

# 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 regulate:

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 terms and procedure for entering in the register referred to in Article 19 and conducting activities of account information service providers;
4. the terms and procedure for licensing and conducting activities of electronic money institutions;
5. the requirements for information provision in payment services;
6. the rights and obligations of the parties in the provision of payment services;
7. 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;
8. the terms and procedure for consumers to open and use payment accounts with basic features;
9. the terms and procedure for operation of payment systems;
10. the settlement finality in payment and securities settlement systems;
11. the terms and procedure for licensing and conducting activities of a settlement finality payment system operator;
12. the payment systems oversight;
13. the complaint procedure in relation to the provision of payment services and to the issuance of electronic money as well as the alternative dispute resolution procedure.

##### *Negative Scope*

**Article 2.** (1) The provisions of chapters two, four, five and ten shall not be applicable to:

1. payment transactions made exclusively in cash directly from the payer to the payee, without any intermediary intervention;
2. payment transactions made from the payer to the payee through a commercial agent authorised under a contract to negotiate or conclude agreement on the sale or purchase of goods or provision of services on behalf of the payer or the payee;
3. payment transactions made from the payer to the payee through a commercial agent authorised under a contract by both the payer and the payee only if the commercial agent does not, at any time, enter into possession of the funds involved in the payment transaction;
4. professional physical transport of banknotes and coins, including their collection, processing and delivery;
5. payment transactions consisting of the non-professional cash collection and delivery within the framework of a non-profit or charitable activity;
6. 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;
7. cash-to-cash currency exchange operations, where the funds are not held on a payment account;
8. 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;
9. payment transactions related to securities asset servicing, including dividends, income or other distributions, or redemption or sale, carried out by persons referred to in item 16 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;
10. 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, except for payment initiation and account information services;

11. services provided on the basis of payment instruments that can be used only in a limited way and meet one of the following conditions:

a) the instruments allow the user thereof to acquire goods or services only in the premises of the issuer or within a limited network of service providers under a commercial agreement with the issuer acting in a professional capacity;

b) the instruments can be used only to acquire a very limited range of goods or services;

c) the instruments are valid only on the territory of the Republic of Bulgaria and are provided at the request of the budget organisation within the meaning of the Law on Public Finance or a public sector entity or a commercial company, serve to acquire specific goods or services from suppliers based on an agreement with the issuer, and are regulated by a national or local administrative authority in view to achieve specific social or tax purposes;

12. payment transactions by a provider of electronic communications networks or services provided in addition to electronic communications networks or services for a subscriber to the network or service, for purchase of digital content and voice-based services, regardless of the device used for the purchase or consumption of the digital content and charged to the related bill, or performed from or via an electronic device and charged to the related bill within the framework of a charitable activity or for the purchase of tickets, provided that the value of any single payment transaction does not exceed BGN 100, and:

a) the cumulative value of payment transactions for one subscriber does not exceed BGN 600 *per month*, or

b) where a subscriber pre-funds its account with the provider of the electronic communications network or service, the cumulative value of payment transactions does not exceed BGN 600 *per month*;

13. payment transactions between payment service providers, their agents or branches for their own account;

14. payment transactions and related services between a parent undertaking and its subsidiary or between subsidiaries of the same parent undertaking, where the intermediary is a payment service provider belonging to the same group;

15. cash withdrawal services offered by means of ATM provided 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 those providers do not conduct other payment services; in this case the customer shall be provided with the information on any withdrawal charges referred to in Article 50, Article 54, paragraphs 1, 2 and 7, Articles 57 and 58 before carrying out the withdrawal as well as after receipt of the cash at the end of the transaction;

16. 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;

17. postal money orders within the meaning of § 1, item 9 of the Additional Provisions of the Postal Services Act.

(2) Chapters four and five shall not apply to account information service providers except for Article 52, Article 54, paragraphs 1, 2 and 7 and Article 60, and where applicable Articles 73, 75 and 98–100.

(3) Service provider who provides any of the services referred to in paragraph 1, item 11, (a) and (b) for which the total value of payment transactions executed over the preceding 12 months exceeds the amount of BGN 2 million, shall send notification to the Bulgarian National Bank (BNB) of the activity conducted, containing a description of the services provided, specifying under which exclusion referred to in paragraph 1, item 11, (a) and (b) the activity is carried out. Based on the notification and after assessing the criteria, referred to in paragraph 1, item 11, the BNB shall take a reasoned decision and inform the service provider where the activity does not qualify as a limited network.

(4) Service provider who carries out the transactions referred to in paragraph 1, item 12 shall inform the BNB annually of the activity conducted and provide an annual audit opinion certifying that the activity complies with the limits set out in paragraph 1, item 12.

(5) The Bulgarian National Bank shall notify the European Banking Authority (EBA) of the services notified pursuant to paragraphs 3 and 4.

(6) The description of the activities notified under paragraphs 3 and 4 shall be made available also in both the public register provided for in Article 19 and EBA register.

## 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. electronic money institutions within the meaning of this Law;
3. payment institutions within the meaning of this Law;
4. account information service providers within the meaning of this Law;
5. 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.

(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 person concerned.

### *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 other similar instruments;
  - c) execution of credit transfers, including standing orders;
5. issuing and/or acquiring of payment instruments;
6. money remittance;
7. payment initiation services;
8. account information services.

## *Chapter Two*

### **PAYMENT INSTITUTIONS**

#### Section I

#### **Licensing of Payment Institutions and Entry in the Register of Account Information Service Providers**

### *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 referred to in Article 4, items 1–7 throughout the European Union.

### *Competent Authority*

**Article 6.** The Bulgarian National Bank 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 referred to in Article 4, items 1–7 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, comprised of one or more of the items referred to in Article 26(1) (a) to (e) of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OB, L 176/1, 27.6. 2013), (Regulation (EU) No 575/2013) of no less than:

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, except for a payment institution that will offer only the payment services under Article 4, item 7, 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 in the preceding year:

1. four (4) per cent of the slice of PV up to BGN 10 million,  
plus
2. two point five (2.5) per cent of the slice of PV above BGN 10 million up to BGN 20 million,  
plus
3. one (1) per cent of the slice of PV above BGN 20 million up to BGN 200 million,  
plus
4. zero point five (0.5) per cent of the slice of PV above BGN 200 million up to BGN 500 million,

plus

5. zero point twenty five (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:

1. zero point five (0.5) where the payment institution provides only the payment service under Article 4, item 6;

2. one (1) where the payment institution provides any of the payment services under Article 4, items 1–5.

(3) The own funds of the payment institution which provides payment services under Article 4, items 1–6, may not fall below the amount required under paragraph 1 or Article 8, item 1 or 3 accordingly, whichever the higher.

(4) The own funds of the payment institution which provides only payment services under Article 4, item 7, may not fall below the amount required under Article 8, item 2.

(5) Based on an evaluation of the risk-management processes, risk loss database 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 or to permit the payment institution to hold an amount of own funds which is up to 20 per cent lower than the amount obtained in accordance with paragraph 1.

(6) Payment institution which provides payment services under Article 4, items 1–6, shall prepare and submit to the BNB reports for own funds amount.

(7) The Bulgarian National Bank shall issue an ordinance on the implementation of Article 8 and of this article.

### *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 capital or the funds used to acquire shares, in the case of transfer of shares, should 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; the applicant shall effectively carry out at least part of its payment service activity in the Republic of Bulgaria;

5. the applicant's activity including the way in which the payment services envisaged by applicant are to be provided, shall be determined clearly, in detail and exhaustively;

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

a) clear organisational structure, including the intended use of agents and branches, the checks that the applicant intends to perform on them at least once a year, the outsourcing arrangements and the applicant's interaction with payment systems;

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 management framework and internal control mechanisms, including sound and effective administrative and accounting procedures;

e) reliable programme for money laundering measures, including internal control mechanisms established by the applicant to comply with the obligations arising from the Law on the Measures against Money Laundering and the Law on the Measures against Financing of Terrorism;

f) procedure to monitor, handle and follow up a security incident and security related customer complaints, including an incident reporting mechanism under Article 99;

g) process to file, monitor, track and restrict access to sensitive payment data;

h) business continuity measures including a clear description of critical processes, effective emergency plans and a procedure to regularly test and review the adequacy and efficiency of such plans;

i) principles and definitions applied in the collection of statistical data on the results of the activity, payment transactions and fraud in connection with payment services provision;

k) security rules to protect payment service users against the risks identified, the fraud or the illegal use of sensitive and personal data;

7. 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 as a payment institution;

8. to apply sound and adequate measures for safeguarding payment service users' funds and payment instruments used in case it provides payment services under Article 4, items 1–6;



9. the persons managing and representing the applicant company and the members of its management and supervision bodies, including the representatives of legal entities, possess qualification, professional experience, fitness and probity the requirements being established in a ordinance of the BNB;

10. the persons holding, directly or indirectly, qualifying holdings in the applicant's capital within the meaning of Article 4(1), point 36 of Regulation (EU) No 575/2013 have provided evidence of their reliability taking into account the need to ensure the sound and prudent management of a payment institution; the assessment shall be based on the criteria referred to in Article 14, paragraph 5, items 1–3;

11. no close links within the meaning of Article 4(1), point 38 of Regulation (EU) No 575/2013 have been identified between the applicant and other natural persons or legal entities that would prevent the effective exercise of their supervisory functions;

12. at BNB's discretion, the requirements or difficulties in the enforcement of regulations or administrative provisions of a third country governing one or more natural or legal entities with which the applicant has close links, shall not prevent the BNB from the effective exercise of BNB's supervisory functions.

13. to have a designated audit firm which is a registered auditor under the provisions of the Law on Independent Financial Audit.

(5) The rules referred to in paragraph 4, item 6 shall be comprehensive and proportionate to the nature, scale and complexity of the payment services provided by the payment institution.

(6) To be granted a license to provide payment services under Article 4, item 7 the applicant shall hold a professional indemnity insurance or any other comparable guarantee against his liability covering the territories in which he will offer payment services. The insurance shall cover the liability of the payment initiation service provider under Articles 79, 91, 92, Article 93, paragraph 1, Articles 94 and 95.

(7) In case the applicant wishes to provide payment services under Article 4, item 8 in addition to the payment services for which it has applied under paragraph 1, the applicant shall meet the requirements under Article 18, paragraph 2.

### *Considering the Application for Granting a License*

**Article 11.** (1) Within three months from receipt of the application under Article 10, paragraph 1, 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 and shall decide on granting a license or shall refuse to grant a license. Where appropriate, the BNB may also consult other competent authorities.

(2) Where during the research under paragraph 1 the BNB establishes that the application is incomplete, the BNB shall require the applicant to provide the necessary documents and information within a period not longer than two months.

(3) No later than three months from the receipt of the documents and the information referred to in paragraph 2, 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 conducting activity as a payment institution, if the information and evidence accompanying the application complies with all the requirements of this Law and Ordinances on its 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 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 upon submission of the license granted by the BNB.

(4) The payment institution must comply with the requirements referred to in Articles 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 about any change in the 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.

### *Control of the Shareholding*

**Article 14.** (1) A natural person or legal entity may not without prior approval by the BNB acquire or increase directly or indirectly shares or voting shares/stakes in a payment institution licensed in the Republic of Bulgaria, if as a result of the acquisition the holding becomes qualifying within the meaning of Article 4(1), item 36 of Regulation (EU) No 575/2013, of the capital or if this holding reaches or exceeds the 20, 30 or 50 per cent thresholds of the shares/stakes or of the voting shares/rights as well as the payment institution becomes a subsidiary.

(2) To obtain approval, any natural person or legal entity referred to in paragraph 1 shall inform the BNB about its decision for acquisition by means of a written application and attach the required documents as provided for in an ordinance of the BNB.

(3) The Bulgarian National Bank shall make an assessment on the basis of the documents and the information submitted by the applicant as well as on the basis of other information and documents available to it.

(4) The Bulgarian National Bank shall examine the application for approval under paragraph 2 within two months of its submission. For the purposes of the assess-

ment, the BNB may request in writing additional information to be provided within a time period not longer than two months whereby the period between the date of the request for information and the date of the receipt thereof the time period under the first sentence shall be suspended.

(5) Approval shall be granted taking into account the applicant's potential impact on the payment institution with a view to ensuring the sound and prudent management of the payment institution in the future and if the assessment shows that the applicant is suitable and has the required financial stability. The assessment shall be based on the following criteria:

1. reputation of the applicant;
2. qualification, professional experience and probity, and fitness of the members of applicant's management and supervision bodies, the requirements being established in an ordinance of the BNB;
3. applicant's financial soundness in view of the specific nature of the actual activity that the payment institution conducts or intends to conduct;
4. absence of reasonable grounds to suspect that, in connection with the declared acquisition applied for, money laundering or terrorist financing is being or has been committed or attempted or that the intended acquisition could increase the risk thereof.

