) The payment service provider of the payee is liable to the payee for the execution of the payment transaction in accordance with Article 66 and shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the payee's payment service provider's account.

(3) In the case of a non-executed or defectively executed payment transaction for which the payee's payment service provider is not liable under paragraphs 1 and 2, the payer's payment service provider shall be liable to the payer and shall without undue delay restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place.

(4) In the case of a non-executed or defectively executed payment transaction where the payment order is initiated by the payee, his payment service provider shall,

on request, make immediate efforts in due diligence to trace the payment transaction and notify the payee of the outcome.

Liability for Refund of Charges and Interest

Article 70. (1) Payment service providers shall be liable to their respective payment service users for any charges for which they are responsible, and for any interest to which the payment service user is subject as a consequence of non-execution or defective execution of the payment transaction.

(2) Payment service users shall have the right to be compensated to the full amount of any damages according to the applicable law agreed in the contract with the payment service provider.

Right of Recourse

Article 71. Where the payment service provider is liable in accordance with this Law, due to the actions of another payment service provider or intermediary, the payment service provider or intermediary who caused the non-execution or defective execution of the payment transaction, shall pay to the liable payment service provider a compensation for all damage incurred as well as any other additional compensation agreed upon between the payment service providers and/or intermediaries according to the applicable law to the agreement concluded between them.

Rectification of Errors

Article 72. (1). Where the payer's payment service provider is liable to the payer for defectively executed payment transaction with the funds incorrectly credited to another account, the payer's payment service provider shall have the right to require the payee's payment service provider to *ex-officio* make a corrective transfer from the payee's account, on which the funds have been incorrectly credited, within 5 days from the date on which the payer's payment service provider refunded the amount of defectively executed transaction on the payer's account but not later than 1 month after the he has been notified by the payer or in any other manner about the defectively executed payment transaction.

(2) The payee's payment service provider of defectively executed transaction shall within 5 business days after the receipt of the request under paragraph 1 make a corrective transfer from the payee's account to the account of the payer's payment service provider.

(3) In the cases no *ex-officio* corrective transfer is made under the terms and procedure provided for in paragraphs 1 and 2, the relations between the parties shall be settled in accordance with the general procedures.

No Liability

Article 73. Liability under this Chapter shall not apply in cases of abnormal and unforeseeable circumstances beyond the control of the party pleading for the applica-

tion of those circumstances, the consequences of which would have been unavoidable despite all efforts to the contrary, or where a payment service provider is bound by other legal obligations covered by national or Community legislation.

Chapter Four 'a'

TRANSPARENCY AND COMPARABILITY OF FEES. PAYMENT ACCOUNT SWITCHING. ACCESS TO PAYMENT ACCOUNTS WITH BASIC FEATURES

(new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016)

Section I

General Provisions

(new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016)

Scope of Application

Article 73a. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) (1) This Chapter shall apply to payment accounts through which consumers are able at least to:

1. place funds in a payment account;
2. withdraw cash from a payment account; and
3. execute and receive payment transactions, including credit transfers, to and from a third party.

(2) The provisions of Section IV of this Chapter shall apply only to the banks licensed by the BNB and to the bank branches conducting operations on the territory of Bulgaria that offer payment services to consumers. The provisions of Sections II and III of this Chapter shall apply to all payment service providers licensed by the BNB, branches and agents of payment service providers operating on the territory of Bulgaria.

Section II

Transparency and Comparability of Fees Linked to a Payment Account

(new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016)

List of the Most Representative Services Linked to a Payment Account

Article 73b. (new; Darjaven Vestnik, issue 59 of 2016) (1) The Bulgarian National Bank shall adopt an ordinance with a list of the most representative services linked to a payment account, which shall contain both national and standardised Union-level terms.

(2) The services under paragraph 1 shall be the services most commonly used by consumers in relation to their payment accounts and/or services generating the highest cost for consumers.

Fee Information Document

Article 73c. (new; Darjaven Vestnik, issue 59 of 2016) (1) In good time before the consumer is bound by a contract for a payment account, payment service providers shall provide the consumer with a fee information document on paper or another durable medium containing the standardised terms of the list under Article 73b. Provision of the fee information document shall be without prejudice to the obligations of the payment service provider set out in Article 41, item 3 or in the Law on Consumer Credit.

(2) The document under paragraph 1 shall:

1. be a short and stand-alone document;
2. be presented and laid out in a way that is clear and easy to read, using characters of a readable size;
3. be no less comprehensible in the event that, having been originally produced in colour, it is printed or photocopied in black and white;
4. be written in Bulgarian or in another language, if agreed by the consumer and the payment service provider;
5. be accurate and not contain misleading information;
6. fees in the document shall be expressed in the currency of the payment account or, if agreed by the consumer and the payment service provider, in another currency of a Member State;
7. contain the title 'Fee Information Document' at the top of the first page next to a common symbol to distinguish the document from other documentation;
8. include a statement that it contains fees for the most representative services related to the payment account and that complete pre-contractual and contractual information on all the services is provided in other documents.

(3) Where one or more services are offered as part of a package of services linked to a payment account, the fee information document shall disclose the fee for the entire package, the services included in the package and their quantity, and the additional fee for any service that exceeds the quantity covered by the package fee.

(4) The fee information document shall be prepared in a standardised presentation format and contain a common symbol in accordance with a delegated act, adopted by the European Commission under Article 4, paragraph 6 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 257/214 of 28 August 2014) hereinafter Directive 2014/92/EU.

Glossary

Article 73d. (new; Darjaven Vestnik, issue 59 of 2016) (1) Payment service providers shall make available to consumers a glossary of at least the standardised terms set out in the list referred to in Article 73b and the related definitions.

(2) The glossary provided pursuant to paragraph 1, including other definitions, if any, shall be drafted in clear, unambiguous and non-technical language which is not misleading.

Providing the Fee Information Document and the Glossary

Article 73e. (new; Darjaven Vestnik, issue 59 of 2016) (1) The fee information document and the glossary shall be made available to consumers at any time by payment service providers. They shall be provided in an easily accessible manner, including to non-customers. The fee information document and the glossary shall be made available in the premises of payment service providers accessible to consumers, and if they are in electronic form, also on the websites of payment service providers.

(2) The documents under paragraph 1 shall also be provided on paper or another durable medium free of charge upon request by a consumer.

(3) The fee information document may be provided together with further information required pursuant to European Union's or Bulgaria's legislative acts on payment accounts and related services.

Statement of Fees

Article 73f. (new; Darjaven Vestnik, issue 59 of 2016) (1) Payment service providers shall provide the consumer, at least annually and free of charge, with a statement of all fees incurred, as well as, where applicable, information regarding the overdraft interest rates applied to the payment account, the credit interest rate applied to the payment account and the total amount of interest earned during the relevant period, where applicable. Payment service providers shall use the terms set out in the list under Article 73b in the statement of fees.

(2) The requirements under paragraph 1 shall be without prejudice to the obligations of payment service providers to provide information under Articles 46 and 47, and under the Law on Consumer Credit.

(3) The communication channel under paragraph 1 used to provide the statement of fees shall be agreed with the payment service provider and the consumer. Upon request, it shall be also provided to consumers on paper.

(4) The statement of fees may be provided together with further information required pursuant to European Union's or Bulgaria's legislative acts on payment accounts and related services.

Content of the Statement

Article 73g. (new; Darjaven Vestnik, issue 59 of 2016) (1) The statement under Article 73f shall contain the following information:

1. the unit fee charged for each service and the number of times the service was used during the relevant period;

2. where the services are combined in a package, the fee charged for the package as a whole, the number of times the package fee was charged during the relevant period and the additional fee charged for any service exceeding the quantity covered by the package fee;

3. the total amount of fees incurred during the relevant period for each service, each package of services provided and services exceeding the quantity covered by the package fee;

4. the overdraft interest rate applied to the payment account and the total amount of interest charged relating to the overdraft during the relevant period, where applicable;

5. the credit interest rate applied to the payment account and the total amount of interest earned during the relevant period, where applicable;

6. the total amount of fees charged for all services provided during the relevant period.

(2) The statement under Article 73f shall:

1. be presented and laid out in a way that is clear and easy to read, using characters of a readable size;

2. be accurate and not contain misleading information;

3. be expressed in the currency of the payment account or, if agreed by the consumer and the payment service provider, in another currency;

4. contain the title 'Statement of Fees' at the top of the first page of the statement next to a common symbol to distinguish the statement from other documentation; and

5. be written in Bulgarian or in another language, if agreed by the consumer and the payment service provider.

(3) The statement of fees shall be prepared in a standardised presentation format and contain a common symbol in accordance with a delegated act, adopted by the European Commission under Article 5, paragraph 4 of Directive 2014/92/EU.

Information for Consumers

Article 73h. (new; Darjaven Vestnik, issue 59 of 2016) (1) In their contractual, commercial and marketing information to consumers, payment service providers shall use, where applicable, the standardised terms set out in the list referred to in Article 73b.

(2) Payment service providers may use brand names in the fee information document and in the statement of fees, provided such brand names are used in addition to

the standardised terms set out in the final list referred to in Article 73b as a secondary designation of those services.

(3) Payment service providers may use brand names to designate their services in their contractual, commercial and marketing information to consumers, provided that they clearly identify, where applicable, the corresponding standardised terms set out in the list referred to in Article 73b.

Fee Comparison Website

Article 73i. (new; Darjaven Vestnik, issue 59 of 2016) (1) Consumers shall have access, free of charge, to at least one website comparing fees charged by payment service providers for the services included in the list referred to in Article 73b at national level.

(2) The website under paragraph 1 shall:

1. be operationally independent by ensuring that payment service providers are given equal treatment in search results;
2. clearly set out the owner of the website;
3. set out clear, objective criteria on which the comparison will be based;
4. use plain and unambiguous language and, where applicable, the standardised terms set out in the list referred to in Article 73b;
5. provide accurate and up-to-date information and state the time of the last update;
6. include a broad range of payment account offers covering a significant part of the market and, where the information presented is not a complete overview of the market, a clear statement to that effect, before displaying results; and

7. provide an effective procedure to report incorrect information on published fees.

(3) The Bulgarian National Bank shall maintain the website under paragraph 1 in accordance with a procedure set forth in a BNB ordinance.

(4) Other persons maintaining websites which comply with the requirements under paragraphs 2 and 3 shall notify the BNB thereof in order to be included in the information provided under paragraph 6.

(5) Payment service providers shall inform the BNB of the fees charged by them for the services included in the list under Article 73b according to a procedure established by an ordinance of the BNB, as well as of all changes thereto.

(6) The BNB shall provide online information about the availability of websites that comply with the conditions under this Article.

(7) Relations between the Ministry of Finance and the BNB with regard to reimbursement of expenses made by the BNB shall be contractually established.

Packaged Payment Accounts

Article 73j. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) When a payment account is offered as part of a package together with another product or service which is not linked to a payment account, the payment service provider shall inform the consumer whether it is possible to purchase the payment ac-

count separately. If there is such a possibility, a payment service provider shall provide separate information regarding the costs and fees associated with each of the other products and services offered in that package that can be purchased separately.

Section III

Switching

(new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016)

Provision of the Switching Service

Article 73k. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) Payment service providers shall provide a switching service as described in this Section between payment accounts held in the same currency with a payment service provider located in the territory of the Republic of Bulgaria.

Switching Service

Article 73l. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) (1) The receiving payment service provider shall initiate a switching process upon request of the consumer and upon receipt of the authorisation from the consumer. In the case of two or more holders of the account, authorisation shall be obtained from each of them. Authorisation shall be granted in writing in Bulgarian or in any other language agreed between the parties, with a copy being also provided to the consumer.

(2) The authorisation under paragraph 1 shall allow the consumer to:

1. the performance by the transferring payment service provider of each of the tasks referred to in paragraph 4;
2. the performance by the transferring payment service provider of each of the tasks referred to in paragraph 7.

(3) The authorisation under paragraph 1 shall also allow the consumer to specifically identify:

1. incoming credit transfers, standing orders for credit transfers and direct debit mandates that are to be switched;
2. the date that is at least six business days after the date on which the receiving payment service provider receives the documents transferred from the transferring payment service provider pursuant to paragraph 5 from which standing orders for credit transfers and direct debits are to be executed from the payment account opened or held with the receiving payment service provider.

(4) Within two business days from receipt of the authorisation referred to in paragraph 1, the receiving payment service provider shall request the transferring payment service provider to carry out the following tasks, if provided for in the consumer's authorisation:

1. transmit to the receiving payment service provider and, if specifically requested by the consumer, to the consumer, a list of the existing standing orders for credit transfers and available information on direct debit mandates that are being switched;

2. transmit to the receiving payment service provider and, if specifically requested by the consumer, to the consumer, the available information about recurring incoming credit transfers and creditor-driven direct debits executed on the consumer's payment account in the previous 13 months;

3. stop accepting direct debits and incoming credit transfers with effect from the date specified in the authorisation where the transferring payment service provider does not provide a system for automated redirection of the incoming credit transfers and direct debits to the payment account held by the consumer with the receiving payment service provider;

4. cancel standing orders with effect from the date specified in the authorisation;

5. transfer any remaining positive balance to the payment account opened or held with the receiving payment service provider on the date specified by the consumer; and

6. close the payment account held with the transferring payment service provider on the date specified by the consumer.

(5) Upon receipt of a request under paragraph 4, the transferring payment service provider shall carry out the following tasks, if provided for in the consumer's authorisation:

1. send the receiving payment service provider the information referred to in paragraph 4, items 1 and 2 within five business days;

2. where the transferring payment service provider does not provide a system for automated redirection of the incoming credit transfers and direct debits to the payment account held or opened by the consumer with the receiving payment service provider, stop accepting incoming credit transfers and direct debits on the payment account with effect from the date specified in the authorisation; the transferring payment service provider shall inform the payer or the payee of the reason for not accepting the payment transaction;

3. cancel standing orders with effect from the date specified in the authorisation;

4. transfer any remaining positive balance from the payment account to the payment account opened or held with the receiving payment service provider on the date specified in the authorisation;

5. close the payment account on the date specified in the authorisation where the time-frame under Article 44 is met and the consumer has no outstanding obligations on that payment account and provided that the actions listed in items 1, 2 and 4 of this paragraph have been completed; the transferring payment service provider shall immediately inform the consumer where outstanding obligations prevent his payment account from being closed.

(6) Without prejudice to Article 52, paragraph 2, the transferring payment service provider shall not block payment instruments before the date specified in the con-

sumer's authorisation, so that the provision of payment services to the consumer is not interrupted in the course of the provision of the switching service.

(7) Within five business days of receipt of the information requested from the transferring payment service provider as referred to in paragraph 4, the receiving payment service provider shall, as and if provided for in the authorisation and to the extent that the information provided by the transferring payment service provider or the consumer enables the receiving payment service provider to do so, carry out the following tasks:

1. set up the standing orders for credit transfers requested by the consumer and execute them with effect from the date specified in the authorisation;

2. make any necessary preparations to accept direct debits and accept them with effect from the date specified in the authorisation;

3. where relevant, inform consumers of their rights pursuant to point (d) of Article 5(3) of Regulation (EU) No 260/2012;

4. inform payers specified in the authorisation and making recurring incoming credit transfers into a consumer's payment account of the details of the consumer's payment account with the receiving payment service provider and transmit to the payers a copy of the consumer's authorisation; if the receiving payment service provider does not have all the information it needs to inform the payers, it shall ask the consumer or the transferring payment service provider to provide the missing information;

5. inform payees specified in the authorisation and using a direct debit to collect funds from the consumer's payment account of the details of the consumer's payment account with the receiving payment service provider and the date from which direct debits are to be collected from that payment account and transmit to the payees a copy of the consumer's authorisation; if the receiving payment service provider does not have all the information it needs to inform the payees, it shall ask the consumer or the transferring payment service provider to provide the missing information.

(8) Where the consumer chooses to personally provide the information referred to in paragraph 7, items 4 and 5 to the payers or payees rather than provide specific consent to the receiving payment service provider to do so, the receiving payment service provider shall provide the consumer with standard letters providing details of the payment account and the starting date specified in the authorisation within the deadline referred to in paragraph 7.

Fees Connected with the Switching Service

Article 73m. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) (1) Payment service providers shall not charge the consumer any fees for access to the personal information regarding existing standing orders and direct debits held by either the transferring or the receiving payment service providers.

(2) The transferring payment service provider shall not charge the consumer or the receiving payment service provider in the cases under Article 73l, paragraph 5, item 1.

(3) Where any fee is applied by the transferring payment service provider to the consumer for the termination of the payment account, it shall be determined in accordance with the requirements of Article 44, paragraphs 2 and 5.

(4) Where fees are applied by the transferring or the receiving payment service provider to the consumer for any service provided under Article 73l, other than those referred to in paragraphs 1– 3 of this Article, they shall be reasonable and in line with the actual costs of that payment service provider.

Financial Losses for Consumers

Article 73n. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) (1) Financial losses, including charges and interest, incurred by the consumer and resulting directly from the non-compliance of a payment service provider involved in the switching procedure with the obligations under Article 73l shall be refunded by that payment service provider without delay.

(2) Paragraph 1 shall not apply in cases of:

1. abnormal and unforeseeable circumstances beyond the control of the payment service provider, the consequences of which would have been unavoidable despite all efforts to the contrary, or

2. where a payment service provider has acted in compliance with a statutory obligation covered by the European Union or Bulgarian legislation.

Information about the Switching Service

Article 73o. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) (1) Payment service providers shall make available to consumers the following information about the switching service:

1. the roles of the transferring and receiving payment service provider for each step of the switching procedure as indicated in Article 73l;

2. the time-frame for completion of the respective steps;

3. the fees, if any, charged for the switching procedure;

4. any information that the consumer will be asked to provide; and

5. the information about alternative dispute resolution procedures referred to in Chapter Eight.

(2) The information under paragraph 1 shall be made available free of charge on paper or another durable medium at all premises of the payment service provider accessible to consumers, and also in electronic form on its website at all times, and shall be provided to consumers on request.

Facilitation of Cross-border Account-opening for Consumers

Article 73p. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) (1) Where a consumer indicates to his payment service provider that he wishes to open a payment account with a payment service provider located in another Mem-

ber State, the payment service provider with which the consumer holds a payment account shall on receipt of such request:

1. provide the consumer free of charge with a list of all the currently active standing orders for credit transfers and debtor-driven direct debit mandates, if any, and with available information about recurring incoming credit transfers and creditor-driven direct debits executed on the consumer's payment account in the previous 13 months. That list shall not entail any obligation on the part of the new payment service provider to set up services that it does not provide;

2. transfer any positive balance, if any, remaining on the payment account held by the consumer to the payment account opened or held by the consumer with the new payment service provider, provided that the request includes full details allowing the new payment service provider and the consumer's payment account to be identified;

3. close the payment account held by the consumer.

(2) Where the time-frame under Article 44 is met and if the consumer has no outstanding obligations on the payment account, the payment service provider shall conclude the steps set out in paragraph 1 on the date specified by the consumer, which shall be at least six business days after the payment service provider has received the consumer's request unless otherwise agreed. The payment service provider shall immediately inform the consumer where outstanding obligations prevent his payment account from being closed.

Section IV

Access to Payment Accounts

(new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016)

Non-discrimination

Article 73q. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) (1) Banks may not discriminate against consumers legally resident in the European Union by reason of their nationality or place of residence or by reason of any other ground as referred to in Article 21 of the Charter of Fundamental Rights of the European Union, when those consumers apply for or access a payment account within the territory of the Republic of Bulgaria.

(2) The conditions applicable to opening and keeping a payment account with basic features shall be in no way discriminatory within the meaning of Article 73r.

Payment Account with Basic Features

Article 73r. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) (1) A payment account with basic features shall be a payment account held in Bulgarian leva through which the following services are provided:

1. opening, operating and closing of a payment account;
2. placing funds in a payment account;

3. cash withdrawals within the European Union from a payment account at the counter or at automated teller machines during or outside the bank's opening hours;

4. execution of the following payment transactions within the European Union:

(a) direct debits;

(b) payment transactions through a payment card, including internet payments;

(c) credit transfers, including standing orders, at, where available, terminals and counters and *via* the online facilities of the bank.

(2) Banks shall offer any of the services under Article 1 on a payment account with basic features, where it is offered to consumers holding payment accounts other than a payment account with basic features.

(3) Banks shall ensure that a payment account with basic features allows consumers to execute an unlimited number of transactions in relation to the services referred to in paragraph 1.

(4) Banks shall ensure that the consumer is able to manage and initiate payment transactions from the consumer's payment account with basic features in the bank's premises and/or *via* online facilities, where available.

(5) Banks shall make available to consumers, free of charge, accessible information and assistance about the specific features of the payment account with basic features on offer, their associated fees and the conditions of use. The information shall make clear that the purchase of additional services is not compulsory in order to access a payment account with basic features.

(6) The Bulgarian National Bank, banks under Article 73s, paragraph 1 and entities maintaining websites under Article 73i, paragraph 1 shall take adequate measures to raise awareness among the public about the availability of payment accounts with basic features.

Right of Access to a Payment Account with Basic Features

Article 73s. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) (1) All banks licensed by the BNB and bank branches conducting operations on the territory of Bulgaria that offer payment services to consumers shall offer payment accounts with basic features within the meaning of Article 73r.

(2) Consumers legally resident in the Union, including consumers with no fixed address and asylum seekers, and consumers who are not granted a residence permit but whose expulsion is impossible for legal or factual reasons, have the right to open and use a payment account with basic features.

(3) Banks that have received an application for opening a payment account with basic features shall open the payment account with basic features or refuse to open such an account at the latest ten business days after receiving the required documents.

(4) Banks shall refuse an application for a payment account with basic features where opening such an account would result in an infringement of the provisions on the prevention of the use of the financial system for the purpose of money laundering and the countering of terrorist financing.

(5) Banks may refuse opening a payment account to consumer with basic features in the following cases:

1. a consumer already holds a payment account with the same bank which allows him to make use of the services under Article 73r, paragraph 1, save where a consumer has received notice that the payment account will be closed;

2. a consumer declares that he holds a payment account with another bank on the territory of the country which allows him to make use of the services under Article 73r, paragraph 1, save where a consumer also declares that he has received notice that the payment account will be closed;

(6) In the event of refusal the bank after taking its decision shall immediately inform the consumer of the refusal and of the specific reason for that refusal, unless such disclosure would be contrary to objectives of national security, public policy or the legislation on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. The consumer shall be notified in writing and free of charge. With the notice banks shall advise the consumer of the procedure to submit a complaint against the refusal under Article 127, and of the consumer's right to contact the BNB and the Conciliation Commission on Payment Disputes and provide the relevant contact details.

(7) Access to a payment account with basic features shall not be made conditional on the purchase of additional services or of shares in the bank, unless the latter is conditional for all customers of the bank.

Fees on Payment Accounts with Basic Features

Article 73t. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) (1) Banks shall offer services to consumers specified under Article 73r, paragraph 1 free of charge or for a reasonable fee irrespective of the number of payment transactions on the account.

(2) The fees charged to the consumer for non-compliance with the consumer's commitments laid down in the framework contract for payment accounts with basic features shall be reasonable.

(3) The reasonable fees referred to in paragraphs 1 and 2 shall be established taking into account the income level in the Republic of Bulgaria, and they shall be lower than the average fees charged for the relevant services provided on consumer payment accounts other than payment accounts under Article 73r, and the amount of fees charged by the bank according to the tariff for the relevant services provided on consumer payment accounts other than payment accounts under Article 73r.

(4) The Bulgarian National Bank shall publish on its website once a year the average amount of fees charged by banks for the relevant services provided on consumer payment accounts other than payment accounts under Article 73r. Banks shall inform the BNB of fees charged by them for the relevant services provided on consumer payment accounts according to a procedure established by an ordinance of the BNB.

Framework Contracts for a Payment Account with Basic Features

Article 73u. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) (1) Provisions of Articles 40–47 shall apply to framework contracts for a payment account with basic features unless otherwise foreseen in this Article.

(2) The Bank may unilaterally terminate a framework contract for a payment account with basic features only where at least one of the following conditions is met:

1. the consumer deliberately used the payment account for illegal purposes;
2. there has been no payment transaction on the payment account for more than 24 consecutive months;
3. the consumer provided incorrect information in order to open a payment account with basic features where the correct information would have resulted in a refusal to open such an account;
4. the consumer is no longer legally resident in the European Union;
5. the consumer has subsequently opened a second payment account with a bank, which allows him to make use of the services listed in Article 73r, paragraph 1.
6. the consumer infringes conditions of the framework contract.

(3) Where a bank terminates the contract for a payment account with basic features on one or more of the grounds mentioned in paragraph 2, items 2, 4–6, it shall inform the consumer of the reasons and the justification for the termination at least two months before the termination, unless such disclosure would be contrary to objectives of national security or public policy. The consumer shall be notified in writing and free of charge.

(4) Where a bank terminates a framework contract for a payment account with basic features in accordance with paragraph 2, item 1 or 3, its termination shall take effect immediately.

(5) With the notice of termination under paragraph 3 banks shall advise the consumer of the procedure to submit a complaint against the termination under Article 127, and of the consumer's right to bring the dispute to the BNB and the Conciliation Commission on Payment Disputes and provide the relevant contact details.

Chapter Five

ELECTRONIC MONEY

Section I

General Provisions

(new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011)

Electronic Money Issuers

Article 74. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) (1) Electronic money issuers within the meaning of this Law shall be:

1. banks within the meaning of Article 2 of the Law on Credit Institutions;

2. electronic money institutions licensed according to this Law;
3. the European Central Bank and national central banks of the Member States when not acting in their capacity as monetary authority or other public authorities;

(2) The provisions of this Chapter shall not be applicable to:

1. (amended; Darjaven Vestnik, issue 59 of 2016) monetary value stored on instruments that can be used to acquire goods or services only in the premises used by the issuer or under a commercial agreement with the issuer either within a limited network of payments service providers or for a limited range of goods or services;

2. monetary value used for payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services.

Issuance and Redemption of Electronic Money

Article 75. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) (1) Electronic money issuers shall issue electronic money at par value on the receipt of funds.

(2) Upon request by the electronic money holder, electronic money issuers shall redeem, at any time and at par value, the monetary value of the electronic money held.

(3) The contract between the electronic money issuer and the electronic money holder shall clearly and prominently state the conditions of redemption, including any fees relating thereto, and the electronic money holder shall be informed of those conditions before being bound by any contract or offer.

(4) Redemption may be subject to a fee only if stated in the contract in accordance with paragraph 3 and only in any of the following cases:

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

(5) The fee under paragraph 4 shall be proportionate and commensurate with the actual costs incurred by the electronic money issuer.

(6) Where redemption is requested before the termination of the contract, the electronic money holder may request redemption of the electronic money in whole or in part.

(7) Where redemption is requested by the electronic money holder on or up to one year after the date of the termination of the contract, the electronic money institution may:

1. redeem the total monetary value of the electronic money held, or
2. redeem all funds requested by the electronic money holder where the electronic money institution carries out another activity within the meaning of Article 77e,

paragraph 1, item 5 and it is unknown in advance what proportion of funds is to be used as electronic money.

(8) Notwithstanding paragraphs 5, 6 and 7, redemption rights of a person, other than a consumer, who accepts electronic money shall be subject to the contractual agreement between the electronic money issuer and that person.

Section II

Licensing

(new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011)

Electronic Money Institution

Article 76. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) (1) An electronic money institution is a legal entity that has been licensed under this Section to issue electronic money.

(2) Electronic money is electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions, and which is accepted by a natural person or legal entity other than the electronic money issuer.