(6) The Bulgarian National Bank shall refuse to grant approval where it finds that the requested acquisition does not meet any of the criteria set out in paragraph 5 or the information submitted by the applicant is not complete despite the implementation of the procedure referred to in Article 4.

(7) The Bulgarian National Bank shall come up with a written reasoned act on the application within the assessment period. The applicant shall be notified of the approval granted or the refusal to grant approval.

(8) The Bulgarian National Bank may set a time limit for implementing the acquisition upon the expiry of which the approval shall be no longer valid.

(9) The transactions, decisions and actions carried out without the approval under paragraph 1 shall be null and void.

(10) Natural person or legal entity which intends to transfer directly or indirectly its qualifying holding in a payment institution licensed by the BNB 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 company's capital or that the payment institution would cease to be its subsidiary, shall notify the BNB not later than 10 days before the occurrence of the respective circumstance, of the amount of its holding prior to the transfer and of the amount of the holding after the transfer.

(11) Payment institutions licensed in the Republic of Bulgaria shall notify the BNB within seven days after becoming aware of any acquisition or transfer of shares/stakes of their capital, as a result of which shareholders' holdings exceed or fall under any of the thresholds specified in paragraph 1.

### *Refusal to Grant a License*

**Article 15.** (1) The Bulgarian National Bank shall refuse to grant a license for conducting activity as a payment institution 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 evidence and documents, or the documents submitted contain incomplete, confusing or false information.

(2) In the event of refusal, the applicant may apply again for a license for conducting activity as a payment institution not earlier than six months from the entry into force of the refusal.

### *Revocation of the License*

**Article 16.** (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 license has been issued on the basis of false statements or documents;
5. the payment institution no longer fulfils the conditions for granting the license;
6. the payment institution does not hold sufficient own funds or cannot be considered capable of continuing to repay its obligations to creditors;
7. at BNB's discretion, the payment institution would constitute a threat to the stability of the payment system by continuing its business.

(2) The Bulgarian National Bank shall take adequate measures to provide information to the public about the withdrawal of the license.

(3) Within a seven-day period after the withdrawal 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.

(4) The Bulgarian National Bank shall notify EBA of the reasons for the withdrawal of any license for conducting activity as payment institution.

(5) Within one month from the withdrawal, respectively the cancellation of the license, the payment institution shall submit to the BNB reports in accordance with Article 155. The reports shall contain information on the activities of the payment institution covering the period from the end of the last reporting period to the date of withdrawal, respectively cancellation of the license granted to a payment institution.

(6) Within one month from withdrawal of the license the payment institution shall ensure complete and timely payment of claims to its customers, arising in connection with the activity of providing payment services.

### *Termination of Business Activity*

**Article 17.** (1) The payment institution shall notify the BNB at least two months in advance of an intended decision to terminate the activity of providing payment services.

(2) With the notification under paragraph 1 the payment institution which wishes to terminate its activity of providing payment services, shall demonstrate to the BNB that:

1. it has created the necessary organisation and a termination of business plan without affecting the interests of payment services users;

2. it has ensured the complete and timely fulfilment of obligations concerning payment transactions carried out through the payment institution.

(3) The termination of business plan referred to in paragraph 2, item 1 shall contain at least information concerning the terms and conditions for terminating the conclusion of payment services contracts and the settlement/payment of payment orders already accepted, the terms and conditions for terminating the relations with agents or entities to which activities are outsourced, and the interaction with other payment service providers and/or payment systems, as well as information concerning the terms and conditions for terminating contracts with payment service users. The payment institution shall coordinate with the BNB the termination of business plan.

(4) Subject to BNB's consent for termination of business activity the license of the payment institution shall be deemed cancelled. The provisions of Article 16, paragraphs 2-6 shall apply accordingly.

### *Account Information Service Provider*

**Article 18.** (1) A company, which wishes to provide payment services referred to in Article 4, item 8 shall submit to the BNB a written application to be entered in the public register under Article 19.

(2) To be entered in the register under Article 19, the applicant shall meet the following requirements:

1. hold a professional indemnity insurance or any other comparable guarantee against liability covering the territories in which it will offer the payment services under Article 4, item 8; the insurance shall cover the liability of the account information service provider, resulting from unauthorised or fraudulent access to the payment account or unauthorised or fraudulent use of payment account information;

2. the applicant's activity including the way in which the payment services are to be provided, shall be specified clearly, in detail and exhaustively;

3. 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 as an account information service provider;

4. apply reliable rules and procedures to ensure robust governance arrangements for its payment services business under Article 4, item 8, which include:

- a) a clear organisational structure;
- b) an adequate management framework and internal control mechanisms, including sound and effective administrative and accounting procedures;
- c) a procedure to monitor, handle and follow up a security incident and security related customer complaints, including an incident reporting mechanism under Article 99;
- d) a procedure to file, monitor, track and restrict access to sensitive payment data;
- e) business continuity measures including a clear description of critical processes, effective emergency plans and a procedure to regularly test and review the adequacy and efficiency of such plans;
- f) security rules to protect payment service users against the risks identified, the fraud or the illegal use of sensitive and personal data;

5. the persons managing and representing the applicant and the members of its management and supervision bodies, including the representatives of legal entities, shall be persons holding qualification, professional experience, fitness and probity.

(3) Within the time limits set out in Article 11 the BNB shall examine the application under paragraph 1 and come up with decision either for registration or refusal for registration in the public register under Article 19.

(4) The Bulgarian National Bank shall refuse registration in the register where:

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

(5) The Bulgarian National Bank shall delete an entity from the register if it finds out that:

1. it no longer meets the requirements under this article;
2. the registration has been made based on incorrect information or incorrect data;
3. it does not fulfil its obligations under this Law or legislative acts on its implementation or other regulatory requirements for conducting the activity;
4. it has ceased to engage in business for more than six months.

(6) An account information service provider may state in writing to the BNB that it wishes to cease the activity of providing account information by notifying the BNB at least one month before making the decision.

(7) In the cases referred to in paragraph 6 the BNB shall delete the provider from the register as from the date on which it suspends its activity as indicated in the notification.

(8) The Bulgarian National Bank shall take adequate measures to provide information to the public about the deletion under paragraphs 5 and 6.

(9) The provisions of paragraphs 1–8 shall also apply to payment institution which wishes to provide payment services under Article 4, item 8 as well.

### *Register*

**Article 19.** (1) The Bulgarian National Bank shall keep a public register of:

1. payment institutions, their branches and agents licensed by it;
2. electronic money institutions, their branches and agents licensed by it;
3. account information service providers;
4. service providers under Article 2, paragraphs 3 and 4;

(2) The register shall contain the following information about the payment institution, the electronic money institution respectively;

1. the index number of the license issued by the BNB;
2. the unique identification code;
3. the name, registered office and head office address;
4. the services for which the payment institution was licensed;
5. the branches of the payment institution, the electronic money institution respectively in Bulgaria and in other Member States, their addresses and the identity of the persons who manage and represent them;
6. the agents of the payment institution, the electronic money institution respectively, in Bulgaria and in other Member States, with the unique identification number, registered office and head office address of the legal entities and the persons who manage and represent them, and the full name of natural persons as per identity document;

7. the withdrawal of the license issued or termination of business activity of the payment institution, the electronic money institution respectively.

(3) The register shall contain the following information about the account information service provider:

1. the number of the order for the entry into the Register;
2. the unique identification code;
3. the name, registered office and head office address;
4. the deletion from the register.

(4) The register shall contain the following information about the service providers under Article 2, paragraphs 3 and 4:

1. the number of the order for the entry into the Register;
2. the unique identification code;
3. the name, registered office and head office address;
4. a description of the relevant activities, for which the notification under Article 2, paragraphs 3 and 4 has been received.

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

(6) The Bulgarian National Bank shall issue an ordinance on the implementation of Article 18 and of this Article.

## Section II

**Activities Related to Payment Services***Additional Activities*

**Article 20.** (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, storage and processing of data;

2. operation of payment systems with the exception of payment systems ensuring 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 security systems amended by Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009 (OJ, L 146/37, 10 June 2009);

3. other business activity in compliance with the applicable legal requirements.

(2) A payment institution which intends to engage in any of the activities referred to in paragraph 1 shall, before commencing the respective activity, notify in writing the BNB thereof, providing information on the manner of conducting it.

(3) Where a payment institution in addition to the payment services referred to in Article 4 conducts 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 in this Law.

(4) Where an account information service provider in addition to the payment services referred to in Article 4, item 8 conducts other business activities, which impair or are likely to impair the ability of the BNB as a supervisory authority to monitor compliance with all requirements laid down in this Law, paragraph 3 shall apply.

*Granting of Credit*

**Article 21.** (1) Payment institutions may grant credit related to payment services referred to in Article 4, items 4 or 5, only if the following conditions are concurrently met:

1. the credit shall be ancillary and granted only 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) A payment institution which intends to grant credit under paragraph 1 shall, before granting credit, notify in writing the BNB thereof, by providing information on the manner of conducting this activity.

(3) 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.

(4) 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 22.** (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) 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 34, paragraph 1.

(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 23.** (1) The funds received from payment service users or through another payment service provider for payment transactions shall not be commingled and shall be accounted separately in a safeguard account at any time, with the funds of any natural person or legal entity other than payment service users or with the own funds.

(2) A safeguard account shall be a separate account with a bank licensed in a Member State of the European Union, in which payment institutions shall deposit any funds received by payment services 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 safeguard accounts may not be subject to distraint or foreclosure by a payment institution in respect of persons other than payment service users.

(3) 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 24.** (1) Payment institutions shall provide the BNB with financial statements reflecting their financial situation both separately and in consolidated form.

(2) The Bulgarian National Bank shall issue an ordinance on the implementation of paragraph 1.

(3) Payment services providers 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, unless a longer period is provided by law.

### *Auditors*

Article 25. (1) Payment institutions' annual financial statements shall be subject to an independent audit by an audit firm which is a registered auditor under the provisions of the Law on Independent Financial Audit and which has experience related to at least one performed and completed audit engagement of an undertaking of public interest under § 1, item 22, (a–g) of the Additional Provisions of the Law on Accountancy.

(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 opinion also regarding the reliability of the internal control mechanisms of the payment institution.

(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 payment institution shall select the auditor referred to in paragraph 1 for a period in accordance with the requirements of the Law on Independent Financial Audit. For the selection purposes the auditor shall submit a declaration to certify compliance with the requirements of Article 1.

(6) An audit firm on which punitive sanctions have been imposed during the past three years under Article 110, paragraph 1 of the Law on Independent Financial Audit, may not be the auditor of a payment institution.

### *Auditors' Obligations*

**Article 26.** (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. are grounds for auditor's refusal to express an audit opinion, for expressing an adverse or unqualified audit opinion;
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.

#### *Access of Payment Institutions to Accounts with Banks*

**Article 27.** Banks and bank branches operating on the territory of Bulgaria shall open and hold payment accounts of payment institutions in an objective, proportionate and non-discriminatory manner that does not prevent payment institutions from providing payment services. In any case of refusal the bank shall submit to the BNB a reasoned opinion.

### Section IV

#### **Use of Agents and Entities to Which Activities Are Outsourced**

##### *Agents*

**Article 28.** (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 19 its agents accompanied by all required documentation.

(4) Within two months from receipt of the application or after receipt of the required documents and information if the application is not complete, the BNB shall enter or shall refuse to enter the agent, notifying the payment institution thereof.

(5) Agents may not start operation before they are registered.

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

### *Registration and Deletion of Agents*

**Article 29.** (1) After checking the information and documents provided by the payment institution, the BNB shall register agents in the Register under Article 19.

(2) The Bulgarian National Bank may take further action to verify the information provided in the documents referred to in Article 28, paragraph 3 in case this information is incorrect.

(3) The Bulgarian National Bank shall refuse to register the agents if it finds that the documents submitted:

1. contain incomplete or false information; or
2. do not comply with the requirements of this Law and its implementing legislation.

(4) The Bulgarian National Bank shall delete from the register agents 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.

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

(6) The payment institution shall inform the BNB without delay of any change in the information or documents submitted in connection with the registration of agents.

### *Liability of the Payment Institution*

**Article 30.** (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 31.** (1) Where a payment institution intends to outsource operational functions of payment services, it shall notify the BNB by providing information and documents concerning the entity to which activities have been outsourced (name, registered office and head office address and unique identification code, and in the case of non-residents identification code or tax number issued by the relevant body in the Member State in which it is established) as well as detailed description of the services which the payment institution intends to outsource to it.

(2) Outsourcing of important operational functions, including functions related to information systems, 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 in providing payment services.