(3) An entity that intends to issue electronic money as an electronic money institution shall be licensed to perform activities as an electronic money institution prior to commencing issuing electronic money.

Requirements for the Issuance, Refusal of Issuance, Withdrawal of a License and Termination of Operation

Article 77. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) (1) The Bulgarian National Bank shall issue a license for taking-up of the business of electronic money institution where the registered office of the applicant is in the Republic of Bulgaria. The Bulgarian National Bank shall issue a license where the applicant has presented all required information and documents in accordance with this Law and the bylaws on its implementation and if the BNB assesses that the applicant satisfies all conditions for license issuance.

(2) The provisions of Articles 10–17 shall apply for the conditions for the issuance, refusal of issuance, withdrawal of a license and termination of operation.

(3) The Bulgarian National Bank shall issue an ordinance on the implementation of this Article.

Initial Capital

Article 77a. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) (1) The electronic money institutions shall hold, at the time of license issuance, initial capital, of not less than BGN 700,000.

(2) The positions included in the initial capital shall be specified in the Ordinance under Article 77, paragraph 3.

Own Funds

Article 77b. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) (1) The electronic money institution's own funds shall not fall below the amount required under paragraphs 2 to 6 or under Article 77a, whichever the higher.

(2) In regard to the activities referred to in Article 77e, paragraph 1, item 1, that are not linked to the issuance of electronic money, the own funds requirements of an electronic money institution shall be calculated in accordance with Article 9, paragraphs 1 and 2.

(3) In regard to the activity of issuing electronic money, the own funds requirements of an electronic money institution shall amount to at least 2 per cent of the average outstanding electronic money.

(4) 'Average outstanding electronic money' shall mean the average total amount of financial liabilities related to electronic money in issue at the end of each calendar day over the preceding six calendar months, calculated on the first calendar day of each calendar month and applied for that calendar month.

(5) The electronic money institution shall at all times hold own funds that are at least equal to the sum of the requirements referred to in the paragraphs 2 and 3. (6) On the basis of an evaluation of the risk-management processes, of the risk loss databases and internal control mechanisms of the electronic money institution, the BNB may require the electronic money institution to hold an amount of own funds which is up to 20 per cent higher than the amount which would result from the application of the relevant method in accordance with Article 9, paragraphs 1 and 2, or permit the electronic money institution to hold an amount of own funds which is up to 20 per cent lower than the amount which would result from the application of the relevant method in accordance with Article 9, paragraphs 1 and 2.

(7) The structure and the elements, the ways and methods for its calculation, the periodicity, form and content of the report for the own funds amount shall be specified in a BNB Ordinance.

Section III

Requirements for the Activity

(new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011)

Prohibition for Taking Deposits and Interest Accrual

Article 77c. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) (1) The electronic money institution shall not take deposits or other repayable funds within the meaning of the Law on Credit Institutions.

(2) The funds received by the electronic money institution from the electronic money holder shall be exchanged for electronic money without delay. Such funds shall not constitute either a deposit or other repayable funds within the meaning of the Law on Credit Institutions.

(3) The electronic money institution shall not accrue interest or any other benefit related to the length of time during which an electronic money holder holds the electronic money.

(4) For the accounting and the electronic money institution auditors' Articles 22, 23 and 24, paragraph 1 shall be applicable respectively.

Safeguarding Measures

Article 77d. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) (1) The electronic money institution shall apply to the funds received in exchange for issued electronic money the safeguarding measures referred to in Article 21.

(2) Funds received in the form of payment by payment instrument shall not be subject to the safeguarding measures under paragraph 1 until they are credited to the electronic money institution's payment account or are otherwise made available to the electronic money institution in accordance with the execution time requirements laid down in Article 64, paragraph 2. In any event, such funds shall be safeguarded by no later than five business days after the issuance of electronic money.

(3) The electronic money institution shall inform the BNB in advance for any significant change in the measures taken to safeguard funds received in exchange for issued electronic money.

Additional Activities

Article 77e. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) (1) In addition to issuing electronic money, the electronic money institution shall be entitled to engage in any of the following activities:

1. provision of payment services under Article 4;
2. granting of credit related to payment services referred to in Article 4, items 4, 5 or 7, where the conditions laid down in Article 19 are met;
3. provision of operational services and closely related ancillary services in respect of issuing electronic money or to the provision of payment services referred to in item 1;
4. operation of payment systems with the exception of payment systems ensuring settlement finality as defined in Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems amended by Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009, without prejudice to Articles 85 and 86;
5. other activity having regard to the applicable legal requirements.

(2) The credit referred to in paragraph 1, item 2 shall not be granted from the funds received in exchange of electronic money and held in accordance with Article 77c.

(3) For the funds received to provide payment services under Article 4, excluding the activity of electronic money issuance, Articles 20 and 21 shall apply.

(4) Where the electronic money institution carries out business activities other than electronic money issuance and payment services provision, the BNB may require

to separate the activity of electronic money issuance and/or payment services provision in a single institution, if, in the BNB estimate, the other activity affects or may affect the financial stability of the electronic money institution or the ability of the BNB as a supervisory body to verify the compliance with this law.

Agents, Branches and Entities to Which Activities are Outsourced

Article 77f. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) (1) The electronic money institution shall not issue electronic money through an agent.

(2) The electronic money institution may issue/spread and redeem electronic money through a business agent acting under the electronic money institution's name.

(3) For the agents and branches of the electronic money institution Article 25, paragraphs 2–5, Articles 26 and 27 shall apply accordingly, and for the entities to which activities are outsourced Articles 27 and 28 shall apply accordingly.

(4) Electronic money institution may provide payment services through an agent if the conditions of Article 25, paragraphs 2–5, Articles 26 and 27 are met accordingly, or assign the performance of operational functions related to payment services if the conditions of Articles 27 and 28 are met accordingly.

(5) Electronic money institution licensed in the Republic of Bulgaria may pursue its business directly or through a branch in another Member State as set out in Article 29. Electronic money institution licensed in another Member State may pursue its business directly or through a branch in the Republic of Bulgaria as set out in Article 30.

(6) Electronic money institution licensed in the Republic of Bulgaria may distribute and redeem electronic money in another Member State through an agent as set out in Article 29. Electronic money institution licensed in another Member State may distribute and redeem electronic money in the Republic of Bulgaria through an agent as set out in Article 30.

(7) Electronic money institution licensed in the Republic of Bulgaria may provide payment services in another Member State through an agent as set out in Article 29. Electronic money institution licensed in another Member State may provide payment services in the Republic of Bulgaria through an agent as set out in Article 30.

Qualifying Holdings

Article 77g. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) (1) A natural person or legal entity, as well as persons acting in consent, may not without prior approval by the BNB acquire directly or indirectly shares or voting shares/stakes in an electronic money institution licensed in the Republic of Bulgaria, if as a result of the acquisition the holding becomes qualified or if this holding reaches or exceeds the 20, 30 or 50 per cent thresholds of the shares/stakes or of the voting shares/stakes as well as when the electronic money institution becomes a subsidiary.

(2) Any natural person or legal entity which intends to transfer directly or indirectly its qualifying holding in an electronic money institution licensed in the Republic

of Bulgaria or to decrease its qualifying holding in such a way that its shares/stakes or its voting shares/stakes fall below 20, 30 or 50 per cent of the capital, shall inform the BNB for the amount of its holding prior to the transfer and for the amount of the holding after the transfer.

(3) For the cases under paragraphs 1 and 2, Articles 28, 28a, 28b, 31, 32 and 34 of the Law on Credit Institutions shall apply accordingly.

(4) If an approval under paragraph 1 has not been asked for in the set time limit or it has been refused, the BNB may temporarily suspend the voting rights of the shareholder/stakeholder and/or issue a written order to a shareholder/stakeholder to dispose of the shares/stakes held by him within 30 days.

(5) Where shareholders/stakeholders are temporarily suspended of their voting rights under paragraph 4, the amount of the shares held by them shall not be taken into consideration when the quorum for holding the shareholders' general meeting and for taking decisions by this meeting is formed. In these cases, if the soundness and safety of the electronic money institution's management or its operations is endangered, the BNB may limit the institution's activity by forbidding to perform certain activities or by disallowing payment of dividends or distribution of capital in any form whatsoever.

Liability of the Electronic Money Issuer

Article 78. (repealed; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011)

Chapter Five 'a'

SETTLEMENT FINALITY IN PAYMENT AND SECURITIES SETTLEMENT SYSTEMS

(new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011)

General Provisions

Article 78a. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) (1) A payment system and a securities settlement system under Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems amended with Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009, hereinafter referred to as 'settlement finality system', shall be a system that complies with all of the following conditions:

1. is a written arrangement between three or more participants, excluding the system operator of that system, a possible settlement agent, a possible central counterparty, a possible clearing house or a possible indirect participant, with common rules and standardised arrangements for the clearing, whether or not through a central counterparty, or execution of transfer orders between the participants;

2. the participants have chosen the legislation of a Member State to govern the arrangement for the system;

3. the rules and proceedings of the system comply with the requirements for settlement finality specified in this Chapter.

(2) The participants in a settlement finality system may choose Bulgarian law to govern the system arrangement only if at least one of them has its head office and registered address on the territory of the Republic of Bulgaria.

(3) A settlement finality system shall be serviced by a system operator. The system operator may act as a settlement agent, central counterparty or a clearing agent.

(4) An arrangement entered into between interoperable systems shall not constitute a settlement finality system.

(5) (amended; Darjaven Vestnik, issue 105 of 2011) The Ministry of Finance shall notify the European Securities and Markets Authority of the systems under paragraph 1 and of the system operators under paragraph 3 where the Bulgarian law governs the system arrangement following a check of the compliance of system rules and procedures with the requirements for settlement finality.

Settlement Agent of a Settlement Finality System

Article 78b. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

(1) A settlement agent shall mean an entity providing to institutions and/or a central counterparty participating in systems, settlement accounts through which transfer orders within such systems are settled and, as the case may be, extending credit to those institutions and/or central counterparties for settlement purposes.

(2) A settlement account under this Chapter shall mean an account at a central bank, a settlement agent or a central counterparty used to hold funds and securities and to settle transactions between participants in a system.

Participants in a Settlement Finality System

Article 78c. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

(1) Participant in a settlement finality system may be only:

1. the Bulgarian National Bank and the central banks of other Member States;
2. a settlement agent;
3. a central counterparty;
4. a clearing house;
5. an institution within § 1, item 8 of the Additional Provisions;
6. a system operator.

(2) According to the rules of the system one and the same participant may act as a central counterparty, a settlement agent or a clearing house in the settlement finality system or carry out part or all of these tasks.

(3) Whenever asked for from the entities having legal interest, the institutions shall inform for the settlement finality systems in which they participate and shall inform about the general rules governing the proceedings of such systems.

Reorganisation Measures and Winding-up Proceedings against a Participant in a Settlement Finality System

Article 78d. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) (1) Reorganisation measures or winding-up proceedings against a participant in a settlement finality system shall be those measures or proceedings undertaken to a bank as specified in Article 133 of the Law on Credit Institutions, as well as any other measure provided for by law and applied by an administrative or judicial authority to a participant in a settlement finality system and including the termination or restriction on its transactions or payments.

(2) The point of time when a reorganisation measure or winding-up proceedings start shall be the time when the competent judicial or administrative authority has taken a decision to take measures or open the proceedings.

(3) (amended; Darjaven Vestnik, issue 105 of 2011) When taking a decision to open a reorganisation measure or winding-up proceedings against a participant in a settlement finality system, the respective judiciary or administrative authority shall immediately notify the Ministry of Finance, which shall in turn notify all other Member States, the European Systemic Risk Board and the European Securities and Markets Authority.

(4) The start of reorganisation measures or winding-up proceedings shall not have retroactive effects on the rights and obligations of the participants and may not lead to the re-calculation of the receivables and liabilities of participants arising from or in connection with their participation in the settlement finality system prior to the start of the procedure pursuant to paragraph 2. This shall apply, *inter alia*, as regards the rights and obligations of a participant in an interoperable system, or of a system operator of an interoperable system which is not a participant.

(5) In the event of a reorganisation measure or winding-up proceedings opened against a participant in the settlement finality system, the rights and obligations arising from or in connection with its participation shall be laid down in the legislation governing the system.

Execution of Transfer Orders and Netting in a Settlement Finality System

Article 78e. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) (1) The transfer orders and netting shall be legally binding even in the event of reorganisation measures or winding-up proceedings opened against a participant in the settlement finality system and shall be binding to third parties provided that transfer orders were entered into the system before the moment of the opening of the reorganisation measures or winding-up proceedings referred to in Article 78d, paragraph 2. This rule shall be applicable also to reorganisation measures or winding-up proceedings opened against a participant in a settlement finality system or in an interoperable

system or to reorganisation measures or winding-up proceedings against the system operator of an interoperable system which is not a participant.

(2) Where the transfer orders are submitted into the settlement finality system after the moment of imposing the reorganisation measures or opening of winding-up proceedings and were executed within the business day, they shall be legally enforceable and binding on third parties only if, after the moment in which the orders have become irrevocable, the system operator is able to prove that it was not aware, nor should have been aware of the opening of such procedures.

(3) The moment of submitting the transfer order into the settlement finality system shall be established by the rules of the system.

(4) In the case of interoperable systems, each system determines in its own rules the moment of irrevocability, in such a way as to ensure, to the extent possible, that the rules of all interoperable systems concerned are coordinated in this regard. Unless expressly provided for by the rules of all the systems that are party to the interoperable systems, one system's rules on the moment of irrevocability shall not be affected by any rules of the other systems with which it is interoperable.

(5) When taking reorganisation measures or opening winding-up proceedings against a participant or a system operator of an interoperable system shall not prevent funds or securities available on the settlement account of that participant from being used to fulfil that participant's obligations in the system or in an interoperable system on the business day of imposing the reorganisation measures or opening the winding-up proceedings.