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

1. the outsourcing shall not result in the delegation of senior management functions to third parties;

2. the relationship and obligations of the payment institution towards its payment service users under this Law shall not be altered;

3. 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.

(6) The payment institutions shall without delay inform the BNB of any change in the information or documents submitted in connection with the use of entities to which activities are outsourced.

## 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 32.** (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 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 or agent, in addition to the information referred to in paragraph 2, it shall

provide the BNB with information and documents about any branch or agent as provided for in an ordinance of the BNB.

(4) Within one month of receipt of the notification referred to in Article 1 and, where applicable, the documents under paragraph 3, the BNB shall send them to the competent authorities of the host Member State.

(5) Upon receipt of notification from the competent authority of the host Member State containing assessment of the information received, including concerning suspected money laundering or terrorist financing in connection with the intended provision of payment services through an agent or a branch, the BNB shall take note of the assessment of the competent authority. In case the BNB does not accept the assessment, it shall notify the respective competent authority of the reasons for its decision.

(6) The Bulgarian National Bank may refuse to register the branch or the agent following assessment of the documents under paragraph 3 and the information contained in the notifications referred to in paragraphs 1 and 5 accordingly.

(7) Within three months from receipt of the notification referred to in paragraph 1 and, where applicable, the documents referred to in paragraph 3, the BNB shall communicate its decision to the competent authorities of the host Member State and to the payment institution.

(8) The payment institution shall notify the BNB of the date from which it commences its activities through an agent or branch. The Bulgarian National Bank shall inform the competent authorities of the host Member State accordingly.

(9) Upon entry in the register referred to in Article 19 by the BNB, the agent or the branch may commence activities in the host Member State.

(10) The Bulgarian National Bank shall delete a registered agent or branch, where the registration was based on false information and documents, where serious breaches have been identified in the agent's or branch's activity, as well as where the payment institution states in writing to the BNB that it wishes to terminate the activity conducted through the respective agent or branch. The Bulgarian National Bank may also delete a registered agent or branch after assessment of the information contained in the notification referred to in paragraph 5.

(11) The payment institutions shall without delay inform the BNB of any change in the information under paragraph 2 and, where applicable, the documents under paragraph 3.

(12) 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.

(13) 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 by 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.

(14) The Bulgarian National Bank may carry out on-site inspections at the payment institution licensed by it 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.

(15) Where the BNB receives referral from a competent authority of the host Member State to a violation made by a payment institution licensed by the BNB, operating through an agent or branch on its territory, of the national legislation of the host Member State, transposing Titles II, III and IV of Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ, L 337/35, 23.12.2015), hereinafter Directive (EU) 2015/2366, and considers that the referral is justified, it shall take the necessary measures to ensure that the payment institution ceases the violation. The Bulgarian National Bank shall promptly inform the competent authority of the host Member State and, where applicable, the competent authorities of any other Member State concerned of the measures it has taken.

(16) An account information service provider registered by the BNB may operate on the territory of another Member State as set forth in this Article.

### *Operation of a Payment Institution Licensed in Another Member State on the Territory of the Republic of Bulgaria*

**Article 33.** (1) Upon receipt of notification from a competent authority of a Member State of payment institution intention to operate through a branch, agent or directly, on the territory of the Republic of Bulgaria, the BNB shall make an assessment of the documents and information sent with the notification, including where there are justified doubts that this payment institution will use the branch or the agent on the territory of the Republic of Bulgaria for money laundering or terrorist financing. Within one month of receipt of the notification the BNB shall forward to the competent authority of the home Member State the results of the assessment.

(2) 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 has granted the license, of its decision to enter the respective branch or agent in its register, as well as of the date from which the respective branch or agent intends to commence service provision. The agent or the branch may commence service pro-

vision on the territory of the Republic of Bulgaria after being entered in the register of the home Member State.

(3) 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.

(4) 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.

(5) 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.

(6) The Bulgarian National Bank may require payment institutions which provide payment services on the territory of the Republic of Bulgaria through a branch or agent, to submit, for the purposes of the payment supervision and for statistical purposes, information on their activities.

(7) Payment institutions operating on the territory of the Republic of Bulgaria through an agent shall establish a central contact point in the cases and under the terms provided for in a BNB ordinance. The Bulgarian National Bank may require the central contact point to submit information on the payment institution operating on the territory of the Republic of Bulgaria through an agent for the purposes of the payment supervision and for statistical purposes.

(8) The Bulgarian National Bank shall inform the competent authorities of the home Member State where a payment institution operating on the territory of the Republic of Bulgaria through a branch or agent is in breach of any of the provisions of Chapters Two, Four or Five of this Law.

(9) Where a branch or agent of a payment institution, licensed in another Member State, is in breach of any of the provisions of Chapters Four or Five of this Law, the BNB shall take the necessary measures to ensure that the branch or the agent concerned discontinue to the breach.

(10) In emergency situations, where immediate action is necessary to address a serious threat to the interests of the payment service users in the Republic of Bulgaria, the BNB may take supervisory measures as provided for in Article 169 and Article 170, paragraph 1, items 2–4 towards a payment institution operating on the territory of the Republic of Bulgaria. The supervisory measures shall be appropri-



ate and proportionate and shall not result in a preference for payment service users in the Republic of Bulgaria over other payment service users of the same payment institution in other Member States.

(11) The measures referred to in paragraph 10 shall be terminated when the payment institution takes action to address serious threats identified, including with the assistance of or in cooperation with the home Member State's competent authorities or with EBA.

(12) The Bulgarian National Bank shall inform, where possible in advance, the competent authority of the home Member State, EBA and the European Commission on the supervisory measures imposed in compliance with paragraph 10, and the reasons thereof.

(13) An account information service provider registered in another Member State may operate on the territory of the Republic of Bulgaria as set forth in this Article.

### *Chapter Three*

## **ELECTRONIC MONEY**

### Section I

#### **General Provisions**

##### *Electronic Money and Electronic Money Issuer*

**Article 34.** (1) 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.

(2) 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 the national central banks of the Member States, when not acting in their capacity as monetary authority or other public authorities;

(3) Persons who are not electronic money issuers shall not issue electronic money, with the exception of the cases provided for in paragraph 5.

(4) Electronic money, to which remote access is provided by the issuer with the purpose of executing payment transactions, shall be kept on an electronic money account. The electronic money account shall be a payment account on which electronic money shall be kept.

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

1. monetary value stored on instruments specified in Article 2, paragraph 1, item 11.
2. monetary value used for payment transactions referred to in Article 2, paragraph 1, item 12.

### *Issuance and Redeemability*

**Article 35.** (1) Electronic money issuers shall issue electronic money at par value on the receipt of funds.

(2) 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 in the case of issuance of electronic money, to which remote access is provided by a prepaid card, the terms and conditions for using the card by the payment service user who shall be entitled to use the payment instrument, whereby 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 42, 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**

#### *Electronic Money Institution*

**Article 36.** (1) An electronic money institution is a legal entity that has been licensed under this Section to issue electronic money.

(2) 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 Granting, Refusal to Grant and Withdrawal of a License, and Termination of Operation*

**Article 37.** (1) The Bulgarian National Bank shall grant a license for conducting activity as an electronic money institution where the registered office of the applicant is in the Republic of Bulgaria.

(2) The provisions of Articles 10–13, Articles 15–17 and Article 19, paragraphs 2 and 5 shall apply to the conditions for granting, refusal to grant and withdrawal of a license, and termination of operation.

(3) The license for conducting activity as a payment institution, if such has been granted to the applicant, shall be cancelled upon granting a license for conducting activity as an electronic money institution.

(4) In case the applicant intends to continue providing payment services as an additional activity under Article 42, it shall notify the BNB thereof with the application for carrying out activities as an electronic money institution.

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

*Initial Capital*

**Article 38.** As of the time of obtaining the license the electronic money institution shall hold initial capital, comprised of one or more of the items referred to in Article 26(1)(a) to (e) of Regulation (EU) No 575/2013, of not less than BGN 700,000.

*Own Funds*

**Article 39.** (1) The electronic money institution's own funds may not fall below the amount required under paragraphs 2–6 or Article 38, whichever the higher.

(2) With regard to the activities referred to in Article 42, 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) With 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 issued by it.

(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 Bulgarian National Bank shall issue an ordinance on the implementation of this Section.

### Section III

#### Requirements to the Activity

##### *Prohibition for Taking Deposits and Interest Accrual*

**Article 40.** (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 issuer 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 24, 25 and 26, paragraph 1 shall be applicable respectively.

##### *Safeguarding Measures*

**Article 41.** (1) The electronic money institution shall apply to the funds received in exchange for issued electronic money the safeguarding measures referred to in Article 23.

(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 87, paragraph 2. In any event, such funds shall be safeguarded by no later than five business days after the issuance of the 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 42.** (1) In addition to issuing electronic money, electronic money institutions 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 or 5, where the conditions laid down in Article 21 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, without prejudice to Articles 125 and 126;
5. other activity having regard to the applicable legal requirements.

(2) An electronic money institution which intends to engage in any of the activities referred to in paragraph 1 shall, before commencing the respective activity, notify the BNB thereof, and where it intends to provide payment services, it shall submit information on the respective type of payment services and the manner of provision thereof, as well as professional indemnity insurance or any other comparable guarantee against liability for the services referred to in paragraph 4, items 7 and 8.

(3) 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 40.

(4) For the funds received to provide payment services under Article 4, excluding the activity of electronic money issuance, Articles 22 and 23 shall apply.

(5) 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 43.** (1) Electronic money institutions shall not issue electronic money through agents.

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

(3) For the agents of the electronic money institution Article 28, paragraphs 2-6, Articles 29 and 30 shall apply accordingly, and for the entities to which activities are outsourced Articles 30 and 31 shall apply accordingly.

(4) An electronic money institution may provide payment services through an agent if the conditions of Article 28, paragraphs 2-6, Articles 29 and 30 are met ac-

cordingly, or assign the performance of operational functions related to payment services if the conditions of Articles 30 and 31 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 32. 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 33.

(6) An 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 32. An 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 33.

(7) An 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 32. An 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 33.

(8) In the cases referred to in Article 37, paragraph 3 the BNB shall send to the competent authorities of the host Member State information on the changes that have occurred.

### *Qualifying Holdings*

**Article 44.** The provisions of Article 14 shall apply to the conditions for acquisition, transfer or reduction of a qualifying holding of an electronic money institution.

### *Access of Electronic Money Institutions to Accounts with Banks*

**Article 45.** Banks and bank branches operating on the territory of Bulgaria shall open and hold payment accounts of electronic money institutions in an objective, proportionate and non-discriminatory manner that does not prevent payment institutions from providing payment services. In any case of refusal the bank shall submit to the BNB a reasoned opinion.

## *Chapter Four*

# INFORMATION REQUIREMENTS WHEN PROVIDING PAYMENT SERVICES

## Section I

### **General Provisions**

#### *Scope of Application*

**Article 46.** (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 to payment transactions in a currency of a Member State 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 Union.

(3) The requirements under this Chapter, except for Article 54, paragraph 1, item 2, Article 60, item 2(e) and Article 64, item 1, shall apply to payment transactions in a currency other than the currency of a Member State 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 within the European Union, in respect to those parts of the payment transaction which are carried out in the European Union.

(4) The requirements under this Chapter, except for Article 54, paragraph 1, item 2, Article 60, item 2(e), Article 60, item 5(g) and Article 64, item 1 shall apply to payment transactions in all currencies where only one of the payment service providers is located within the European Union, in respect to those parts of the payment transaction which are carried out in the European Union.

(5) 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.

#### *Obligation to Provide Information*

**Article 47.** (1) Payment service providers shall make available the brochure of the European Commission on consumer rights in relation to the use of payment services in an easily accessible manner on their websites, if existing, and on paper at their branches, agents and the entities to which their activities are outsourced.

(2) The Bulgarian National Bank shall publish at its website the brochure under paragraph 1.

(3) In respect of persons with disabilities, the information referred to in paragraph 1 shall be provided in a comprehensible manner and in accessible form.

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

**Article 48.** 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 60, 61 and 64 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 under Article 60 is made available;

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 62;

3. after the execution of a payment transaction, the payment service provider shall not be required to provide information referred to in Articles 65 and 66:

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 Provision of Information*

**Article 49.** (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 50.** (1) Payments shall be made in the currency agreed between the parties.

(2) Where a currency conversion service is offered at automated teller machines, at the point of sale or by the payee, prior to the initiation of the payment transaction, 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 in the currency conversion.

(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 51.** (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 involved in the transaction requests a charge, it shall inform the payment service user thereof prior to the initiation of the payment transaction.



(3) The payer shall pay the charges under paragraphs 1 and 2 only if it has been informed of their full amount prior to the initiation of the payment transaction.

### *Burden of Proof on Provision of information*

**Article 52.** The burden of proof shall lie with the payment service provider to prove that it has complied with the information requirements set out in this Chapter.

## Section II

### Single Payment Transactions

#### *Scope*

**Article 53.** (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 by another payment service provider or which will be given to him according to that framework contract.

#### *Prior Information*

**Article 54.** (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, provides the payment service user with or makes available to the payment service user the following prior information with regard to the offered services:

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 initiated or 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 type and 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) In addition to the information under paragraph 1, payment initiation service providers shall, prior to initiation, provide the payer with, or make available to the payer, the following information:

1. the name, registered office and head office address of the payment initiation 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 contact details, including electronic mail address, relevant for communication with the payment initiation service provider;

2. contact details of the competent authority.

(3) The information under paragraphs 1 and 2 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.

(4) At the payment service user's request, the payment service provider shall provide the information under paragraphs 1 and 2 on paper or on another durable medium.

(5) 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 paragraphs 1 and 2, the payment service provider shall fulfil its obligations immediately after the execution of the payment transaction.

(6) The payment service provider's obligations under paragraphs 1 and 2 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 3 have been complied with.

(7) 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 60, which is relevant to the payment transaction.

*Information Provided to the Payer and Payee after Submission of a Payment Order through a Payment Initiation Service Provider*

**Article 55.** In addition to the information under Article 54, where a payment order is initiated through a payment initiation service provider, the payment initiation service provider shall, immediately after initiation, provide or make available to the payer and, where applicable, to the payee the following information:

1. confirmation of the successful initiation of the payment to the payment service provider servicing the payer's account;

2. the reference number of the payment transaction and, where appropriate, information about the payer and any other information transferred with the payment transaction;

3. the amount of the payment transaction;

4. where applicable, the amount of any charges payable to the payment initiation service provider for the transaction, and, where applicable, breakdown of the type and amount of such charges.

*Information Provided to the Payment Service Provider Servicing the Payer's Account in Payment Initiation Services*

**Article 56.** Where a payment order is initiated through a payment initiation service provider, it shall make available to the payer's account servicing payment service provider the reference number of the payment transaction.

*Information Provided to the Payer after Receipt of the Payment Order*

**Article 57.** (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 with regard to the offered services:

1. the reference number of the payment transaction and, where appropriate, the 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 payer for the payment transactions and, where applicable, the breakdown of their type and amount;
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 54, paragraph 1, item 4 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 54, paragraphs 3 and 4 shall apply to the information referred to in paragraph 1.

*Information Provided to the Payee after Execution of the Payment Order*

**Article 58.** (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 with regard to the offered services:

1. the reference number of the payment transaction 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 funds are at the payee's disposal;
3. the amount of all charges and commissions payable by the payee for the payment transactions and, where applicable, the breakdown of their type and amount;
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 54, paragraphs 3 and 4 shall apply to the information referred to in paragraph 1.

### Section III Framework Contracts

#### *Scope*

**Article 59.** (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 60.

#### *Prior Information*

**Article 60.** In good time before the payment service user is bound by any framework contract or offer, the payment service provider shall provide the payment service user with the following prior information about:

1. the payment service provider:
  - a) the name, registered office and head office address 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. the payment services:
  - a) a description of the payment services to be provided;
  - b) the type and characteristics of the information or unique identifier 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 83 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;
  - g) the payment service user’s rights under Article 8 of Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange

fees for card-based payment transactions (OJ L 123/1 of 19 May 2015) hereinafter referred to as Regulation (EU) 2015/751 in the case of co-badged, card-based 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 including those connected to the manner in and frequency with which information under this Law is provided or made available and, where applicable, the breakdown of the type and amount of such 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 62;

4. the procedure for communication between parties to the contract:

a) where applicable, the means of communication, including the technical requirements for the payment service user's equipment and software 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 61;

5. safeguard measures:

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 75, item 2;

b) a procedure under which the payment service provider notifies, in a secure manner, the payment service user in the case of suspicion or presence of fraud or security threat;

c) if agreed, the conditions under which the payment service provider reserves the right to block a particular payment instrument in accordance with Article 74;

d) the liability of the payer in accordance with Article 80, including information on the relevant amount;

e) 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 77, as well as the payment service provider's liability for unauthorised payment transactions in accordance with Article 79;

- f) the liability of the payment service provider for the execution of payment transactions in accordance with Article 91, Article 92 and Article 93, paragraph 1;
- g) the conditions for refund in accordance with Article 82;
- 6. 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 63;
- 7. redress:
  - a) any contractual clause on the law applicable to the framework contract and/or the competent courts;
  - b) alternative dispute resolution procedures available to the payment service user.

#### *Manner of Information Provision*

**Article 61.** (1) The information referred to in Article 60 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) Where 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 60, 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 60 may also be discharged by supplying a copy of the draft framework contract if it contains all the information specified in Article 60 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 60 on paper or on another durable medium.

#### *Changes in the Framework Contract*

**Article 62.** (1) Any changes in the framework contract, including those concerning the prior information under Article 60, shall be provided in advance in the way as provided for in Article 61, paragraph 1 by the payment service provider to the payment service user no later than two months before their proposed date of application.

(2) The payment service user can either accept or reject the changes before the date of their proposed date of entry into force.

(3) 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 at any time the framework contract without any cost or charge before the date of the proposed application of the changes.

(4) 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 60.

(5) In the cases referred to in paragraph 4, 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.

(6) Changes in interest rates, exchange rates or charges and commission fees payable which are more favourable to the payment service users may be applied without prior notice.

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

(8) 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.

(9) The provision under 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 63.** (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 one month.

(2) In case of termination of a framework contract which has been in force for more than six months, the payment service user shall not be charged any charges or penalties for the termination.

(3) In all other cases other than those provided under paragraph 2, 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) Where agreed in the framework contract, the payment service provider may terminate a framework contract concluded for an indefinite period by giving at least two-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. Where 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 64.** In the cases 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:

1. the maximum execution time;
2. all charges and commissions payable by the payer and, where applicable, the breakdown of their type and amount.

#### *Information Provided to the Payer on Individual Payment Transactions under a Framework Contract*

**Article 65.** (1) After the amount of an individual payment transaction under a framework contract 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 shall include a clause that the information referred to in paragraph 1 is to be provided or made available to the user at least once a month, free of charge and in an agreed manner which allows the payer to store and reproduce information unchanged.



*Information Provided to the Payee on Individual Payment Transactions  
under a Framework Contract*

**Article 66.** (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 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 their amounts and types;
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 shall include a clause that the information referred to in paragraph 1 is to be provided or made available to the user at least once a month, free of charge and in an agreed manner which allows the payee to store and reproduce information unchanged.

*Chapter Five*

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

Section I

**General Provisions**

*Scope*

**Article 67.** (1) The requirements of this Chapter shall apply to payment transactions in a currency of a Member State 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 Union.

(2) The requirements under this Chapter, except for Articles 86–88, shall apply to payment transactions in a currency other than the currency of a Member State 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 within the European Union, in respect to those parts of the payment transaction which are carried out in the European Union.

(3) The requirements under this Chapter, except for Article 68, paragraphs 2 and 4, Articles 82, 86, Article 87, paragraph 2, Articles 91, 92, Article 93, paragraph 1

and Article 95 shall apply to payment transactions in all currencies where only one of the payment service providers is located within the European Union, in respect to those parts of the payment transaction which are carried out in the European Union.

(4) When the payment service user is not a consumer, the payment service user and payment service provider may agree that Article 68, paragraph 1, Article 70, paragraphs 4 and 5, Articles 78, 80, Article 82, paragraphs 2 and 3, Articles 85, 91, 92 and Article 93, paragraph 1 shall not apply in their relationships. They may also agree on a time period other than that laid down in Article 77.

(5) The Bulgarian National Bank shall establish in an ordinance the procedure, terms and conditions for execution of payment transactions and use of payment instruments.

### *Charges Applicable*

**Article 68.** (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) For payment transactions performed on the territory of the European Union, where both the payer's and the payee's payment service providers are, or the sole payment service provider in the payment transaction is, located therein, 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, offering him a reduction or otherwise steering him towards the use of a given payment instrument, with any charges applied not exceeding the direct costs borne by the payee for the use of this payment instrument.

(4) The payee may not request from the payer to pay charges for the use of card-based payment instruments and for payment services to which Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ, L 94/22 of 30 March 2012), hereinafter referred to as Regulation (EC) No 260/2012, applies.

(5) Services supporting technically the execution of a payment transaction, including the relevant communication services used for exchange of financial messages in a standardised format, shall be included in the fee charged for the respective payment transaction.

(6) The payment service provider shall charge the payment service user equal fees for national payments in euro and for cross-border payments within the EU which are of equal value and the same value date and have identical characteristics in terms of initiating, executing and closing the payment.

*Derogation for Low Value Payment Instruments and Electronic Money*

**Article 69.** (1) For payment instruments and electronic money which, according to the framework contract, solely concern individual payment transactions not 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 75, item 2, Article 76, paragraph 1, items 4–6 and Article 80, paragraphs 5 and 6 do not apply if the payment instrument does not allow its blocking or prevention of its further use;

2. Articles 78 and 79, and Article 80, paragraphs 1, 2, 3, 5 and 6 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 84, 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 87, paragraphs 2–7, other execution periods apply.

(2) Articles 79 and 80 shall apply also to electronic money except where the payer's payment service provider does not have the ability to freeze the payment account on which the electronic money is stored or block the payment instrument.

(3) The requirements of Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006, hereinafter referred to as Regulation (EU) 2015/847, may not apply to transfers of funds up to BGN 300 within the territory of the country to a payment account permitting payment exclusively for the provision of goods or services where all of the following conditions are met:

1. the payee's payment service provider is subject to the Law on the Measures against Money Laundering; and

2. the payee's payment service provider is able to trace back, through the payee, by means of a unique transaction identifier within the meaning of Article 3, item 11 of Regulation (EU) 2015/847, the transfer of funds from the person who has an agreement with the payee for the provision of goods or services.

## Section II

### Authorisation of Payment

#### *Consent and Withdrawal of Consent*

**Article 70.** (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 the relevant payment service provider(s). Consent to execute a payment transaction may also be given *via* the payee or the payment initiation 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 85.

(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.

#### *Confirmation on the Availability of Funds*

**Article 71.** (1) The account servicing payment service provider shall, upon the request of a payment service provider issuing card-based payment instruments, immediately confirm whether an amount necessary for the execution of a card-based payment transaction is available on the payment account of the payer, provided that all of the following conditions are met:

1. the payment account of the payer is accessible online at the time of the request;
2. the payer has given explicit consent to the account servicing payment service provider to respond to requests from a specific payment service provider to confirm that the amount corresponding to a certain card-based payment transaction is available on the payer's payment account;
3. the consent referred to in item 2 has been given before the first request for confirmation is made.

(2) The payment service provider issuing payment instruments may request confirmation under paragraph 1 provided that all of the following conditions are met:

1. the payer has given explicit consent to the payment service provider to request such confirmation;
2. the payer has initiated the card-based payment transaction by using a card-based payment instrument issued by the payment service provider; and

3. the payment service provider issuing payment instruments authenticates itself towards the account servicing payment service provider before each confirmation request, and securely communicates with the account servicing payment service provider in accordance with the requirements specified in a delegated act adopted by the European Commission under Article 98, paragraph 4 of Directive (EU) 2015/2366.

(3) The confirmation under paragraph 1 shall only constitute a positive or negative answer without presenting any statements of accounts. The confirmation shall not be stored or used for purposes other than for the execution of the card-based payment transaction.

(4) The confirmation under paragraph 1 shall not allow the account servicing payment service provider to block funds on the payer's payment account.

(5) The account servicing payment service provider shall, upon the request of the payer, make available to him identification details of the payment service provider issuing payment instruments and the answer given under paragraph 3.

(6) Paragraphs 1–5 shall not apply to payment transactions initiated through card-based payment instruments on which electronic money is stored.

#### *Access to a Payment Account in the Case of Payment Initiation Services*

**Article 72.** (1) The payment initiation service provider may provide services under Article 4, item 7 to the payer only if the payment account is accessible online.

(2) When the payer has given consent under Article 70 for a payment to be executed, the account servicing payment service provider shall, in accordance with its obligations under paragraph 4, ensure the payer's right to use the payment initiation service.