(6) The rules of the system may provide that such a participant's credit facility connected to the system be used against available, existing collateral security to fulfil that participant's obligations in the system or in an interoperable system.

(7) The business day under this Article shall cover both day and night-time settlements and shall encompass all events happening during the business cycle of a settlement finality system.

(8) The provisions of the effective legislation related to the voidness or voidability of transactions and payments executed prior to the moment of taking the reorganisation measures or opening of winding-up proceedings shall not apply to netting and shall not result in the revocation of netting.

Irrevocability of Transfer Orders

Article 78f. (new; Daraven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

(1) After the moment set in the rules of the system for accepting a transfer order, neither a system participant nor a third party may revoke the order accepted by the system.

(2) In the case of interoperable systems, each system determines in its own rules the moment of irrevocability, in such a way as to ensure, to the extent possible, that the rules of all interoperable systems concerned are coordinated in this regard. Unless expressly provided for by the rules of all the systems that are party to the interoperable

systems, one system's rules on the moment of irrevocability shall not be affected by any rules of the other systems with which it is interoperable.

Protection of Collateral

Article 78g. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

(1) The rights of a system operator or of a participant in a settlement finality system to collateral security provided to them in connection with a system or any interoperable system, and the rights of central banks of the Member States or the European Central Bank to collateral security provided to them, shall not be affected by reorganisation measures or winding-up proceedings against a security provider participant, a system operator of an interoperable system which is not a participant, a counterparty to central banks of the Member States or the European Central Bank, or any third party which provided the collateral security. Such collateral security may be realised for the satisfaction of those rights.

(2) (new; Darjaven Vestnik, issue 102 of 2015, effective as of 1 January 2016) Where within an interoperable system a system operator has provided collateral security to another system operator the rights of the security provider system operator to collateral security provided shall not be affected by reorganisation measures or winding-up proceedings against the system operator to which the security collateral is provided.

(3) (former paragraph 2; amended, Darjaven Vestnik, issue 102 of 2015, effective as of 1 January 2016) Where securities including rights in securities are provided as collateral security to a participant, a system operator or to a central bank of a Member State or the European Central Bank as described in paragraphs 1 and 2, and their right or that of any nominee, agent or third party acting on their behalf with respect to the securities is legally recorded on a register, account or centralised deposit system located in a Member State, the resulting thereof rights and obligations shall be governed by the law of that Member State.

(4) (former paragraph 3; Darjaven Vestnik, issue 102 of 2015, effective as of 1 January 2016) A collateral security shall mean all realisable assets, including, financial collateral referred to in Article 4 of the Law on Financial Collateral Arrangements, provided under a pledge, including money provided under a pledge, a repurchase (a repo agreement) or similar agreement, for the purpose of securing rights and obligations in connection with a settlement finality system, or provided to a central bank of a Member State or to the European Central Bank.

*Chapter Six***PAYMENT SYSTEMS**

Section I

Requirements for the Operation of Payment Systems*Payment System*

Article 79. (1) A payment system shall be a funds transfer system with formal and standardised arrangements and general rules for the processing, clearing and/or settlement of payment transactions.

(2) A payment system shall be serviced by an operator of the payment system. Where the payment system participants are more than 1 the operator shall be determined by an agreement between the participants in the system.

Operators of Payment Systems

Article 80. (repealed; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

Register of Operators of Payment Systems

Article 81. (repealed; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

Settlement in a Payment System

(title amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

Article 82. (1) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) Settlement in a payment system shall be a transfer of funds on settlement accounts with the purpose of executing orders for transfers between payment system participants.

(2) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) A settlement account shall be an account with a settlement agent used to store funds and for the settlement of transactions between participants in the system.

(3) A settlement agent may be solely a central bank or a bank within the meaning of Article 2, paragraph 5 of the Law on Credit Institutions.

(4) (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) For settlement finality systems when the Bulgarian legislation is applicable, a settlement agent shall be the BNB.

(5) (former paragraph 4; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) The settlement agent shall ensure reliable and effective administrative and accounting procedures corresponding to the characteristics of the system and the volume of executed transactions.

(6) (former paragraph 5; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) The settlement agent may extend loans to participants in the system for settlement purposes. These loans shall be short-term and fully secured by high-liquid assets.

(7) (former paragraph 6; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) Where a settlement agent is a bank, it shall provide information to the BNB on the terms and conditions for provision of security on loans under Article 5.

(8) (former paragraph 7; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) The Bulgarian National Bank may establish additional liquidity requirements to banks acting as settlement agents.

Irrevocability of Transfer Orders

Article 83. (repealed; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

Storage of Orders to the Payment System

Article 84. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) The participants in the payment system and the system operator shall keep the orders to the payment system for at least a five-year period as from the date they are submitted.

Access to Payment Systems

Article 85. (1) The rules on access of licensed payment service providers that are legal entities to payment systems shall be objective, non-discriminatory and proportionate and that those rules do not inhibit access more than is necessary to safeguard against specific risks such as settlement risk, operational risk and business risk and to protect the financial and operational stability of the payment system.

(2) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) Payment systems may not impose on payment service providers, on payment service users or on other systems:

1. any restrictive rules on effective participation in other payment systems;
2. any rules which discriminate between licensed payment service providers in relation to the rights, obligations and entitlements of participants, or
3. any restrictions on the basis of legal status of payment service providers.

Restrictions to Access to Payment Systems

Article 86. Article 85 shall not apply to payment systems:

1. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) designated under Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on Settlement Finality in Payment and Securities Settlement Systems, amended with Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009;

2. payment systems composed exclusively of payment service providers belonging to a group composed of entities linked by capital where one of the linked entities enjoys effective control within the meaning of § 1, paragraph 1, item 7 of the Additional Provisions of the Law on Credit Institutions over the other linked entities; or

3. payment systems where a sole payment service provider:

a) acts or can act as the payment service provider for both the payer and the payee and is exclusively responsible for the management of the system, and

b) licenses other payment service providers to participate in the system and the latter have no right to negotiate fees between or amongst themselves in relation to the payment system although they may establish their own pricing in relation to payers and payees.

Rules of the Payment System

Article 87. (1) The rules of each payment system shall be an integral part of the agreement on the system concerned.

(2) The rules of the payment system shall include at least:

1. the operator of the payment system;
2. the settlement agent and the way of ensuring the irrevocability of transfer orders;
3. participants in the payment system;
4. the requirements for the procedure, method and the form of payment orders submitted by the payment service user to the participants of the system;
5. the rules for access and participation in the payment system;
6. the conditions for exit or exclusion of participants in the payment system;
7. rights and obligations of the participants and of the system operator;
8. the manner of submitting transfer orders, their form and structure;
9. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) the manner of submission, the form and the structure of information on settlement account transactions;
10. the principle of operation of the payment system and the settlement method for the counter claims and liabilities of participants;
11. the point of time of accepting a transfer order by the payment system and the time limit for accepting orders by the payment system;
12. the point of time of irrevocability of transfer orders accepted by the payment system;
13. the method of ensuring the funds for settlement of transfer orders submitted to the payment system;
14. the currency or currencies in which the payment system operates;
15. the presence of potential financial, operational and technical risks for participants and measures for the management of these risks;
16. the tariff for services provided;
17. the rules for managing financial and operational risks;

18. the rules and technical means for protection of information against unauthorised access or use;

19. the contingency rules.

(3) The Bulgarian National Bank may specify the requirements to the rules of payment systems by an Ordinance.

(4) The provisions of the agreement under paragraph 1 and rules of the payment system should ensure the compliance with the requirements of this Law and the regulations on its enactment. The operator and participants are obliged to adhere to the rules and agreement for the respective payment system.

Section II

Settlement Finality

(repealed; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

General Provisions

Article 88. (repealed; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

Settlement Agent of a Payment System under Directive 98/26/EC

Article 89. (repealed; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

Participants in a Payment System under Directive 98/26/EC

Article 90. (repealed; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

Reorganisation Measures and Winding-up Proceedings in a Payment System under Directive 98/26/EC

Article 91. (repealed; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

Execution of Transfer Orders and Netting in A Payment System under Directive 98/26/EC

Article 92. (repealed; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

Protection of Collateral

Article 93. (repealed; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

Section III

Licensing of an Operator of a Settlement Finality Payment System

(title amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

Application for Granting a License

Article 94. (1) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) The company that wishes to obtain a license as an operator of a settlement finality payment system in the case the system arrangement is governed by Bulgarian Law shall apply in writing to the BNB.

(2) The documents required for granting a license under paragraph 1 shall be laid down in an ordinance issued by the BNB.

(3) When submitting its application for granting of authorisation, the applicant shall provide the BNB with a written declaration to the effect that the information submitted with the application and the documents attached to application are up-to-date, complete and truthful.

Terms and Conditions for Granting a License

Article 95. (1) To be granted license under Article 94, paragraph 1, the applicant shall comply with all of the following conditions:

1. be registered or be in the process of establishing a joint-stock company;
2. have paid-in capital of at least BGN 5 million, of which at least 50 per cent paid in as a monetary contribution;
3. the origin of the company's capital or the funds used to acquire shares, in the case of transfer of shares, should be transparent and legal;
4. the head office and registered address recorded in the Commercial Register of the Registry Agency should be the same as the location where the applicant's actual management will occur;
5. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) apply reliable rules to ensure robust governance arrangements for settlement finality payment system operations which include:
 - a) a clear organisational structure;
 - b) well-defined, transparent and consistent lines of responsibility;
 - c) effective procedures to identify, manage, monitor and report the risks to which the payment institution is or might be exposed;
 - d) adequate internal control mechanisms, including sound and effective administrative and accounting procedures.
6. ensure the technical, organisational and functional capabilities to carry out activities of the system, including mechanisms and rules to ensure security and risk management appropriate to the scope of the payment system;

7. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) present a strategy and business plan for its activity in connection with the operation of the settlement finality payment system that are duly financially secured and based on realistic economic forecasts;

8. the persons managing or representing the applicant company and the members of its management and supervision bodies, including the representatives of legal entities, possess the appropriate knowledge and experience and have good repute, the requirements being established in a separate ordinance;

9. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) the persons holding in the applicant, directly or indirectly, qualifying holdings within the meaning of § 1, paragraph 1, item 6, of the Additional Provisions of the Law on Credit Institutions have provided evidence of their reliability taking into account the need to ensure the sound and prudent management of an operator of a settlement finality payment system;

10. no close links within the meaning of § 1, paragraph 1, item 10 of the Additional Provisions of the Law on Credit Institutions have been identified between the applicant and other natural persons or legal entities that would prevent the effective exercise of their supervisory functions;

11. the settlement of orders accepted by the payment system is guaranteed;

12. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) the settlement finality payment system, its participants, as well as the agreement and the rules for its operation comply with the requirements of this Law and the regulations on its enactment;

13. the operation of the payment system does not endanger the compatibility and unity of the payment systems or the stability and security of the national financial system.

(2) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) Without permission granted by the BNB, no settlement finality payment system operator, acting by the nature of trade thereof, carry on any activities other than the operation of the payment system for which it is licensed.

Consideration of the Application for Granting a License

Article 96. (1) Before granting a license, the BNB shall research into the compliance of all submitted documents with the requirements for granting a license and the applicant's ability to comply with the requirements for engaging in the activity for which it wishes to be licensed.

(2) Not later than 6 months of the receipt of the application and all required documents being submitted, the BNB shall make a decision on granting or refusing license.

Granting a License

Article 97. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) (1) The Bulgarian National Bank shall grant a license for settlement finality pay-

ment system operators if the information and evidence accompanying the application complies with all the requirements of this Law and Ordinances on the enactment and if, at BNB's discretion, the applicant complies with the license requirements.

(2) The license referred to in paragraph 1 shall be granted for operating a particular settlement finality payment system for an indefinite period of time and may not be transferred to other persons or be subject of legal succession.

(3) The Registry Agency shall register the payment services for which the settlement finality payment system operator was licensed as part of its business activity upon submission of the license granted by the BNB.

(4) The settlement finality payment system operator must comply with the requirements referred to in Article 95 during the entire period of validity of the license granted.

Register of the Payment System Operators

Article 97a. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011)

(1) The Bulgarian National Bank shall keep a register of settlement finality payment systems.

(2) The register of the settlement finality payment systems operators shall be public and shall contain:

1. the number of the license issued by the BNB;
2. the name and the single identification code of the operator;
3. the name and the type of the system operated;
4. the withdrawal, the termination of the issued license or the termination of operation of the activity as a system operator.

(3) The settlement finality payment systems operators may not commence their activity prior to being listed in the register.

(4) The register shall be available electronically and shall be updated regularly.

Start of Operation

Article 98. (1) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) The persons licensed as settlement finality payment system operators may start their activity after providing the BNB with documents and evidence verifying that they possess the necessary informational, technical, organizational and functional preparedness to start the activity they were licensed to.

(2) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) Where the conditions under paragraph 1 have been met, the BNB shall enter in the Register under Article 97a the licensed person and the date on which this person will start the activity.

(3) (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) Articles 23 and 24 shall apply to the auditors of the payment system under paragraph 1.

Changes Subsequent to Granting the License

Article 99. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) The licensed settlement finality payment system operator shall without undue delay inform the BNB about any changes in the information and documents provided in connection with the issuance of the license.

Refusal of a License

Article 100. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) The Bulgarian National Bank (BNB) shall refuse to grant a license to settlement finality payment system operators where:

1. it considers that the applicant fails to satisfy any of the requirements under Article 95;
2. the applicant fails to submit the required evidence and documents, or the documents submitted contain incomplete, confusing or false information.

Withdrawal of a License

Article 101. (1) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) The Bulgarian National Bank may withdraw a license issued to a settlement finality payment system operator where:

1. the payment system fails to commence the business licensed within six months as from the date on which the license is issued;
2. the operation of the settlement finality payment system has been discontinued for a period longer than six months;
3. serious breaches have been identified in the operations of the settlement finality payment system;
4. the license has been issued on the basis of false statements or documents;
5. the settlement finality payment system no longer fulfills the conditions for granting the license;
6. at the BNB discretion, the settlement finality payment system might endanger the security of payment transactions executed through it, the processing, clearing or settlement of payment transactions;
7. the settlement finality payment system operator notifies the BNB in writing of its intention to cease the activity it was licensed to.