(3) The payment initiation service provider shall:

1. not hold at any time the payer's funds in connection with the provision of the payment initiation service;

2. ensure that the personalised security credentials of the payment service user are not accessible to other entities and that they are transmitted by the payment initiation service provider through safe and efficient channels;

3. ensure that any other information about the payment service user, obtained when providing payment initiation services, is only provided to the payee and only with the payment service user's explicit consent;

4. when providing payment initiation services, authenticate itself towards the account servicing payment service provider and securely communicate with him, the payer and the payee in accordance with the requirements specified in a delegated act adopted by the European Commission under Article 98, paragraph 4 of Directive (EU) 2015/2366;

5. not store sensitive payment data of the payment service user;

6. not request from the payment service user any data other than those necessary to provide the payment initiation service;

7. not use, process or store any data for purposes other than for the provision of the payment initiation service as explicitly requested by the payer;

8. not modify the amount, the payee or any other information related to the payment transaction.

(4) The account servicing payment service provider shall:

1. communicate securely with payment initiation service providers in accordance with the requirements specified in a delegated act adopted by the European Commission under Article 98, paragraph 4 of Directive (EU) 2015/2366;

2. immediately after receipt of the payment order from a payment initiation service provider, provide or make available all information on the initiation of the payment transaction and all information accessible to him regarding the execution of the payment transaction to the payment initiation service provider;

3. to apply uniform conditions to payment orders transmitted through the services of a payment initiation service provider and payment orders transmitted directly by the payer in terms of timing, priority or charges without any discrimination other than for objective reasons.

(5) The provision of payment initiation services shall not be dependent on the existence of a contractual relationship between the payment initiation service providers and the account servicing payment service providers for that purpose.

#### *Access to and Use of Payment Account Information in the Case of Account Information Services*

**Article 73.** (1) The payment service user may use the services under Article 4, item 8 only if the payment account is accessible online.

(2) The account information service provider shall:

1. provide the services only with the payment service user's explicit consent;

2. ensure that the personalised security credentials of the payment service user are not, with the exception of the user and the issuer of the personalised security credentials, accessible to other entities and that when they are transmitted by the account information service provider, this is done through safe and efficient channels;

3. when communicating, authenticate itself towards the account servicing payment service provider and securely communicate with him and the payment service user in accordance with the requirements specified in a delegated act adopted by the European Commission under Article 98, paragraph 4 of Directive (EU) 2015/2366;

4. use only the information from designated payment accounts and associated payment transactions;

5. not request sensitive payment data linked to the payment accounts;

6. not use, process or store any data for purposes other than for the provision of the account information service as explicitly requested by the payment service user;

(3) With regard to the payment account, the account servicing payment service provider shall:

1. communicate securely with the account information service provider in accordance with the requirements specified in a delegated act adopted by the European Commission under Article 98, paragraph 4 of Directive (EU) 2015/2366; and

2. apply uniform conditions to data requests transmitted through the services of an account information service provider and those transmitted directly to him without any discrimination for other than objective reasons.

(4) The provision of the account information service shall not be dependent on the existence of a contractual relationship between the account information service providers and the account servicing payment service providers for that purpose.

#### *Limits of the Use of a Payment Instrument and of the Access to Payment Accounts by Payment Service Providers*

**Article 74.** (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 the 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.

(5) An account servicing payment service provider may deny an account information service provider or a payment initiation service provider access to a payment account for objectively justified and duly evidenced reasons relating to unauthorised or fraudulent access to the payment account by that account information service provider or that payment initiation service provider, including the unauthorised or fraudulent initiation of a payment transaction.

(6) In the cases referred to in paragraph 5, the account servicing payment service provider shall inform the payer that access to the payment account is denied and the reasons therefor in the form agreed, where possible, before access is denied and at

the latest immediately thereafter, unless giving such information would compromise objectively justified security reasons or is prohibited by other relevant legislation.

(7) The account servicing payment service provider shall allow access to the payment account once the reasons for denying access under paragraph 5 no longer exist.

(8) The account servicing payment service provider shall immediately inform the BNB of the circumstances under paragraph 5 relating to the account information service provider or the payment initiation service provider and provide relevant data. The Bulgarian National Bank may take actions after consideration of particular circumstances.

### *Obligations of the Payment Service User in Relation to Payment Instruments and Personalised Security Credentials*

**Article 75.** 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, which must be objective, non-discriminatory and proportionate;
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 credentials safe, including by not recording any information thereof 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 76.** (1) The payment service provider issuing a payment instrument shall have the following obligations:

1. to ensure that the personalised security credentials 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 75;
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 five 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 under Article 75, item 2, and on request for unblocking under Article 74, 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 the notification under Article 75, item 2, that he made such notification;

6. provide the payment service user with an option to make a notification under Article 75, item 2 free of charge and to charge, if at all, only replacement costs directly attributed to the payment instrument;

7. to prevent without delay any use of the payment instrument once the notification under Article 75, item 2 has been made.

8. to ensure that the requirements under Chapter Four and this Chapter are applied to the payment service user entitled to use the payment instrument.

(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 credentials of the payment instrument.

#### *Notification and Rectification of Unauthorised or Incorrectly Executed Payment Transactions*

**Article 77.** (1) The payment service user shall obtain rectification of an unauthorised or incorrectly executed payment transaction from the payment service provider only if the payment service user notifies the payment service provider without undue delay on becoming aware of any such transaction giving rise to a claim, including that within the meaning of Articles 91, 92 and Article 93, 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 the information under Article 57, paragraph 1 or Article 65, 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 Four.

(4) Where a payment initiation service provider is involved, the rectification under paragraph 1 shall be made by the account servicing payment service provider.

#### *Evidence on Authentication and Execution of Payment Transactions*

**Article 78.** (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 in the payment service provided.

(2) If the payment transaction is initiated through a payment initiation service provider, the burden shall be on the payment initiation service provider to prove that within its sphere of competence, the payment transaction was authenticated, accurately recorded and not affected by a technical breakdown or other deficiency linked to the payment service of which it is in charge.

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

(4) Where a payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider, including, where appropriate, the payment initiation 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 75. The payment service provider, including, where appropriate, the payment initiation service provider shall provide supporting evidence to prove fraud or gross negligence on the part of the payment service user.

#### *Payment Service Provider's Liability for Unauthorised Payment Transactions*

**Article 79.** (1) In the case of an unauthorised payment transaction, the payer's payment service provider shall refund the payer the amount of the unauthorised payment transaction immediately, and in any event no later than by the end of the following business day, after noting or being notified of the transaction, except where the payer's payment service provider has reasonable grounds for suspecting fraud and communicates those grounds to the relevant competent authority. Where applicable, the payer's payment service provider shall restore the payer's payment account to the state in which it would have been had the unauthorised payment transaction not taken place. The credit value date for the payer's payment account shall be no later than the date on which the account was debited with the amount of the unauthorised payment transaction.

(2) Where the payment transaction is initiated through a payment initiation service provider, the account servicing payment service provider shall refund immediately, and in any event no later than by the end of the following business day the amount of the unauthorised payment transaction and, where applicable, restore the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place.

(3) If the payment initiation service provider is liable for the unauthorised payment transaction, it shall immediately compensate the account servicing payment service provider at its request for the losses incurred or sums paid as a result of the refund to the payer, including the amount of the unauthorised payment transaction.

(4) The burden under Article 78, paragraph 2 shall be on the payment initiation service provider to prove that within its sphere of competence the payment transaction was authenticated, accurately recorded and not affected by a technical

breakdown or other deficiency linked to the payment service of which the payment initiation service provider is in charge.

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

#### *Payer’s Liability for Unauthorised Payment Transactions*

**Article 80.** (1) By way of derogation from Article 79, the payer shall bear the losses relating to any unauthorised payment transactions resulting from the use of a lost, stolen or misappropriated payment instrument up to a maximum amount agreed upon between the payment service provider and the user but not more than BGN 100.

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

1. the loss, theft or misappropriation of a payment instrument was not detectable to the payer prior to a payment, except where the payer has acted fraudulently; or

2. the loss was caused by acts or lack of action of an employee, agent or branch of a payment service provider or of an entity to which its activities were outsourced.

(3) 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 75 with intent or gross negligence. In these cases the payer shall bear the losses irrespective of their amount.

(4) Where the payer’s payment service provider does not require strong customer authentication, the payer shall not bear any financial losses unless the payer has acted fraudulently. Where the payee or the payment service provider of the payee fails to accept strong customer authentication, it shall refund the financial damage caused to the payer’s payment service provider.

(5) After notification in accordance with Article 75, 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.

(6) 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 76, 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.

(7) Paragraphs 1–6 shall apply also to electronic money except where the payer’s payment service provider does not have the ability to freeze the payment account on which the electronic money is stored or block the payment instrument.

#### *Payment Transactions Where the Transaction Amount Is Not Known in Advance*

**Article 81.** (1) Where a payment transaction is initiated by or through the payee in the context of a card-based payment transaction and the exact amount is not

known at the moment when the payer gives consent to execute the payment transaction, the payer's payment service provider may block funds on the payer's payment account only if the payer has given consent to the exact amount of the funds to be blocked.

(2) Upon receipt of the information about the exact amount of the payment transaction and at the latest immediately after receipt of the payment order, the payer's payment service provider shall release without delay the funds blocked on the payer's payment account under paragraph 1.

### *Refunds for Payment Transactions Initiated by or through a Payee*

**Article 82.** (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 shall be 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 ten 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. In the cases under paragraph 7, the provider may not refuse to refund the amount.

(4) The refund shall include the whole amount of the executed payment transaction and the credit value date for the payer's payment account shall be no later than the date the amount had been debited.

(5) 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.

(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.

(7) For direct debits as referred to in Article 1 of Regulation (EU) No 260/2012, the payer has an unconditional right to a refund within the time limits laid down in paragraphs 2 and 3.

## Section III

**Execution of Payment Transactions***Receipt of Payment Orders*

**Article 83.** (1) The point in time of receipt is the time when the payment service provider of the payer receives the payment order in accordance with the procedure and manner of receipt of payment orders agreed between the parties. The payer's account shall not be debited before receipt of the payment order.

(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 84.** (1) Where the payment service provider refuses to execute a payment order or refuses to initiate a payment transaction, 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 EU 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 87, paragraphs 2–8.

(3) The framework contract may include an option for the payment service provider to impose charges corresponding to its actual costs 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, including through a payment initiation service provider, or by or through a payee, unless prohibited by other relevant legislation.

(5) For the purposes of Article 87, paragraphs 2–6, Articles 91, 92 and Article 93, 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 85.** (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 a payment initiation service provider or by or through the payee, the payer shall not revoke the payment order after giving consent to the payment initiation service provider to initiate the payment transaction or after giving consent to execute the payment transaction to the payee.

(3) In the cases under Article 83, 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, 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 86.** (1) The payment service provider(s) of the payer, the payment service provider(s) 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 87.** (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 period may be extended by one more business day for initiated paper-based payment transactions.

(3) When executing payment transactions in Bulgarian levs between payment service providers participating in a payment system under Article 145 or a payment system under Article 149, 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 89.

(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 88.** (1) In case of payment transactions other than those specified in Article 87, paragraph 1, the terms under Article 87 shall apply unless otherwise agreed between the payment service user and his provider.

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

#### *Credit Value Date and Debit Value Date of the Payment Account*

**Article 89.** (1) The credit value date for the payee's payment account shall be 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 where on the part of the payee's payment service provider, there is:

1. no currency conversion; or
2. a currency conversion between the euro and a Member State currency or between two Member State currencies.

(3) The obligation laid down in paragraph 2 shall also apply to payments within one payment service provider.

(4) The debit value date for the payer's payment account shall be 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 90.** (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 shall 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) The payee's payment service provider shall cooperate in those efforts also by communicating to the payer's payment service provider all relevant information for the refund.

(6) In the event that the refund under paragraph 4 is not possible, the payer's payment service provider shall provide to the payer, upon written request, all information which is available to the payer's payment service provider and required for the refund under the general procedure.

(7) If the payment service user provides information additional to that specified in Article 54, paragraph 1, item 1 and Article 60, item 2(b), the payment service provider shall be liable only for the execution of the payment transaction in accordance with the unique identifier provided by the payment service user.

(8) The structure and application of International Bank Account Numbers (IBANs) of the accounts kept by payment service providers shall be laid down in an Ordinance of the BNB.

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

**Article 91.** (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 87, 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. The credit value date for the payer's payment account shall be no later than the date on which the amount was debited.

(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 with a value date no later than the date on which the amount would have been value dated, had the transaction been correctly executed in accordance with Article 89.

(4) Where a payment transaction is executed late, the payee's payment service provider shall ensure, upon the request of the payer's payment service provider acting on behalf of the payer, that the credit value date for the payee's payment account is no later than the date the amount would have been value dated had the transaction been executed without delay.

(5) 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 without requiring the payer to pay any charges.

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

**Article 92.** (1) Where a payment order is initiated by or through the payee, the payee's 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 87, paragraph 6. Where the payee's payment service provider is liable under this paragraph, it shall immediately re-transmit the payment order in question to the payment service provider of the payer. In the case of a late transmission of the payment order, the amount shall be value dated on the payee's payment account no later than the date the amount would have been value dated had the transaction been executed without delay.

(2) The payment service provider of the payee shall be liable to the payee for the execution of the payment transaction in accordance with Article 89 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. The amount shall be value dated on the payee's payment account no later than the date the amount would have been value dated had the transaction been correctly executed.

(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. The credit value date for the payer's payment account shall be no later than the date on which the amount was debited.

(4) Paragraph 3 shall not apply in the cases where the payer's payment service provider proves that the payee's payment service provider has received the amount of the payment transaction, even if execution of the payment transaction is merely delayed. If so, the payee's payment service provider shall value date the amount on the payee's payment account no later than the date the amount would have been value dated had it been executed correctly.

(5) 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, without requiring any charges thereof.

#### *Liability for Refund of Charges and Interest*

**Article 93.** (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, including late 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.

#### *Liability in the Case of Payment Initiation Services for Non-execution, Defective or Late Execution of Payment Transactions*

**Article 94.** (1) Where a payment order is initiated by the payer through a payment initiation service provider, the account servicing payment service provider shall 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.

(2) The burden shall be on the payment initiation service provider to prove that the payment order was received by the payer's account servicing payment service provider in accordance with Article 83 and that within its sphere of competence, the payment transaction was authenticated, accurately recorded and not affected by a technical breakdown or other deficiency linked to the non-execution, defective or late execution of the transaction.

(3) If the payment initiation service provider is liable for the non-execution, defective or late execution of the payment transaction, it shall immediately compensate the account servicing payment service provider at its request for the losses incurred or sums paid as a result of the refund to the payer.

#### *Right of Recourse*

**Article 95.** Where the payment service provider is liable, including because of failure to implement the strong customer authentication under 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.

### *Corrective Transfers*

**Article 96.** (1). Where the payer's payment service provider is liable to the payer for a defectively executed payment transaction with the funds incorrectly credited to an account with a unique identifier other than that specified in the payment order or for an unauthorised payment transaction where the payee's account is credited with an amount other than that specified by the payer in the payment order or for a payment transaction executed more than once, 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 five 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 one month after he has been notified by the payer or in any other manner about the defectively executed payment transaction.

(2) Where the payment initiation service provider is liable for the cases under paragraph 1, it may make a request for an *ex-officio* corrective transfer to the payee's payment service provider directly or through the account servicing payment service provider within the term under paragraph 1.

(3) The payee's payment service provider of the defectively executed or unauthorised transaction shall within five business days after the receipt of the request under paragraph 1 or paragraph 2 make a corrective transfer from the payee's account to the account of the payer's account servicing payment service provider or, where applicable, to the account of the payment initiation service provider.

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

(5) The Bulgarian National Bank shall set forth in an ordinance the terms and procedure for making corrective transfers.

### *Abnormal and Unforeseeable Circumstances*

**Article 97.** Liability under this Chapter shall not apply in cases of abnormal and unforeseeable circumstances beyond the control of the party pleading for the application 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 EU legislation.

## Section VI

### **Operational and security risks and authentication**

#### *Management of Operational and Security Risks*

**Article 98.** (1) Payment service providers shall establish appropriate measures to limit and control mechanisms to manage the operational risks, including security risks related to the payment services they provide, and to establish and maintain ef-

fective incident management procedures for the detection and classification of major operational and security incidents.

(2) Payment service providers shall provide to the BNB an updated and comprehensive assessment of the operational and security risks relating to the payment services they provide and on the adequacy of the limiting measures and control mechanisms implemented in response to those risks.

### *Incident Reporting*

**Article 99.** (1) A payment service provider licensed by the BNB shall immediately notify the BNB in the case of a major operational or security incident.

(2) Where the incident has or may have an impact on the financial interests of payment service users, the payment service provider shall immediately inform the payment service users of the incident and of all measures he takes to limit the adverse effects of the incident.

(3) Upon receipt of the notification referred to in paragraph 1, the BNB shall without undue delay send information of the incident to EBA and to the ECB. The Bulgarian National Bank may also inform other competent authorities in the Republic of Bulgaria and, where necessary, take actions to protect the financial system.

(4) A payment service provider licensed by the BNB shall provide to the BNB statistical data on fraud relating to payments.

(5) The Bulgarian National Bank shall provide the EBA and the ECB with the data under paragraph 4 in an aggregated form.

(6) The Bulgarian National Bank shall issue an ordinance on the implementation of Article 98 and of this article.

### *Authentication*

**Article 100.** (1) Payment service providers shall apply strong payer authentication where the payer:

1. accesses the payment account online;
2. initiates an electronic payment transaction;
3. carries out other remote action which may imply a risk of payment fraud or another abuse.

(2) In case of remote payment transactions under paragraph 1(b), payment service providers shall apply strong customer authentication through variable elements linking the transaction to a specific amount and a specific payee.

(3) In cases under paragraph 1, payment service providers have in place adequate security measures to protect the confidentiality and integrity of payment service users' personalised security credentials.

(4) Strong customer authentication shall be an authentication procedure, which is designed in such a way as to protect the data confidentiality and shall include the use of two or more independent elements:

1. knowledge – something only the user knows;
2. possession – something only the user possesses;

3. inherence – something the user is.

(5) The breach of any of the elements under paragraph 4 does not compromise the reliability of the others.

(6) In cases where payments are initiated through a payment initiation service provider, paragraphs 2 and 3 shall apply, and where the information is requested through an account information service provider paragraphs 1 and 3 shall apply.

(7) The account servicing payment service provider shall allow the payment initiation service provider and the account information service provider to rely on the authentication procedures provided by the account servicing payment service provider to the payment service user in accordance with paragraphs 1 and 3 and, where the payment initiation service provider is involved, in accordance with paragraphs 1, 2 and 3.

## *Chapter Six*

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

#### Section I

#### **General Provisions**

##### *Scope*

**Article 101.** (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***List of the most Representative Services Linked to a Payment Account*

**Article 102.** (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 103.** (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 102. Provision of the fee information document shall be without prejudice to the obligations of the payment service provider set out in Article 60, 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. specify the fees 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 104.** (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 102 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 105.** (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 106.** (1) Payment service providers shall provide the consumer on request, 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. Payment service providers shall use the terms set out in the list under Article 102 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 65 and 66, 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 107.** (1) The statement under paragraph 106 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 106 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 108.** (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 102.

(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 102 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 102.

### *Fee Comparison Website*

**Article 109.** (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 102 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 102;
5. provide accurate 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 a website under paragraph 1.

(4) Other persons maintaining websites which comply with the requirements under paragraphs 1 and 2 shall notify the BNB thereof in order to be included in the information provided under paragraph 5.

(4) Payment service providers shall inform the BNB of the fees charged by them for the services included in the list under Article 102.

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

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

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

### *Packaged Payment Accounts*

**Article 110.** Where 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 account 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

#### *Provision of the Switching Service*

**Article 111.** 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.

#### *The Switching Service*

**Article 112.** (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 provide specific consent 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. stop accepting incoming credit transfers and direct debits on the payment account with effect from the date specified in the authorisation and inform the payer or the payee of the reason for not accepting the payment transaction 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;

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 63 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 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 74, paragraph 2, the transferring payment service provider shall not block payment instruments before the date specified in the consumer'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 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; where 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 113.** (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 112, 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 63, 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 112, 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 114.** Any financial loss, including charges and interest, incurred by the consumer and resulting directly from the non-compliance of a payment service provider involved in the switching process with its obligations under Article 112 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 115.** (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 112;
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 Ten.

(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 116.** (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 Member 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 allow-

ing 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 63 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

#### *Non-discrimination*

**Article 117.** (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 118.

#### *Payment Account with Basic Features*

**Article 118.** (1) A payment account with basic features shall be payment account through which the following services are provided in Bulgarian levs on the territory of Bulgaria:

1. opening, operating and closing of a payment account;
2. placing funds in a payment account;
3. withdrawing cash 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:
  - (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 119, paragraph 1 and entities maintaining websites under Article 109, paragraph 1 shall take adequate measures to raise awareness among the public about the availability of payment accounts with basic features.

(7) Measures under paragraph 6 initiated by banks under Article 119, paragraph 1 shall include at least provision of an information leaflet on the payment account with basic features available at any time on paper at banks' premises accessible to consumers, and in electronic form *via* banks' websites.

(8) The information leaflet under paragraph 7 shall contain information on the on payment account with basic features and the fees applied thereon by the respective bank as determined by the BNB.

#### *Right of Access to a Payment Account with Basic Features*

**Article 119.** (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 118.

(2) Consumers legally resident in the European 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, shall 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 if he has already had:

1. a payment account with basic features with the same or another bank on the territory of Bulgaria, or

2. more than one payment account which allows him to make use of all services under Article 118, paragraph 1 with the same bank or another bank on the territory



of Bulgaria, save where a consumer 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 174, 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.

(8) The banks may request from a consumer to declare the circumstances under paragraph 5.

(9) Banks licensed by the BNB and bank branches conducting operations on the territory of Bulgaria that offer in exceptional cases payment services to consumers and insofar the consumers are limited in number and category, may not offer payment accounts with basic features within the meaning of Article 118.

#### *Fees on Payment Accounts with Basic Features*

**Article 120.** (1) Banks shall offer services to consumers specified under Article 118, paragraph 1 free of charge or for a reasonable fee irrespective of the number of payment transactions on the account.

(2) Where ten or more banks offer any service under Article 118, paragraph 1 with no fee on consumer payment accounts other than payment accounts with basic features, this service shall be determined as free of charge in the average amount of fees under paragraph 6.

(3) Where any of the services under Article 118, paragraph 1 is offered by ten or more banks on consumer payment accounts other than payment accounts with basic features with no fee to a certain threshold, banks shall offer this service free of charge to the average amount of this threshold published by the BNB under paragraph 6.

(4) 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.

(5) The reasonable fees referred to in paragraphs 1 and 4 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 118, 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 118.

(6) 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 118, as well as the average amount of threshold under paragraph 3.

(7) For the purposes of paragraph 6 the BNB may request from banks information of fees charged by them for the relevant services provided on consumer payment accounts.

### *Framework Contracts for a Payment Account with Basic Features and Termination*

**Article 121.** (1) Provisions of Articles 59–66 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 another bank, which allows him to make use of the services listed in Article 118, 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 174, 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.

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

## Chapter Seven

### PAYMENT SYSTEMS

#### *Payment System*

**Article 122.** (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.

#### *Settlement in a Payment System*

**Article 123.** (1) 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) 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) 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.

(5) The Bulgarian National Bank may establish additional liquidity requirements to banks acting as settlement agents.

#### *Storage of Orders to the Payment System*

**Article 124.** 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 125.** (1) The rules on access of payment service providers 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) Payment systems may not impose on payment service providers, on payment service users or on other systems:

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

### *Restrictions to Access to Payment Systems*

**Article 126.** (1) Article 125 shall not apply to payment systems:

1. 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.

(2) Where a participant in a system under paragraph 1, item 1 allows an authorised or registered payment service provider that is not a participant in the system to pass transfer orders through the system that participant shall, when requested, give the same opportunity in an objective, proportionate and non-discriminatory manner to other authorised or registered payment service providers in line with paragraph 125. In the event of refusal for providing access to the system the refusal shall be reasoned.

### *Rules of the Payment System*

**Article 127.** (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. 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 provided it is a settlement finality 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 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 shall be obliged to adhere to the rules and agreement for the respective payment system.

## *Chapter Eight*

### **SETTLEMENT FINALITY IN PAYMENT AND SECURITIES SETTLEMENT SYSTEMS**

#### Section I

#### **General Provisions**

##### *General Provisions*

**Article 128.** (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 settlement agent, a possible central counterparty, a clearing house or an 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) 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.

(6) The Bulgarian National Bank shall provide the Ministry of Finance with the information necessary for the notification under paragraph 5 on the payment systems under paragraph 1 and system operators of payment systems under paragraph 3.

### *Settlement Agent of a Settlement Finality System*

**Article 129.** (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 or securities 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.

(3) For settlement finality systems when the Bulgarian legislation is applicable, a settlement agent shall be the BNB.

(4) Cash settlement in lev's of securities settlement systems, for which the Ministry of Finance has made a notification under Article 128, paragraph 5, shall be carried out in the real time gross settlement system (RINGS) in accordance with the rules and procedures under Article 145, paragraph 4.

### *Participants in a Settlement Finality System*

**Article 130.** (1) A participant in a settlement finality system may be solely:

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 15 of the Additional Provisions;
6. a system operator.

(2) An indirect participant in the settlement finality payment system may be an institution within the meaning of § 1, item 15 of the Additional Provisions, 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 or securities transfer orders according to which the indirect participant may pass transfer orders or securities transfer orders through the system, provided that the indirect participant is known to the system operator.