(2) The Bulgarian National Bank shall take the necessary steps to make the decision for withdrawal of the license public in an appropriate way.

(3) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) Within seven days from the decision to withdraw the settlement finality payment system operator license, the BNB shall file a request with the Registry Agency for deleting this activity from the business activities of the respective company in the Commercial Register.

Termination of Operation

Article 102. (1) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) The settlement finality payment system operator shall coordinate with the BNB no less than one month in advance any decision for voluntary liquidation or termination of its activities.

(2) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) The Bulgarian National Bank shall give its consent for the decisions under paragraph 1, where the settlement finality payment system operator proves that it has made the necessary arrangements and plan to cease the activity of the payment system operated by it without affecting the financial stability of its participants and has ensured the complete and timely fulfillment of obligations related to payment transactions carried out through the payment system.

Section IV

Real-time Gross Settlement System

Real-time Gross Settlement System (RINGS)

Article 103. (1) The Bulgarian National Bank shall set up and operate a Real-time Gross Settlement System named RINGS (Real-time Interbank Gross Settlement System).

(2) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) RINGS is a settlement finality payment system which carries out the transfer of funds between the settlement accounts of its participants finally, individually (transaction by transaction) and in real time, following receipt into the system of a transfer order.

(3) Settlement via RINGS is carried out in Bulgarian leva.

(4) The terms and procedure for operation of RINGS and for access to it shall be established by the BNB.

Participants in RINGS

Article 104. (1) Participants in RINGS shall be:

1. The Bulgarian National Bank;
2. Banks and branches of banks licensed by the BNB and operating on the territory of the country.

(2) (amended; Darjaven Vestnik, issue 59 of 2016) Participants in RINGS may also be banks from the EU Member States conducting transactions on the territory of the Republic of Bulgaria through a branch.

(3) Participation in RINGS is effected by means of an individual code.

(4) Participants in RINGS must meet the requirements for participation in the system.

(5) In case the BNB establishes that a participant in RINGS has ceased to comply with the requirements for participation in the system or fails to fulfill its obligations,

the BNB may restrict its participation or exclude this participant from the payment system.

Settlement Agent in RINGS

Article 105. (1) The settlement agent in RINGS shall be the BNB.

(2) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) The Bulgarian National Bank shall keep settlement accounts for the participants in RINGS.

(3) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) The Bulgarian National Bank shall execute settlement of transfer orders to settlement accounts according to their sequence and provided that the participant concerned holds sufficient funds on its settlement account.

(4) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) Participants in RINGS shall ensure the availability of sufficient funds on their settlement accounts for executing the settlement of transfer orders.

(5) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) In the event of shortage of funds on the settlement account, the BNB may grant credit to a participant; such credit shall be refunded on the same or on the day after the business day it was granted at the latest. Credit shall be granted by the BNB in accordance with the provisions of the Law on the Bulgarian National Bank.

(6) Where the BNB is the settlement agent of securities settlement systems, settlement accounts with the RINGS may also be kept by other persons participating in these systems, other than those under Article 104, paragraph 1. Such accounts may only be used for payments in securities transactions.

Payments Executed through RINGS Only

Article 106. The following payments shall be executed through RINGS only:

1. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) all payments for which the initiator and final payee hold settlement accounts with the BNB;
2. payments initiated by payment systems and securities settlement systems whose settlement agent is the BNB;
3. payments by bank customers of amounts equal to or exceeding BGN 100,000.

Submission of Transfer Orders and Information Thereon

Article 107. (1) Participants in RINGS shall submit to the BNB transfer orders by means of credit transfer.

(2) Payment systems and securities settlement systems where the BNB is the settlement agent may access RINGS for executing payments.

(3) The Bulgarian National Bank shall send information to the participants in RINGS about transfer orders processed by the system.

(4) The Bulgarian National Bank shall not execute settlement of transfer orders which do not comply with the BNB requirements.

Time Limits for Accepting and Submitting Transfer Orders

Article 108. (1) (amended; Darjaven Vestnik, issue 59 of 2016) Any orders sent after close of business of RINGS shall be returned by the BNB without settlement being carried out.

(2) The Real-time Gross Settlement System shall not execute settlement on a date different from the date stipulated as the settlement date in the transfer order.

Restrictions in the Execution of Transfer Orders

Article 109. (1) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) If, until the closing of working hours of the RINGS system, a participant in the system does not hold sufficient funds on its settlement account, the BNB shall refuse to execute the transfer orders of this participant provided that no settlement has been effected. Information about such orders shall be kept in RINGS.

(2) In cases where the execution of a transfer order is refused, the participant is obliged, at the beginning of the next business day, to submit the same transfer order with the same reference number and the current date, to the respective payment systems under Article 107, paragraph 2 or to RINGS.

Guarantee Mechanisms

(Title amended; Darjaven Vestnik, issue 59 of 2016)

Article 110. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011; amended, Darjaven Vestnik, issue 59 of 2016) (1) To carry out settlement, the BNB may set up mechanisms to provide sufficient funds on the settlement accounts, including by liquidity reservation and the introduction of a mandatory minimum balance required on each account.

(2) The Bulgarian National Bank may require the system operator and participants in a payment system or securities settlement system carrying out settlement in a designated time to establish guarantee mechanisms for the settlement of payments of participants in the relevant system.

Section V

Trans-European Automated Real-time Gross Settlement Express Transfer system

Article 111. (1) The Bulgarian National Bank may also be the operator of a system component to the settlement system in euro, *the Trans-European Automated Real-time Gross Settlement Express Transfer System (TARGET 2)*.

(2) Participation in the system under paragraph 1 shall be effected in accordance with the rules of the system adopted by the European Central Bank.

Chapter Seven
PAYMENT SUPERVISION

Section I
Exercising Payment Supervision

General Provisions

Article 112. (1) The payment supervision shall be carried out by the BNB.

(2) Subject to payment supervision shall be:

1. payment institutions and other payment service providers regarding their activity in providing payment services;
2. operators of payment systems and participants in them;
3. operators of securities settlement systems in carrying out their activity related to payment transactions;
4. (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) electronic money institutions.

(3) (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) For the issuance of licenses and permits stemming from the payment supervision execution, the persons subject to payment supervision shall pay to the BNB fees under the conditions and to the amount specified by the Governing Council of the BNB.

(4) (former paragraph 3; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) The Bulgarian National Bank and the persons thereby authorized shall not be liable for any detriment inflicted in exercising the payment supervision functions unless where they have acted intentionally.

(5) (former paragraph 4; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) In exercising payment supervision, the persons licensed by the BNB shall be obliged not to allow any conflict of interest in which their supervisory obligations are in conflict with their own interests.

Gathering of Information for the Purposes of Payment Supervision

Article 113. Persons subject to payment supervision shall provide the BNB, for the purposes of payment supervision and for statistical purposes, with information and reports on their activities, according to a procedure and with content and frequency established by an Ordinance.

The BNB Authority

Article 114. (1) (former wording of Article 114; Darjaven Vestnik, issue 59 of 2016) In connection with exercising payment supervision, the BNB shall be entitled to:

1. free access through authorised officers to the business premises of the persons subject to payment supervision;

2. require that documents be produced, and collect information in connection with the fulfilment of the assigned tasks;

3. appoint external independent experts;

4. conduct, through authorised officers, on-site inspections of the persons subject to payment supervision, as well as of their agents, branches and entities to which activities have been outsourced;

5. attend, through authorised officers, the meetings of the governing and supervisory bodies of the persons subject to payment supervision; the authorised officers may give opinions and recommendations which shall be recorded in the minutes of the meetings.

(2) (new; Darjaven Vestnik, issue 59 of 2016) The Bulgarian National Bank shall exercise its powers under Article 1 also in respect of entities operating as an electronic money institution or a payment institution without a license in violation of Articles 7 and 76.

Cooperation in Exercising Payment Supervision

Article 115. (1) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) The persons subject to payment supervision, as well as branches, agents and entities to which activities have been outsourced by payment institutions and electronic money institutions, shall be obliged to provide the necessary documents, information and cooperation required for the purposes of exercising payment supervision and refrain from any action that may impede the exercising of such supervision.

(2) For the purposes of the payment supervision exercised by the BNB, the public finance bodies and institutions shall be obliged to cooperate and provide the BNB with the entire requested documentation that they have at their disposal.

(3) (amended; Darjaven Vestnik, issue 59 of 2016) For the purposes of payment supervision, the BNB may request information and documents, if necessary, also from other natural persons and legal entities.

Obligation of Confidentiality in Exercising Payment Supervision

Article 116. (1) Members of the BNB Governing Council, the employees, experts and other persons working for the BNB shall be bound by the obligation of professional secrecy, including after termination of their relations with the BNB.

(2) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011; amended, Darjaven Vestnik, issue 59 of 2016) Professional secrecy shall be the information received or prepared by the BNB for the purposes of, or in relation to, payment supervision. Professional secrecy shall not be official secrecy within the meaning of the Law on Protection of Classified Information.

(3) The information that is subject to publication or disclosure under a statutory instrument shall not constitute professional secrecy.

(4) The persons under paragraph 1 may use the information constituting professional secrecy only for the purposes and in performing their duties. Such information

may not be divulged or provided to persons or authorities other than those specified in Article 117.

(5) The restrictions under paragraph 4 shall not apply where the information is provided in summary so that the bank or the persons whom it concerns cannot be identified.

(6) The information received from a person liable hereunder may be returned to them on request.

Provision of Information Constituting Professional Secrecy

Article 117. (1) The persons under Article 116, paragraph 1 may provide information constituting professional secrecy to the following bodies in relation to the performance of their functions and duties:

1. the judicial authorities – in the cases of initiated criminal proceedings;
2. the court:

(a) in the cases of an appeal of a BNB administrative act in accordance with this Law;

(b) in relation to court proceedings concerning supervisory actions taken;

(c) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) in the cases of liquidation or bankruptcy proceedings opened against a payment institution or an electronic money institution, except for the information referring to third parties wishing to acquire part or the whole of the enterprise of the payment institution within the plan for its rehabilitation;

3. the financial supervision authorities in the Republic of Bulgaria and the National Security Government Agency – in the cases and according to a procedure laid down in joint instructions or agreements;

4. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) assignees in bankruptcy or liquidators of a payment institution or an electronic money institution, as well as the authorities responsible by law for overseeing a payment institution undergoing liquidation or bankruptcy proceedings;

5. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) auditors of the financial statements of a payment institution or an electronic money institution, as well as the persons responsible by law for overseeing the auditors of a payment institution;

6. the authorities of Member States under Article 118;

7. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) the authorities of Member States involved in liquidation or bankruptcy proceedings concerning a payment institution or an electronic money institution or in other similar procedures, as well as the authorities of Member States responsible for overseeing payment institutions undergoing bankruptcy, liquidation or other similar proceedings;

8. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) the authorities of other Member States responsible for carrying out statutory audits of accounts of payment institutions or electronic money institutions, as provided by

law, as well as the authorities responsible for the statutory overseeing of auditors of payment institutions.

(2) The authorities under paragraph 1 shall use the information received only for the purposes for which it has been provided to them and shall not disseminate or provide it to third parties save for the performance of an obligation provided for by law.

(3) The authorities under paragraph 1, items 3–8 may receive information from the BNB where they are bound by the obligation of professional secrecy analogous to that established herein.

(4) The provisions of Article 116 and paragraphs 1–3 shall be applied respectively to information received by the BNB in exercising payment supervision over persons subject to supervision which are not payment institutions.

Supervision Cooperation

Article 118. (1) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) In exercising its supervisory powers, the BNB shall cooperate with the competent supervision authorities of payment institutions and electronic money institutions in Member States and, where necessary, with the European Central Bank and the national central banks, with the competent supervision authorities of other payment service providers, and the relevant competent authorities for supervision of payment systems and securities settlement systems.

(2) The Bulgarian National Bank shall have the right to exchange information needed for payment supervision, with the authorities under paragraph 1, as well as other authorities in Member States responsible for compliance with the legislation covering personal data protection and prevention of the use of the financial system for money laundering and terrorist financing.

(3) The exchange of supervisory information shall be carried out while adhering to the professional secrecy requirements, including by guaranteeing protection of personal data and commercial secrecy.

(4) (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) For the purposes of supervision under Chapter Four (a) the BNB shall without undue delay exchange information with the relevant competent authorities of other Member States and cooperate in supervisory activities or in any investigation.

(5) (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) Exchanging information with other competent authorities on issues related to supervision under Chapter Four (a) the BNB may indicate at the time of communication that such information shall be disclosed only with its express agreement and shall be exchanged solely for the purposes for which the BNB gave its agreement.

Provision of Information Received by the BNB from the Competent Authorities of Member States

Article 119. (1) The provisions of Article 116 shall furthermore apply to information received by the BNB from the competent supervision authorities of Member States.

(2) The information received by the BNB from the competent supervision authorities of other Member States may be provided under the procedure of this Law to the authorities under Article 117 or to other persons and authorities only with the express written consent of the competent supervision authority of the Member State from which the information was received and subject to the conditions under which such consent was granted.

(3) (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) The Bulgarian National Bank may transmit the information received under Article 118, paragraph 4 to the relevant competent authorities, and to other bodies or natural persons or legal entities only with the express agreement of the competent authorities which disclosed it and solely for the purposes for which those authorities gave their agreement, except in duly justified circumstances in which case the BNB shall immediately inform the competent body that supplied the information.