(3) 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 all or part of these tasks.

(4) Whenever asked for from the entities having legal interest, the institutions shall inform about 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 131.** (1) Reorganisation measures or winding-up proceedings against a participant in a settlement finality system shall be those measures or proceedings undertaken against 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 against a participant in a settlement finality system and including the suspension 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) 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 or Securities Transfer Orders and Netting in a Settlement Finality System*

**Article 132.** (1) The transfer orders or securities 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 or securities 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 131, 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 or securities 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 transfer orders or securities transfer 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 orders or securities transfer orders 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 or Securities Transfer Orders*

**Article 133.** (1) After the moment set in the rules of the system for accepting transfer orders or securities transfer orders, 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 134.** (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. The collateral security may be realised for the satisfaction of these rights.

(2) 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 collateral security is provided.

(3) 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) 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.

## Section II

**Licensing of an Operator of a Settlement Finality Payment System***Application for Granting a License*

**Article 135.** (1) 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.

(4) Persons who have not been granted a license under Article 138 may not perform activities as a payment system operator where the system arrangement is governed by Bulgarian law.

*Terms and Conditions for Granting a License*

**Article 136.** (1) To be granted license under Article 135, 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 paid-in capital or the funds used to acquire shares in the case of transfer of shares shall 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. apply reliable rules to ensure robust governance arrangements for settlement finality payment system operations, including in respect of requirements provided for in Article 141, 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 system 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. 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 qualification and professional experience, and fitness and probity, the requirements being established in an ordinance of the BNB;

9. the persons holding, directly or indirectly, qualifying holdings in the applicant's capital within the meaning of Article 4(1), point 36 of Regulation (EU) No 575/2013 have provided evidence of their reliability taking into account the need to ensure the sound and prudent management of settlement finality payment system operators;

10. no close links within the meaning of Article 4, paragraph 1, item 38 of Regulation (EU) No 575/2013 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. 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) A settlement finality payment system operator which intends to carry on any activities other than the operation of the payment system for which it is licensed, before commencing the respective activity, shall notify the BNB thereof, providing information on the respective type of activity and related services and the manner of conducting them.

(3) Where the activities under paragraph 2 include provision of technical information and communication services supporting the provision of payment services by payment service providers, the operator conducting these activities shall meet the following requirements:

1. to apply a sound and comprehensive internal legal framework for management of risks ensuing from carrying out the activities;

2. to provide a constant reliable and stable support of business processes related to carrying out the activities.

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

### *Consideration of the Application for Granting a License*

**Article 137.** (1) Within six months after the receipt of the application under Article 135, paragraph 1, 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 and shall decide on granting a license or shall refuse to grant a license. Where appropriate, the BNB may also consult other competent authorities.

(2) Where during the research under paragraph 1 the BNB establishes that the application is incomplete, the BNB may require the applicant to provide the necessary documents and information within a period not longer than three months.

(3) No later than six months from the receipt of the documents and the information referred to in paragraph 2, the BNB shall make a decision on granting or refusing a license.

### *Granting a License*

**Article 138.** (1) The Bulgarian National Bank shall grant a license for settlement finality payment 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 operation of the settlement finality payment system in the subject of 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 136 during the entire period of validity of the license granted.

### *Register of the Payment System Operators*

**Article 139.** (1) The Bulgarian National Bank shall keep a register of settlement finality payment system operators.

(2) The register of the settlement finality payment system 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 system 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. Changes Subsequent to Granting the License*

**Article 140.** (1) 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) Where the conditions under paragraph 1 have been met, the BNB shall enter in the Register under Article 139 the licensed person and the date on which this person will start the activity.

(3) Articles 25 and 26 shall apply to the auditors of the payment system operator under paragraph 1.

(4) 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.

*Operation*

**Article 141.** (1) The settlement finality payment system operator shall at all times meet the following requirements in respect of any settlement finality payment system operated by it:

1. the rules, procedures and contractual relations in the system shall comply with the requirements of the applicable law to the activity carried out;

2. the system management rules shall provide for clearly defined hierarchical relations in terms of roles and responsibilities of operator's management and supervisory bodies;

3. to apply a stable framework for management of risk to which the payment institution is or might be exposed;

4. the rules and procedures for the system shall ensure final settlement no later than by the end of the day of the intended settlement date;

5. the rules and procedures for the system shall provide for an opportunity for the operator to continue performing its duties in the case of a default of a participant;

6. to apply clear criteria for access and participation in the payment system;

7. to apply mechanisms for efficient and effective performance of the activity, including on choosing the ways of clearing and settlement, the operational structure, the scope of services and technologies used;

8. to apply internationally recognised communication procedures and standards with regard to ensure efficient payments, clearing and settlement;

9. the rules for informing participants in the system on the structure and functioning of the system, as well as the rights and obligations of the operator and the participants in the system shall allow for the participants to evaluate risks to which they are exposed by participating in the system.

(2) Under terms set by it, the Bulgarian National Bank may open accounts of settlement finality payment system operators under Article 4, paragraph 2 of the

Law on Limiting Cash Payments for servicing operations of budget organisations on collecting revenue and other receipts by card payments.

(3) The Bulgarian National Bank shall issue an ordinance on the implementation of Article 136 and of this article.

#### *Refusal of a License*

**Article 142.** The Bulgarian National Bank 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 136;
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 143.** (1) 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 fulfils 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;

(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) 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.

(4) Within one month from the withdrawal or cancellation of the license under Article 144, settlement finality payment system operators shall submit to the BNB reports under Article 155. The reports shall contain information on the activities of settlement finality payment system operators covering the period from the end of the last reporting period to the date of withdrawal, respectively cancellation of the granted license.

### *Termination of Business Activity*

**Article 144.** (1) The settlement finality payment system operator shall notify the BNB at least two months in advance of an intended decision to terminate the activity of settlement finality payment system operation.

(2) With the notification under paragraph 1 the operator which wishes to terminate its activity of settlement finality payment system operation shall demonstrate to the BNB that it has made the necessary arrangements and plan to terminate the activity of the payment system operated by it without affecting the financial stability of its participants and has ensured the complete and timely fulfilment of obligations related to payment transactions carried out through the payment system.

(3) The plan for the termination of the activity referred to in paragraph 2 shall contain at least information concerning the terms and conditions for discontinuing the acceptance of transfer orders, the terms and conditions for terminating the relations with participants, and the interaction with other payment systems. The settlement finality payment system operator coordinate with the BNB the plan for termination of the activity.

(4) Subject to BNB consent for termination of business activity the license of the settlement finality payment system operator shall be deemed to be cancelled. The provisions of Article 143, paragraphs 2-4 shall apply accordingly.

## Section III

### **Real-time Gross Settlement System**

#### *Real-time Gross Settlement System (RINGS)*

**Article 145.** (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) 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 levs.

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

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

#### *Participants in RINGS*

**Article 146.** (1) Participants in RINGS shall be:

1. The Bulgarian National Bank;
2. banks and bank branches licensed by the BNB and conducting operations on the territory of Bulgaria;

(2) Participants in RINGS may also be banks from the EU Member States conducting operations 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 fulfil its obligations, the BNB may restrict its participation or exclude this participant from the payment system.

### *Settlement Agent in RINGS*

**Article 147.** (1) The settlement agent in RINGS shall be the BNB.

(2) The Bulgarian National Bank shall keep settlement accounts for the participants in RINGS.

(3) The BNB shall carry out the settlement of transfer orders on the settlement accounts according to their sequence and provided that the respective participant has sufficient funds on its settlement account.

(4) The participants in RINGS shall ensure sufficient funds available on their settlement accounts for the settlement of orders.

(5) 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.

### *Payments Executed through RINGS Only*

**Article 148.** The following payments shall be executed through RINGS only:

1. 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 149.** (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 150.** (1) Participants in RINGS may submit to the BNB transfer orders in accordance with the time schedule of the system.

(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 151.** (1) 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 149, paragraph 2 or to RINGS.

### *Guarantee Mechanisms*

**Article 152.** (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 net settlement in a designated time to establish guarantee mechanisms for the settlement of payments of participants in the relevant system.

## Section IV

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

#### *Operator of a system component*

**Article 153.** (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.

(3) An ancillary system operator in accordance with the rules under paragraph 2 may use accounts in TARGET 2 in order to ensure settlement of transfer orders from an interoperable system the operator has an arrangement with. Funds on such accounts may not be subject to distraint or foreclosure in respect of the operator.

(4) Upon opening of bankruptcy proceedings against the operator under paragraph 3 the funds received shall not be included in the bankruptcy estate and shall

be ordered for execution by the assignee in bankruptcy proportionally to the funds received in the respective payee accounts.

## *Chapter Nine*

### **PAYMENT SUPERVISION**

#### Section I

#### **Exercising Payment Supervision**

##### *General Provisions*

**Article 154.** (1) The payment supervision shall be carried out by the BNB.

(2) Subject to payment supervision shall be:

1. payment institutions licensed by the BNB;
2. account information service providers registered by the BNB;
3. payment system operators licensed under Article 138, and participants in them licensed by the BNB;
4. electronic money institutions licensed by the BNB;
5. banks licensed by the BNB and banks with head offices registered in a third country licensed by the BNB to conduct bank operations on the territory of the Republic of Bulgaria through a branch – with reference to the payment services business and issuing electronic money;

6. payment card schemes – where their head office is in the Republic of Bulgaria.

(3) For the issuance of licenses, entry in the Register under Article 19 and issuance of 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) 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) 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 155.** 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 of the BNB.

##### *The BNB Authority*

**Article 156.** (1) 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, including to accounting and operational reports;
2. require documents and information needed to monitor compliance with the requirements of this Law;
3. use 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) The Bulgarian National Bank may exercise its powers under paragraph 1 also in respect of entities of which there is a suspicion they operate as a payment institution, an electronic money institution or an information service provider without a license or registration.

(3) The Bulgarian National Bank may exercise its powers under paragraph 1 also in respect of a bank which has been granted a license to conduct bank operations by the competent authorities of a Member State and conducts operations through a branch on the territory of the Republic of Bulgaria, with Article 87 of the Law on Credit Institutions applied accordingly.

### *Cooperation in Exercising Payment Supervision*

**Article 157.** (1) 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 law bodies and institutions shall be obliged to cooperate and provide the BNB with the entire requested information that they have at their disposal.

(3) For the purposes of payment supervision, the BNB may also request information and documents, if necessary, from other natural persons and legal entities.

### *Obligation of Confidentiality in Exercising Payment Supervision*

**Article 158.** (1) Members of the BNB Governing Council, employees, experts and other persons working for the BNB shall be bound by the obligation of professional secrecy, including after the termination of their relations with the BNB.

(2) 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 159.

(5) The restrictions under paragraph 4 shall not apply if the information is provided in a summarised form so that the persons it relates to cannot be identified.

(6) The information received by a person bound to provide it by this Law, may be provided back to this person if the latter requests so.

### *Provision of Information Constituting Professional Secrecy*

**Article 159.** (1) The persons under Article 158, 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) 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. 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 or an electronic money institution undergoing liquidation or bankruptcy proceedings;
5. 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 or an electronic money institution;
6. the authorities of Member States under Article 160;
7. 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 or electronic money institutions undergoing bankruptcy, liquidation or other similar proceedings;
8. 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 or electronic money 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 158 and paragraphs 1–3 shall be applied respectively also to information received by the BNB in exercising payment supervision over persons subject to payment supervision which are not payment institutions.

### *Supervision Cooperation*

**Article 160.** (1) 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, the relevant competent authorities for supervision of payment systems and securities settlement systems, and the European Banking Authority.

(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) For the purposes of supervision under Chapter Six, 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) In exchanging information with other competent authorities on issues related to supervision under Chapter Six, 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 has given its agreement.

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

**Article 161.** (1) The provisions of Article 158 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 159 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) The Bulgarian National Bank may transmit the information received under Article 160, 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 162.** (1) On issues related to supervision referred to in Chapter Six, the BNB may refuse to act on a request for cooperation in carrying out an investigation or a supervisory activity or to exchange information where:

1. such an investigation, on-the-spot verification, supervisory activity or exchange of information might adversely affect the sovereignty, national security or public order 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 163.** (1) Where the request for exchange of information under Article 160, 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 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

(2) The Bulgarian National Bank may request EBA's assistance in accordance with Article 19 of Regulation (EU) No 1093/2010 to settle disagreements with other Member States' competent authorities on issues related to the application of Articles 26 and 28 to 31 of Directive (EU) No 2015/2366.