Refusal of Assistance in Supervisory Cooperation

Article 119a. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) (1) On issues related to supervision referred to Chapter Four (a), the BNB may refuse to act on a request for cooperation in carrying out an investigation or supervisory activity or to exchange information only where:

1. such an investigation, on-the-spot verification, supervisory activity or exchange of information might adversely affect the sovereignty, national security or public policy of the Republic of Bulgaria;

2. judicial proceedings have already been initiated in respect of the same persons and the same actions before the competent judicial authorities of the Republic of Bulgaria;

3. there is an effective court judgement in the Republic of Bulgaria addressed in respect of the same persons and the same actions.

(2) In the event of a refusal under paragraph 1, the BNB shall notify the requesting competent authority accordingly, providing as detailed information as possible.

Settlement of Disagreements between Competent Authorities of Different Member States

Article 119b. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) Where the request for exchange of information under Article 118, paragraph 4 has been rejected or has not been acted upon within a reasonable time, the BNB may

refer the matter to the European Banking Authority (EBA), requesting EBA's assistance in accordance with Article 19 of Regulation (EU) No 1093/2010.

Section II

Payment Systems Supervision

General Provisions

Article 120. The Bulgarian National Bank shall exercise supervision over operators and participants in payment systems to ensure compliance with the requirements of this Law and its implementing legislation.

Supervisory Measures to Payment Systems

Article 121. (1) In case the BNB establishes breaches in the activity of a payment system, depending on the nature and gravity of the breach, it may:

1. issue a written warning and/or issue mandatory instructions to the operator and/or participant in the payment system;
2. oblige the operator and/or participant in the payment system to discontinue and rectify the breaches within a given time-limit;
3. order the payment system operator to exclude a certain participant from the payment system, if the participant fails to observe the requirements or rules of the system stipulated herein;
4. order the participants and the operator of the payment system to change its rules ;
5. oblige the system operator to carry out, at its own expense, internal or external audit of the system or its participants;
6. impose on the payment system operator temporary or permanent prohibition to engage in the activity of the payment system;
7. revoke the license of the operator of a payment system subject to licensing.

(2) The measures under paragraph 1, item 1 may also be imposed on persons exercising managerial functions under contract, as well as persons exercising control, within the meaning of § 1, paragraph 1, item 7 of the Additional Provisions of the Law on Credit Institutions, over an operator or participant in a payment system.

Section III

Supervision over Payment Service Providers

General Provisions

Article 122. (1) (amended; Darjaven Vestnik, issue 59 of 2016) The Bulgarian National Bank shall exercise supervision to ensure compliance with this Law and its implementing legislation over payment service providers having their head offices in the Republic of Bulgaria, as well as over the branches and agents of payment service providers having their head office in a Member State and operating on the territory

of the Republic of Bulgaria by exercising the right of establishment, and over entities operating as electronic money institutions or payment institutions without a license in violation of Articles 7 and 76.

(2) (amended; Darjaven Vestnik, issue 101 of 2010; effective as of 30 April 2011, amended; Darjaven Vestnik, issue 103 of 2012, amended; Darjaven Vestnik, issue 59 of 2016) If, as part of its official duties or on the basis of a complaint by a payment service user or electronic money holder or another interested party, including an association of users, the BNB establishes that a payment service provider has violated this Law or its implementing legislation, or Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds, hereinafter referred to as Regulation (EC) No 1781/2006, or 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 (OJ, L 266/11 of 9 October 2009) hereinafter referred to as Regulation (EC) No 924/2009, or Regulation (EC) 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 94/22 of 30 March 2012) hereinafter referred to as Regulation (EU) No 260/2012, as well as 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 123/1 of 19 May 2015) hereinafter referred to as Regulation (EU) No 2015/751, the BNB shall have the right to impose the relevant supervisory measures and/or impose property sanctions in order to discontinue the breach.

(3) (amended; Darjaven Vestnik, issue 101 of 2010; effective as of 30 April 2011, amended; Darjaven Vestnik, issue 59 of 2016.) Where a complaint is filed by a payment service user or an electronic money holder or another interested party, in its response the BNB shall inform the complainant on the option to refer the issue for consideration by the Conciliation Commission on Payment Disputes. The BNB response shall not be an individual administrative act.

Additional Requirements to Supervision of Payment Institutions and Electronic Money Institutions

(title amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011)

Article 123. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) The BNB supervisory powers over payment institutions and electronic money institutions shall be proportionate to the risks they are or might be exposed to in connection with their activity, as well as with a view to maintaining own funds adequate to such risks.

Supervision Measures to Payment Service Providers

Article 124. (1) In case the BNB establishes breaches in the activity of a payment service provider, depending on the nature and gravity of the breach, it may:

1. issue a written warning and/or issue mandatory instructions to the payment service provider;

2. oblige the payment service provider to discontinue and rectify the breaches within a given time-limit;

3. require changes in the internal rules and procedures of the payment service provider;

4. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) forbid the conducting of activities related to the provision of some or all payment services or the activity of electronic money issuance until the irregularities have been resolved.

(2) Where persons licensed to execute postal funds transfers under the Law on Postal Services systematically violates the provisions of this Law or its implementing legislation, the BNB Governor shall submit a motivated proposal to the chairman of the State Agency for Information Technology and Communications for revoking the license of these persons to execute postal funds transfers.

(3) The imposition of supervisory measures shall be without prejudice to the possibility of applying measures under other implementing legislation.

(4) At the BNB discretion, the application of supervisory measures might be made public.

Additional Supervisory Measures to Payment Institutions

(title amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011)

Article 125. (1) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) In case the BNB establishes breaches in the activity of a payment institution or an electronic money institution, in addition to the measures under Article 124, it may:

1. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) oblige the payment institution or the electronic money institution to carry out, at its own expense, an extraordinary audit;

2. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) impose on the payment institution or the electronic money institution stricter supervisory requirements than the requirements established therefor during its normal operation;

3. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) restrict the business of the payment institution or the electronic money institution, prohibiting it from effecting specified transactions, activities or operations;

4. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) restrict the volume of specific types of activities carried out by the payment institution or the electronic money institution or request an increase in its own funds;

5. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) withdraw the license of the payment institution or the electronic money institution.

(2) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) The imposition of additional supervisory measures shall be without prejudice to the possibility of applying measures under other implementing legislation.

(3) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) At the BNB discretion, the application of additional supervisory measures may be made public.

Section IV

Breaches

Types of Breaches

Article 126. Within the meaning of Article 121, paragraph 1, Article 124, paragraph 1 and Article 125, paragraph 1, breach shall be:

1. (amended; Darjaven Vestnik, issue 103 of 2012) breach or circumvention of the provisions of this Law, its implementing legislation or the Regulations under Article 122, paragraph 2;
2. non-compliance with the BNB instructions and orders;
3. obstruction of the exercise of payment supervision and on-site checks;
4. (amended; Darjaven Vestnik, issue 59 of 2016) failure to provide the information and documents required by the BNB;
5. non-compliance to cooperate when such cooperation was requested by the inspected person;
6. failure to comply with the conditions for granting the license when the person subject to payment supervision is also subject to licensing under the provisions of this Law;
7. endangering or affecting the security and financial stability of the payment system;
8. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) endangering or affecting the security and the financial stability of the financial institution or the electronic money institution, including due to other business activities not related to the provision of payment services or issuance of electronic money respectively.

*Chapter Eight***OUT-OF-COURT REDRESS**

Section I

Internal Procedures*Complaints*

Article 127. (1) Any payment service provider, as part of its internal rules, shall establish a procedure of filing complaints, settling disputes and determining compensation in connection with the provision of payment services.

(2) (amended; Darjaven Vestnik, issue 59 of 2016) The payment service provider shall deliver and notify in writing its customers of its decision on any received complaint within 14 business days from its filing.

(3) If the payment service provider fails to deliver its decision within the time limit under paragraph 2, or if its decision does not satisfy the customer, the dispute may be referred to the Conciliation Commission on Payment Disputes. The payment service provider shall inform the payment service user of the existence of this option.

(4) (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) Paragraphs 1–3 shall also apply to electronic money institutions.

Section II

Conciliation Commission on Payment Disputes*Establishment*

Article 128. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011; amended, Darjaven Vestnik, issue 103 of 2012; amended, Darjaven Vestnik, issue 59 of 2016) (1) The Conciliation Commission on Payment Disputes at the Consumer Protection Commission shall be an out-of-court body for settlement of national and cross-border disputes arising between payment service providers and payment service users, as well as between electronic money issuers and their clients in relation to the application of this Law, its implementing legislation, Regulation (EC) No 924/2009 and Regulation (EU) No 260/2012 and Regulation (EU) 2015/751.

(2) The Conciliation Commission on Payment Disputes (hereinafter referred to as the ‘Commission’) shall consider national and cross-border disputes between the entities under paragraph 1 arising from contracts for distance marketing of financial services within the meaning of the Distance Marketing of Financial Services Act. In considering cross-border disputes received through the online dispute resolution platform the Commission shall comply with the requirements of Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004

and Directive 2009/22/EC (Regulation on consumer ODR) (OJ, L 165/1 of 18 June 2013).

(3) The Commission shall be independent and shall not be subject to mandatory instructions regarding the performance of its activities.

Composition of the Conciliation Commission on Payment Disputes

Article 129. (1) (amended; Darjaven Vestnik, issue 59 of 2016) The Conciliation Commission on Payment Disputes shall consist of a chairperson and deputy chairperson designated by the BNB Governor, and members who are included in lists approved by a representative organisation of the banks and by the Consumer Protection Commission. Each list shall consist of at least three persons with requisite qualification. They can be withdrawn without reasonable grounds.

(2) (amended; Darjaven Vestnik, issue 59 of 2016) The conciliation proceedings procedure shall be held with the participation of three members, consisting of the chairperson or deputy chairperson of the Commission and one member from each of the respective lists. Members of the Commission for each conciliation proceedings procedure shall be designated by the chairperson on a rotation basis

(3) (amended; Darjaven Vestnik, issue 59 of 2016) Where any of the members is unable to attend an individual conciliation procedure, the chairperson or deputy chairperson of the Commission shall appoint another member among the persons included in the respective list.

(4) (amended; Darjaven Vestnik, issue 59 of 2016) Members of the Commission, the chairperson or deputy chairperson shall in an impartial and objective manner perform their duties. They may not disclose the trade, official, bank, professional or trade secrecy or any other information, which has become known to them in connection with the discharge of their duties.

(5) (amended; Darjaven Vestnik, issue 57 of 2015; amended, Darjaven Vestnik, issue 59 of 2016) Annually, within one month after the end of the calendar year, the chairperson of the Commission shall draft a report, which shall be submitted to the BNB, the Consumer Protection Commission and the organisations that have approved the lists under paragraph 1. In preparing the annual report, the requirements laid down in Article 181g of the Law on Consumer Protection shall be met. The annual report shall be published on the website of the Conciliation Commission on Payment Disputes.

Conciliation Procedure Principles

(3) (Title amended; Darjaven Vestnik, issue 59 of 2016)

Article 130. (amended; Darjaven Vestnik, issue 59 of 2016) (1) When settling disputes the Commission shall observe the principles of volition, expertise, independence, impartiality, transparency, effectiveness, fairness, freedom and legality, outlined

in Chapter 9, Section II of the Law on Consumer Protection and the personal data protection requirements as set forth in the Law on Personal Data Protection.

(2) The proceedings before the Commission shall not be an indispensable prerequisite for bringing the proceedings before a court.

Conciliation Procedure

(Title amended; Darjaven Vestnik, issue 59 of 2016)

Article 131. (amended; Darjaven Vestnik, issue 57 of 2015; amended; Darjaven Vestnik, issue 59 of 2016) (1) The conciliation procedure shall start by filing an application to the Commission. The application shall be submitted in writing, via e-mail or on-line via the website of the Commission on Consumer Protection.

(2) The requirements to the application under Article 1, the terms and conditions for the opening or closure of a conciliation procedure and for redress and settlement of disputes within the purview of the Commission, as well as the maximum cash threshold of the disputes shall be defined in Rules of Procedure approved by the BNB Governor. The Rules of Procedure shall be published in the Darjaven Vestnik.

(3) The Conciliation Commission on Payment Disputes shall, upon request, provide to the parties information about the conciliation proceedings procedure on a hard copy.

Hearing the Dispute

Article 132. (repealed; Darjaven Vestnik, issue 59 of 2016)

Non-consideration of a Complaint

Article 133. (repealed; Darjaven Vestnik, issue 59 of 2016)

Conciliation Proposal

Article 134. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011; amended, Darjaven Vestnik, issue 59 of 2016) (1) After carrying out the necessary actions with a view to clarify the dispute, the Commission shall prepare a written conciliation proposal for the settlement thereof.

(2) The acceptance of the proposal by the two parties shall have an effect of an agreement between them.

(3) Where the parties to the dispute have concluded an agreement but any of them fails to fulfil its obligations thereto, the other party may take the dispute covered by the agreement to court.

Cost of the Procedure

Article 135. (1) (amended; Darjaven Vestnik, issue 59 of 2016) The parties shall not be charged for the hearing of the dispute by the Commission. The costs incurred by the parties shall be for their own account.

(2) The costs for remuneration of Commission members shall be borne by the organisations which have appointed them. The Consumer Protection Commission shall provide staff and adequate working conditions for the Conciliation Commission on Payment Disputes.

(3) (repealed; Darjaven Vestnik, issue 59 of 2016)

Cooperation

Article 136. (amended; Darjaven Vestnik, issue 59 of 2016) In case of cross-border disputes, the Commission shall cooperate with the competent authorities for out-of-court settlement of the disputes in the Member States by exchanging information and opinions with such authorities.

Article 136a. (new; Darjaven Vestnik, issue 57 of 2015; amended, Darjaven Vestnik, issue 59 of 2016) For outstanding issues related to the operation of the Commission as an alternative dispute resolution authority the provisions of Chapter Nine, Section II of the Law on Consumer Protection shall apply.

Chapter Nine

ISSUE OF, AND APPEAL AGAINST ADMINISTRATIVE ACTS

Issue of and Appeal against Administrative Acts

Article 137. (1) (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011; amended; Darjaven Vestnik, issue 97 of 2017, effective as of 5 December 2017) Individual administrative acts under this Law shall be issued by the BNB Governing Council on a proposal of the Deputy Governor heading the Banking Department except for individual administrative acts referred to in Article 26 and Article 77f, paragraph 3 herein, which shall be issued by the Deputy Governor heading the Banking Department.

(2) (amended; Darjaven Vestnik, issue 59 of 2016; repealed, Darjaven Vestnik, issue 97 of 2017, effective as of 5 December 2017)

(3) the BNB administrative acts shall be motivated and subject to immediate execution.

(4) The administrative acts may be appealed before the Supreme Administrative Court as to their conformity with the law under the Administrative Procedure Code. The Court may not stay the execution of the act until pronouncement on the appeal.

(5) In the legal proceedings under paragraph 4, where a court accounting expert appraisal or court economic expert appraisal is required, the court shall appoint experts from the list referred to in Article 151, paragraph 4 of the Law on Credit Institutions.

(6) Individual administrative acts hereunder shall be communicated to their addressees by delivery against a signature or by registered mail with advice of delivery.

Delivery by registered mail with advice of delivery shall be made at the permanent address of the person, if it is a natural person, or at its headquarters and registered address if it is a legal entity.

(7) Where the administrative act is not delivered by one of the means specified in paragraph 6, it shall be deemed delivered on putting it on a specifically designated place in the BNB premises. This circumstance shall be ascertained by a report prepared by officials appointed by an order of the Deputy Governor heading the Banking Department.

(8) Articles 26 and 34 of the Administrative Procedure Code shall not apply in case supervisory measures are imposed.

Chapter Ten

ADMINISTRATIVE PENALTY PROVISIONS

Fines and Property Sanctions

Article 138. 1. (amended; Darjaven Vestnik, issue 59 of 2016) Any person who commits or admits committing a breach of this Law and the by-laws issued for its implementation shall be liable to a sanction of up to BGN 3000 and for a repeated breach to a sanction of BGN 3000 to BGN 5000 provided that the act does not constitute a crime. If the offender is a legal entity, a property sanction of up to BGN 8000 shall be imposed and in case of repeated breach to a sanction of BGN 8000 to BGN 15,000.

(2) Any payment system operator who commits or allows a breach to be committed of this Law or of implementing legislation, shall be liable to a property sanction of up to BGN 10,000, and for a repeated breach – from BGN 10,000 to BGN 20,000.

(3) Any payment service provider under Article 122, paragraph 1 who commits or allows a breach to be committed of this Law or of implementing legislation, shall be liable to a property sanction of up to BGN 8000, and for a repeated breach – from BGN 8000 to BGN 15,000.

(4) Any participant in the payment system who commits or allows a breach to be committed of this Law or of implementing legislation, shall be liable to a property sanction of up to BGN 8000, and for a repeated breach – from BGN 8000 to BGN 15,000.

(5) Any payment system operator, payment service provider or participant in a payment system who fails to execute a supervisory measure imposed by the BNB shall be liable to a property sanction of up to BGN 20,000, and for a repeated breach – from BGN 20,000 to BGN 100,000.

(6) Any person who performs activities as a payment institution without a license, unless the act constitutes a criminal offence, or carries out without authorisation another activity for which this Law requires authorisation, shall be liable to pay a fine of up to BGN 20,000, and for a repeated breach – from BGN 20,000 to BGN 40,000. Where the offender is a legal entity, it shall be liable to a property sanction of up to BGN 40,000, and for a repeated breach – from BGN 40,000 to BGN 80,000.

(7) Any person who performs activities as a payment system operator without a license where such license is required, unless the act constitutes a criminal offence, shall be liable to a property sanction of up to BGN 50,000, and for a repeated breach – from BGN 50,000 to BGN 100,000. Where the offender is a legal entity, it shall be liable to a property sanction of up to BGN 100,000, and for a repeated breach – from BGN 100,000 to BGN 200,000.

(8) (new; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011) Any person who performs activity as an electronic money institution without having a license, if the act does not constitute a crime, or performs without a permit other activity of which this Law does require a permit, shall be liable to pay a fine of up to BGN 20,000, and for a repeated breach from BGN 20,000 to BGN 40,000. Where the offender is a legal person, it shall be liable to a property sanction of up to BGN 40,000, and for a repeated breach – from BGN 40,000 to BGN 80,000.

***Property Sanctions in Case of a Breach of Regulation (EC)
No 1781/2006, Regulation (EC) No 924/2009, Regulation (EU) No
260/2012 and Regulation (EU) No 2015/751***

(Title amended; Darjaven Vestnik, issue 103 of 2012;
amended, Darjaven Vestnik, issue 59 of 2016)

Article 139. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 April 2011; amended, Darjaven Vestnik, issue issue 103 of 2012; amended, Darjaven Vestnik, issue 59 of 2016) In case of breach of Regulation (EC) No 1781/2006, Regulation (EC) No 924/2009, Regulation (EU) No 260/2012, and Regulation (EU) No 2015/751 a property sanction of up to BGN 8000, or in case of repeated breach – a sanction of BGN 8000 to BGN 15,000 shall be imposed on the payment service provider or any other person.

Issue of, and Appeal Against, Penalty Decrees

Article 140. (1) (amended; Darjaven Vestnik, issue 59 of 2016) The statements of finding breaches under Articles 138 and 139 shall be issued by officials authorised by the Deputy Governor of the Bulgarian National Bank heading the Banking Department, and penalty decrees shall be issued by the Deputy Governor or by an authorised official.

(2) Drawing up of written statements, issuing, appealing against, and executing penalty decrees shall follow the procedure established by the Law on Administrative Breaches and Sanctions.

(3) (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) The Bulgarian National Bank may disclose any penalty decree that has entered into force by virtue of which a person has been penalized or is liable to a property sanction for violating the provisions of Chapter Four ‘a’, unless such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.

Additional Provisions

§ 1. Within the meaning of this Law:

1. 'Value date' shall mean a reference time used by a payment service provider for the calculation of interest on the funds debited from or credited to a payment account; where no calculation of interest is agreed for a payment account, the value date shall be the date on which the payment service provider shall be obliged to debit or credit the payment account.

2. 'Group' shall mean a group of undertakings, which consists of:

a) a parent undertaking, its subsidiaries and the entities in which the parent undertaking or its subsidiaries have a holding, or

b) undertakings managed on a unified basis pursuant to a contract concluded or the provisions in the memorandum or articles of association of those undertakings, or

c) undertakings in which the management or supervisory bodies consist for the major part of the same persons in office during the financial year and until the consolidated accounts are drawn up.

3. (amended; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) 'Direct debit' shall mean a national or cross-border payment service for debiting a payer's payment account, where a payment transaction is initiated by the payee on the grounds of the consent given by the payer to the payee, the payee's payment service provider or the payer's payment service provider.

4. (amended, Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) 'Durable medium' shall mean any instrument which enables the consumer to store information addressed personally to that consumer in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored; Durable mediums shall be printouts by account printers, floppy disks, CD-ROMs, DVDs and hard drives of personal computers on which electronic mail can be stored, and Internet sites, as long as such sites are accessible for future reference for a period of time adequate for the purposes of information and allow the unchanged reproduction of the information stored, and others.

5. 'Member State' shall be a country which is a member of the European Union or another country which belongs to the European Economic Area.

6. 'Home Member State' shall mean the Member State in which the payment service provider has its registered office, and if the payment service provider has, under its national law, no registered office, the Member State in which its head office is situated.

7. 'Subsidiary' shall be a legal entity controlled by another legal entity (parent undertaking). Legal entities which are subsidiaries of the subsidiary shall be considered subsidiaries of the parent undertaking.

8. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) 'Institution' shall be participating in a settlement finality system and responsible

for execution of the financial obligations stemming from transfer orders within the system:

a) a bank as defined in Article 2, paragraph 5 of the Law on Credit Institutions, a credit institution as defined in Article 4, paragraph 1 of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast) including the institutions listed in Article 2 of that Directive;

b) an investment firm as defined in the Law on Markets in Financial Instruments and in Article 4, paragraph 1, subparagraph 1 of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, excluding the institutions set out in Article 2, paragraph 1 thereof.

9. 'Clearing house' shall mean an entity responsible for the calculation of the net positions of institutions, a possible central counterparty and/or a possible settlement agent.

10. 'Branch of a payment institution' shall be a place of business which forms a legally dependent part of a payment institution and which carries out directly all or some of the transactions of a payment institution. To carry on business as a payment institution within the territory of the Republic of Bulgaria through a branch, the payment institution licensed in a Member State shall establish only one branch regardless of the number of places of operation.

10a. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) 'Credit interest rate' shall mean any rate at which interest is paid to the consumer in respect of funds held in a payment account.

10b. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) 'Credit transfer' shall mean a national or cross-border payment service for crediting a payee's payment account with a payment transaction or a series of payment transactions from a payer's payment account by the payment service provider which holds the payer's payment account, based on an instruction given by the payer.

11. 'Money remittance' shall mean a payment service where funds are received from a payer, without any payment accounts being created in the name of the payer or the payee, for the sole purpose of transferring a corresponding amount to the payee or to another payment service provider acting on behalf of the payee, and/or where such funds are received on behalf of and made available to the payee.

11a. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) 'Standing order' shall mean an instruction given by the payer to the payment service provider which holds the payer's payment account to execute credit transfers at regular intervals or on predetermined dates.

12. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) 'Transfer order' shall mean any instruction by a participant in a settlement finality system to place at the disposal of a recipient an amount of money by means of a book entry on the accounts of a credit institution, a central bank, a central counterparty or a settlement agent, or any instruction which results in the assumption or discharge

of a payment obligation as defined by the rules of the system, as well as order by a participant to transfer its property rights or security/securities' interest by means of a book entry in a register or by other means.

13. 'Invalid unique identifier' shall mean an identifier which does not meet the standardised requirements, if any.

14. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) 'Indirect participant' shall mean an institution, a central counterparty, a settlement agent, a clearing house or a system operator with a contractual relationship with a participant in a settlement finality system executing transfer orders which enables the indirect participant to pass transfer orders through the system, provided that the indirect participant is known to the system operator.

(15) 'Netting' shall mean the conversion of claims and obligations resulting from transfer orders which a participant or participants either issue to, or receive from, one or more other participants with the effect that only a net claim can be demanded or a net obligation be owed.

15a. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) 'Overdraft facility' shall mean an explicit credit agreement whereby a payment service provider makes available to a consumer funds which exceed the current balance in the consumer's payment account.

15b. (new, Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011, former item 15a, Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) 'Interoperable systems' shall mean two or more settlement finality systems whose system operators have concluded an arrangement for execution of transfer orders between the different systems.

15c. (new, Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011, former item 15a, Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) 'Payment system operator' shall mean a system operator legally responsible for the operation of a payment system.

16. 'Payment instrument' shall mean any personalised device(s) and/or set of procedures agreed between the payment service user and the payment service provider and used by the payment service user in order to initiate a payment order.

17. (amended; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) 'Payment transaction' shall mean an act, initiated by the payer or by the payee, of placing, transferring or withdrawing funds, irrespective of the main underlying obligation between the payer and the payee.

18. 'Payment account' shall mean an account held in the name of one or more payment service users which is used for the execution of payment transactions.

19. 'Payment order' shall mean any instruction by a payer or payee to his payment service provider requesting the execution of a payment transaction.

20. 'Payer' shall mean a natural person or a legal entity that holds a payment account and allows a payment order from that payment account, or, where there is no payment account, a natural person or a legal entity that gives a payment order.

21. ‘Payment service user’ shall mean a natural person or a legal entity making use of a payment service in the capacity of either payer or payee, or both.

22. ‘Payee’ shall mean a natural person or a legal entity that is the intended final recipient of funds which have been the subject of a payment transaction.

23. ‘Consumer’ shall mean a natural person who, in payment service contracts covered by this Directive, is acting for purposes other than his trade or profession.

23a. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) ‘Legally resident in the European Union’ shall mean a natural person that has the right to reside in a Member State by virtue of European Union or national law, including consumers with no fixed address and persons seeking asylum under the Geneva Convention of 28 July 1951 Relating to the Status of Refugees, and the Protocol thereto of 1967 ratified by a law (published, Darjaven Vestnik, issue 36 of 1992; amended, issue 30 of 1993), (Darjaven Vestnik, issue 88 of 1993), and other relevant international treaties.

24. ‘Parent undertaking’ shall be a legal entity exercising control over one or more undertakings (subsidiaries).

24a. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) ‘Switching’ or ‘switching service’ shall mean, upon a consumer’s request, transferring from one payment service provider to another either the information about all or some standing orders for credit transfers, recurring direct debits and recurring incoming credit transfers executed on a payment account, and/or any positive payment account balance from one payment account to the other, with or without closing the former payment account.

24b. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) ‘Transferring payment service provider’ shall mean the payment service provider from which the information required to perform the switching is transferred.

24c. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) ‘Receiving payment service provider’ shall mean the payment service provider to which the information required to perform the switching is transferred.

25. ‘Host Member State’ shall mean the Member State other than the home Member State in which a payment service provider has a branch, an agent or provides directly payment services.

26. ‘Business day’ shall mean a day on which the relevant payment service provider of the payer or the payment service provider of the payee involved in the execution of a payment transaction is open for business as required for the execution of a payment transaction.

27. ‘Reference number’ shall mean a set of data announced in advance or a unique number used by the payment service provider that allows the unambiguous identification of a payment transaction.

28. ‘Reference interest rate’ shall mean the interest rate which is used as the basis to calculate any applicable interest and which comes from a publicly available source and may be checked by both parties to a payment service contract.

(29) ‘Reference exchange rate’ shall mean the exchange rate which is used as the basis to calculate any currency exchange and which is made available by the payment service provider or comes from a publicly available source.

29a. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) ‘Overrunning’ shall mean a tacitly accepted overdraft whereby a payment service provider makes available to a consumer funds which exceed the current balance in the consumer’s payment account or the agreed overdraft facility.

29b. (new, Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011, former item 29a Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) ‘System operator’ shall mean the entity or entities legally responsible for the operation of a system.

30. ‘Funds’ shall mean banknotes and coins, money on account and electronic money.

31. ‘Means of distance communication’ shall refer to any means which, without the simultaneous physical presence of the payment service provider and the payment service user, may be used for the conclusion of a payment services contract.

31a. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 2016) ‘Fees’ shall mean all charges and penalties payable by the consumer to the payment service provider for or in relation to services linked to a payment account.

32. ‘Third country’ shall be the country other than a Member State within the meaning of item 5.

33 ‘Unique identifier’ shall mean 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 the other payment service user and/or his payment account for a payment transaction.

33a. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) ‘Services linked to the payment account’ shall mean all services related to the opening, operating and closing of a payment account, including payment services and payment transactions within the meaning of Article 2, paragraph 1, item 7, and overdraft facilities and overrunning.

34. (new; Darjaven Vestnik 101 of 2010, effective as of 30 June 2011) ‘Securities’ shall mean financial instruments as defined in Article 3 of the Law on Markets in Financial Instruments.

35. (former item 34; Darjaven Vestnik, issue 101 of 2010, effective as of 30 June 2011) ‘Central counterparty’ shall mean an entity which is interposed between the institutions in a settlement finality system and which acts as the exclusive counterparty of these institutions with regard to their transfer orders.

§ 2. (amended; Darjaven Vestnik 101 of 2010, effective as of 30 June 2011) This Law transposes the provisions of:

1. Directive 2007/64/EC of the European Parliament and of the Council 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 95/7/EC (OJ, L 319/1 of 5 December 2007);

2. Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems and of Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009 amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims (OJ, L 146/37 of 10 June 2009);

3. Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ, L 267/7 of 10 October 2009).

4. (new; Darjaven Vestnik, issue 105 of 2011) Directive 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority) (OJ, L 331/120 of 15 December 2010).

5. (new; Darjaven Vestnik, issue 59 of 2016, effective as of 18 September 2016) 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.

§ 3. Until 1 January 2012 the payer and its payment service provider may agree on the period of execution of payment services longer than that under Article 64, paragraph 2, but no longer than three business days. This period may be extended by one more business day for initiated paper-based payment transactions.

§ 4. Banks, licensed under Article 2, paragraph 2, item 1 of the Law on Credit Institutions, may, without additional permission, execute all transactions related to the provision of payment services.

Transitional and Final Provisions

§ 5. The Law on Funds Transfers, Electronic Payment Instruments and Payment Systems (published in the Darjaven Vestnik, issue 31 of 2005, amended, issue 99 of 2005, issues 30 and 59 of 2006, and issue 16 of 2008), is hereby repealed.

§ 6. (1) Within three months of the entry into force of this Law, payment service providers, payment system operators and other liable persons hereunder shall bring their activity and legal relationships with third parties that have arisen prior to entry into force of this Law.

(2) Payment service providers may use the ways and of notifying, set out in Article 42, paragraph 1 and Article 43, paragraphs 1 and 2, in informing the persons with

whom they already have concluded framework contracts about the changes in these contracts arising from this Law.

§ 7. Within three months of the entry into force of this Law, the BNB shall update the licenses of money remittance companies issued under the repealed Law on Funds Transfers, Electronic Payment Instruments and Payment Systems in compliance with this Law and shall list them in the Register under Article 17. Updated licenses shall be issued by the BNB Governor.

§ 8. Within three months of the entry into force of this Law, the BNB shall update the licenses of system operators under Article 60 of the repealed Law on Funds Transfers, Electronic Payment Instruments and Payment Systems in compliance with this Law and shall list them in the Register under Article 81. Updated licenses shall be issued by the BNB Governor.

§ 9. In addition to the cases under § 7 and 8, the companies providing any of the payment services under Article 4 shall, within three months of the entry into force of this Law, file with the BNB an application for granting a license. Any company that fails to file an application within the time limit under the first sentence above or after its documents being examined by the BNB is refused a license under Article 14, may not perform an activity as a payment institution.

§ 10. (in force as of 27 March 2009) The BNB Governor shall adopt ordinances on the enforcement of Chapter Two, Chapter Three, Chapter Four and Chapter Six within three months after the publication of this Law in the *Darjaven Vestnik*.

§ 11. The BNB Governing Council shall issue an ordinance specifying how the unique identifier of accounts kept with banks (IBAN) is formed.

§ 12. (repealed; *Darjaven Vestnik*, issue 24 of 2009, in force as of 31 March 2009).

§ 13. In the Law on Distance Financial Services (published in the *Darjaven Vestnik*, issue 105 of 2006, the following amendments are made:

1. In Article 8:

a) A new paragraph 2 is inserted:

‘(2) Where the provider is a payment service provider within the meaning of the Law on Payment Services and Payment Systems, in the cases referred to in paragraph 1, the provisions of Article 39, respectively Article 41 and 42 of the Law on Payment Services and Payment Systems shall apply, and the consumer shall be further provided with information under paragraph 1, item 2, subparagraph ‘(c)’–‘(g)’, item 3, subparagraph ‘(a)’, ‘(d)’ and ‘(e)’ and item 4, subparagraph ‘(b)’.

b) The existing paragraphs 2 and 3 become respectively paragraphs 3 and 4.

2. In Article 15 the words ‘Article 8, paragraphs 1 and 3’ are replaced by the words ‘Article 8, paragraphs 1 and 4’

§ 14. In the Law on Consumer Protection (published in the *Darjaven Vestnik*, issue 99 of 2005, amended issues 30, 51, 53, 59, 105 and 108 of 2006, issues 31, 41, 59 and 64 of 2007 and issues 36 and 102 of 2008) Article 60 is repealed.

§ 15. In Article 3, paragraph 2, item 1 of the Law on Measures against Money Laundering (published in the *Darjaven Vestnik*, issue 85 of 1998, amended, issues 1

and 102 of 2001, issue 31 of 2003, issues 103 and 105 of 2005, issues 30, 54, 59, 82 and 108 of 2006, issues 52, 92 and 109 of 2007 and issues 16, 36, 67 and 69 of 2008) the words ‘companies providing money remittance’ is replaced by the words ‘other payment service providers’.

§ 16. In the Law on Government Debt (published in the *Darjaven Vestnik*, issue 93 of 2002, issue 34 of 2005 and issue 52 of 2007, the following amendments are made:

1. In Article 35, paragraph 1, item 3 is amended as follows:

‘3. establish and organize a government securities settlement system in which three or more members participate, who may be primary dealers, subdepositories of government securities or other entities, specified by the Minister of Finance and the Governor of the Bulgarian National Bank in accordance with the Ordinance under Article 36, paragraph 1, based on general rules guaranteeing the implementation of responsibilities related to the participation in the system pursuant to an agreement.

2. A new Article 35a is inserted:

‘**Article 35a** ‘The rules of Article 83 and Chapter Six, Section II of the Law on Payment Services and Payment Systems shall apply accordingly to the government securities settlement system managed by the BNB.’

§ 17. In the Penalty Code (published in the *Darjaven Vestnik*, issue 26 of 1968, amended, issue 29 of 1968, issue 92 of 1969, issues 26 and 27 of 1973, issue 89 of 1974, issue 95 of 1975, issue 3 of 1977, issue 54 of 1978, issue 89 of 1979, issue 28 of 1982, issue 31 of 1982, issue 44 of 1984, issues 41 and 79 of 1985, issue 80 of 1985, issues 89 and 90 of 1986, issues 37, 91 and 99 of 1989, issues 10, 31 and 81 of 1990, issues 1 and 86 of 1991, issues 90 and 105 of 1991, issue 54 of 1992, issue 10 of 1993, issues 50, 97 and 102 of 1995, issue 107 of 1996, issues 62, 85 and 120 of 1997, issues 83, 85, 132, 133 and 153 of 1998, issues 7, 51 and 81 of 1999, issues 21, 51 and 98 of 2000, issues 41 and 101 of 2001, issues 45 and 92 of 2002, issues 26 and 103 of 2004, issues 24, 43, 76, 86 and 88 of 2005, issues 59, 75 and 102 of 2006, issues 38, 57, 64, 85 89 and 94 of 2007, issue 19, 67 and 102 of 2008 and issue 12 of 2009) in Article 252, paragraph 1, the words ‘as well as payment services’ are added after the phrase ‘other financial transactions’.

§ 18. In the Commercial Code (published in the *Darjaven Vestnik*, issue 48 of 1991, amended issue 25 of 1992, issues 61 and 103 of 1993, issue 63 of 1994, issue 63 of 1995, issues 42, 59, 83, 86 and 104 of 1996, issues 58, 100 and 124 of 1997, issues 21, 39, 52 and 70 of 1998, issues 33, 42, 64, 81, 90, 103 and 114 of 1999, issue 84 of 2000, issues 28, 61 and 96 of 2002, issues 19, 31 and 58 of 2003, issues 31, 39, 42, 43, 66, 103 and 105 of 2005, issues 38, 59, 80 and 105 of 2006, issues 59, 92 and 104 of 2007, issues 50, 67, 70, 100 and 108 of 2008 and issue 12 of 2009), the following amendments are made:

1. Articles 426–429 are repealed;

2. Articles 448–450 are repealed;

3. In Article 634c a new paragraph 5 is inserted:

‘(5) If the debtor is a participant in the government securities settlement system, simultaneously with the decision to institute bankruptcy proceedings under Arti-

cle 630, the court shall notify the Bulgarian National Bank on the initiation of bankruptcy proceedings and forward the decision to the Bulgarian National Bank

§ 19. In the Law on Restricting Administrative Regulation and Administrative Control on Economic Activity (published in the Darjaven Vestnik, issue 55 of 2003, amended issues 59 and 107 of 2003, issues 39 and 52 of 2004, issues 31 and 87 of 2005, issues 24, 38 and 59 of 2006, issues 11 and 41 of 2007, issue 16 of 2008), in the Annex to Article 9, item 1, the words ‘of providing money remittance’ is replaced by the words ‘as a payment institution’.

§ 20. Article 46, paragraph 1, item 3 of the Law on Value Added Tax (published in the Darjaven Vestnik, issue 63 of 2006, amended, issues 86, 105 and 108 of 2006, a resolution of the Constitutional Court, issue 37 of 2007, amended, issues 41, 52, 59, 108 and 113 of 2007, issue 106 of 2008 and issue 12 of 2009) is amended as follows:

‘3. the transaction, including the contracting, related to payment accounts, payment services, electronic money, payments, debts, receivables, checks and other similar contractual instruments, without the transaction for debt collection and factoring and letting out safes.’

§ 21. This Law shall enter into force as of 1 November 2009, with the exception of § 10, which shall enter into force as of the day of its publication in the Darjaven Vestnik.

This Law was adopted by the 40th National Assembly on 12 March 2009, and was sealed with the official seal of the National Assembly.

Transitional and Final Provisions to the Law on Amendment of the Law on Credit Institutions

(published in the Darjaven Vestnik, issue 24 of 2009,
effective as of 31 March 2009)

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§ 50. This Law shall enter into force on the day of its publication in the Darjaven Vestnik.

Transitional and Final Provisions to the Law on Amendment of the Law on Postal Services

(published in the Darjaven Vestnik, issue 87 of 2009,
effective as of 3 November 2009)

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§ 115. This Law shall enter into force on the day of its publication in the Darjaven Vestnik, except for the provisions of § 109, item 2 which shall enter into force on 1 January 2011.

**Transitional and Final Provisions
to the Law on Amendment of the Law on Payment Services
and Payment Systems**

(published in the Darjaven Vestnik, issue 101 of 2010,
effective as of 30 June 2011)

§ 58. Settlement finality systems of which the European Commission has been notified prior to the entry into force of this Law shall continue to be regarded as such.

§ 59. Transfer orders entered into the settlement finality system prior to the entry into force of this Law, settlement on which is executed after this moment, shall continue to be regarded as transfer orders as defined in § 1, item 12 of the Additional Provisions.

§ 60. (effective as of 31 December 2010) The BNB Governing Council shall adopt an Ordinance on the implementation of Chapter Five within a 3-month period from the publication of this Law in the Darjaven Vestnik.

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§ 69. This Law shall enter into force on 30 June 2011 except for:

1. paragraphs 1–16, § 41–56 and § 62 and 66 which shall enter into force on 30 April 2011;
2. paragraphs 60 and 68, which shall enter into force on 31 December 2010.

**Final Provisions
to the Law on Amendment of the Law on Payment Services
and Payment Systems**

(published in the Darjaven Vestnik, issue 59 of 29 July 2016)

§ 33. (Effective as of 18 September 2016) The Ministry of Finance notifies the European Commission, the EBA and the other EU Member States that the BNB has been chosen as the national competent authority in the application of Directive 2014/92/EU. The Ministry of Finance notifies the European Commission, the EBA and the other EU Member States that the BNB has been designated as the contact point for the purposes of cooperation and coordination.

§ 34. (Effective as of 18 September 2016) The BNB Governing Council shall adopt an ordinance on the enactment of Chapter Four ‘a’.

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§ 39. Paragraphs 1, 5, 13 – 15, § 31, item 2, § 32, items 1 and 2, § 33 and 34 of the Law shall enter into force as of 18 September 2016. Paragraph 5 in relation to Article 73b shall enter into force 3 months after the entry into force of the delegated act, adopted by the European Commission under Article 3, paragraph 4 of Directive 2014/92/EU. Paragraph 5 in relation to Article 73c, 73d, 73e, 73f, 73g, 73h and 73i shall enter into force 9 months after the entry into force of the delegated act, adopted by the European Commission under Article 3, paragraph 4 of Directive 2014/92/EU.

Law on Amendment of the Law on Credit Institutions

(published in the Darjaven Vestnik, issue 97 of 5 December 2017)

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Final Provisions

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§ 11. The Law shall enter into force on the date of its publication in the Darjaven Vestnik.