## Section II

### Supervision of the Payment System Operators

#### *General Provisions*

**Article 164.** The Bulgarian National Bank shall supervise operators of a payment system that have been granted a license under Article 138 and the participants therein authorised by the BNB to ensure compliance with the requirements of this Law and its implementing legislation.

#### *Supervisory Measures to an Operator of a Payment System and Participants Therein*

**Article 165.** (1) Where the BNB establishes breaches in the activities of an operator of a payments system to whom an authorisation under Article 138 has been granted, or of a participant in this system, that has been authorised by the BNB, 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, including to change the rules of the system;
5. oblige the payment system operator to carry out, at its own expense, an *ad hoc* internal or external audit;
6. impose on the payment system operator a 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 the members of the management and supervisory bodies of the operator or participant in the payment system, as well as on persons exercising control within the meaning of Article 4, paragraph 1, point 37 of Regulation (EU) No 575/2013 over an operator or participant in a payment system.

#### *Supervisory Measures to a Payment System Operator in Respect of the Activities Conducted under Article 136, paragraph 3*

**Article 166.** The measures under Article 165, paragraph 1, items 1, 2 and 4–6 may be applied to an operator of a settlement finality payment system and the activities conducted by this operator, when these activities are provision of technical, information and communication services supporting the provision of payment services in case the BNB establishes breaches in these activities.

## Section III

**Supervision over Payment Service Providers and Electronic Money Issuers***General Provisions*

**Article 167.** (1) The Bulgarian National Bank shall exercise supervision over payment service providers and electronic money issuers with a seat in the Republic of Bulgaria to ensure compliance with the requirements of this Law and its implementing legislation, including with regard to their activities through branches and representatives.

(2) 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, electronic money issuer or another person has violated this Law or its implementing legislation, or Regulation (EU) 2015/847, 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, 9.10.2009, p. 11) hereinafter referred to as Regulation (EC) No 924/2009, or Regulation (EU) No 260/2012, as well as Regulation (EU) 2015/751 or the delegated regulations and regulations implementing Directive (EU) 2015/2366 and Directive 2014/92/EU, the BNB shall have the right to impose the relevant supervisory measures and/or impose pecuniary sanctions in order to discontinue the breach.

(3) 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*

**Article 168.** 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 and Electronic Money Issuers*

**Article 169.** (1) In case the BNB establishes breaches in the activity of a payment service provider or electronic money issuer under Article 167, paragraph 1, 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 or electronic money issuer;



2. oblige the payment service provider or electronic money issuer to discontinue and/or rectify the breaches within a given time-limit;
3. require changes in the internal rules and procedures of the payment service provider or electronic money issuer;
4. 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) The Bulgarian National Bank may also apply the measures under paragraph 1 in the cases under Article 33, paragraphs 9 and 10.

### *Additional Supervisory Measures to Payment Institutions and Electronic Money Institutions*

**Article 170.** (1) 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 169, it may:

1. oblige the payment institution or the electronic money institution to carry out, at its own expense, an *ad hoc* audit by another audit firm which meets the requirements under Article 25, paragraph 1.
2. impose on the payment institution or the electronic money institution stricter supervisory requirements than the requirements established for them during its normal operation;
3. restrict the business of the payment institution or the electronic money institution, prohibiting it from effecting specified transactions, activities or operations;
4. 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. withdraw the license of the payment institution or the electronic money institution.

(2) The Bulgarian National Bank may apply the measures under paragraph 1, items 2 to 4 including in the cases referred to Article 33, paragraphs 9 and 10.

(3) Where the BNB established breaches in the activities of account information service providers, the BNB may apply the measures under paragraph 1, items 1 to 3 or delete the account information service provider from the register under Article 19.

### *Measures under Other Statutory Instruments*

**Article 171.** (1) The imposition of supervisory measures under Articles 169 and 170 shall be without prejudice to the possibility of applying measures under other implementing legislation.

(2) At the BNB's sole discretion, the application of supervisory measures might be made public.

## Section IV

### Supervision of Payment Card Schemes

#### *Supervisory Measures to Payment Card Schemes*

**Article 172.** (1) The Bulgarian National Bank shall supervise the payment card schemes with a seat in the Republic of Bulgaria to ensure compliance with the requirements of Regulation (EU) 2015/751.

(2) In case the BNB establishes breaches in the activity of a payment card scheme under paragraph 1, depending on the nature and gravity of the breach, it may:

1. issue a written warning and/or issue mandatory instructions to the payment card scheme;
2. oblige the payment card scheme to discontinue and rectify the breaches within a given time-limit;
3. require changes in the internal rules and procedures of the payment card scheme;
4. prohibit it from conducting activities until the breaches are rectified.

## Section V

### Breaches

#### *Types of Breaches*

**Article 173.** Within the meaning of Article 165, paragraph 1, Article 166, Article 169, paragraph 1, Article 170, paragraph 1 and Article 172, paragraph 2, a breach shall be:

1. breach or circumvention of the provisions of this Law, its implementing legislation or the Regulations under Article 167, paragraph 2;
2. non-compliance with the BNB instructions and orders;
3. obstruction of the exercise of payment supervision and on-site checks;
4. 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. 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;

9. performing transactions or operations which constitute money laundering or terrorist financing or a violation of the Law on Measures Against Money Laundering, the Law against Terrorist Financing and the implementing legislation thereto.

## *Chapter Ten*

### **ALTERNATIVE DISPUTE RESOLUTION PROCEDURES**

#### Section I

#### **Internal Procedures**

##### *Complaints*

**Article 174.** (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) The procedure under paragraph 1 shall be carried out in Bulgarian or in another language if agreed between the payment service provider and the payment service user.

(3) The payment service provider shall communicate its decision on any complaint in writing, on paper or if agreed between the payment service provider and the payment service user, on another durable medium and shall inform the payment service user of its decision within 15 business days of receipt of the complaint.

(4) In exceptional cases, if the decision cannot be taken within the term specified in paragraph 3 for reasons beyond the control of the payment service provider, it shall be required to send a reply to the payment service user clearly indicating the reasons for the delay and specifying the deadline by which the payment service user will receive the final decision on the complaint. In any event, the deadline for receiving the final decision shall not exceed 35 business days of receipt of the complaint.

(5) If the payment service provider fails to communicate its decision within the time limit under paragraphs 3 and 4, or if its decision does not satisfy the payment service user, 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.

(6) The payment service provider shall present in a clear comprehensible and easily accessible manner, including in its branches, on its website, if any, and in the contract concluded with the payment service user, the information under paragraph 5, specifying also where additional information on the Conciliation Commission on Payment Disputes can be found and the conditions for referral thereto.

(7) The provisions of paragraphs 1–6 shall also apply to the electronic money issuers.

## Section II

### Conciliation Commission on Payment Disputes

#### *Mandate*

**Article 175.** (1) The Conciliation Commission on Payment Disputes at the Consumer Protection Commission shall be an alternative resolution body 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 176.** (1) 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 cannot be dismissed without reasonable grounds.

(2) 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) 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) 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) 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*

**Article 177.** (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*

**Article 178.** (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 Consumer Protection Commission.

(2) The requirements to the application under paragraph 1, the terms and procedure for the initiation 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 durable medium.

### *Conciliation Proposal*

**Article 179.** (1) After carrying out the necessary actions with a view to clarify the dispute, the Commission shall prepare a written conciliation proposal for its settlement.

(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 180.** (1) 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.

### *Cooperation*

**Article 181.** In case of cross-border disputes, the Commission shall cooperate with the competent authorities for alternative dispute resolution in the Member States by exchanging information and opinions with such authorities.

### *Outstanding Issues*

**Article 182.** 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 Eleven*

### **BENCHMARKS**

#### *Competent Authority*

**Article 183.** (1) The Bulgarian National Bank is a competent authority within the meaning of Article 40, paragraph 1 of Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L 171, 29.6.2016, p. 1), hereinafter Regulation (EU) 2016/1011, for the performance of the duties related to the interest rate benchmarks by the administrators and the supervised entities under Article 3, paragraph 1, item 17, letters 'a', 'h' and 'i' of Regulation (EU) 2016/1011, having their seat in the Republic of Bulgaria.

(2) In performing the duties under paragraph 1, the BNB Deputy Governor heading the Banking Department or an official authorised by him shall exercise the powers under Article 41, paragraph 1, letters 'a' to 'd' of Regulation (EU) 2016/1011, and the BNB Governing Council the powers under Article 41, paragraph 1, letters 'e' to 'j'.

(3) Where an infringement specified in Article 42, paragraph 1 of Regulation (EU) 2016/1011 is identified, the BNB Governing Council may apply the measures under Article 42, paragraph 2, letters 'a' to 'e' of Regulation (EU) 2016/1011.

## *Chapter Twelve*

### ISSUE OF, AND APPEAL AGAINST ADMINISTRATIVE ACTS

#### *Issue of and Appeal against Administrative Acts*

**Article 184.** (1) 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 29 and Article 43, paragraph 3 herein, which shall be issued by the Deputy Governor heading the Banking Department.

(2) The BNB administrative acts shall be motivated and subject to immediate execution.

(3) 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.

(4) In the legal proceedings under paragraph 3, 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 3 of the Law on Credit Institutions.

(5) Individual administrative acts hereunder shall be communicated to their addressees by delivery against a signature or by fax or email, if specified by the party, 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.

(6) Where the administrative act is not delivered by one of the means specified in paragraph 5, 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.

(7) Articles 26 and 34 of the Administrative Procedure Code shall not apply in case supervisory measures are imposed.

## *Chapter Thirteen*

### ADMINISTRATIVE PENALTY PROVISIONS

#### *Fines and Pecuniary Sanctions*

**Article 185.** (1) Any person who commits or admits committing a breach of this Law and the implementing legislation thereto, as well as the delegated regulations and the regulations for the implementation of Directive (EU) 2015/2366 and Directive 2014/92/EU shall be liable to a sanction of BGN 1000 to BGN 5000 and of BGN 5000 to BGN 10,000 in the event of recurrence provided that the act does not

constitute a crime. Where the offender is a legal entity, it shall be liable to a pecuniary sanction of BGN 5000 to BGN 10,000, and of BGN 10,000 to BGN 20,000 in the event of recurrence.

(2) Any payment system operator who commits or allows a breach to be committed of this Law or of its implementing legislation shall be liable to a pecuniary sanction of BGN 10,000 to BGN 30,000, and of BGN 30,000 to BGN 50,000 in the event of recurrence.

(3) Any payment service provider subject to supervision under Article 167, paragraph 1 who commits or admits committing a breach of this Law and the implementing legislation thereto, as well as the delegated regulations and the regulations for the implementation of Directive (EU) 2015/2366 and Directive 2014/92/EU shall be liable to a pecuniary sanction of BGN 5000 to BGN 20,000 and of BGN 20,000 to BGN 50,000 in the event of recurrence.

(4) Any participant in a payment system who commits or allows a breach to be committed of this Law or of its implementing legislation shall be liable to a pecuniary sanction of BGN 5000 to BGN 20,000, and of BGN 20,000 to BGN 50,000 in the event of recurrence.

(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 pecuniary sanction of BGN 10,000 to BGN 20,000, and of BGN 20,000 to BGN 100,000 in the event of recurrence.

(6) Any person who commits a breach of Article 3, paragraph 2 or Article 34, paragraph 3 shall be liable to a sanction of BGN 5000 to BGN 20,000 and of BGN 20,000 to BGN 40,000 in the event of recurrence provided that the act does not constitute a crime. Where the offender is a legal entity, it shall be liable to a pecuniary sanction of BGN 20,000 to BGN 40,000, and of BGN 40,000 to BGN 80,000 in the event of recurrence.

(7) Any person who commits a breach of Article 135, paragraph 4 shall be liable to a sanction of BGN 20,000 to BGN 50,000 and of BGN 50,000 to BGN 100,000 in the event of recurrence provided that the act does not constitute a crime. Where the offender is a legal entity, it shall be liable to a pecuniary sanction of BGN 50,000 to BGN 100,000, and of BGN 100,000 to BGN 200,000 in the event of recurrence.

### *Fines and Pecuniary Sanctions in Case of Breach of Regulation*

*(EU) No 2015/847, Regulation (EC) No 924/2009, Regulation (EU)*

*No 260/2012 and Regulation (EU) No 2015/751*

**Article 186.** (1) Any person who commits a breach of Regulation (EU) No 2015/847, Regulation (EC) No 924/2009, Regulation (EU) No 260/2012 or Regulation (EU) No 2015/751 shall be liable to a sanction of BGN 1000 to BGN 3000 and of BGN 3000 to BGN 5000 in the event of recurrence. Where the offender is a legal entity, it shall be liable to a pecuniary sanction of BGN 5000 to BGN 10,000, and of BGN 10,000 to BGN 20,000 in the event of recurrence.



(2) Where the offender is a payment service provider or payment card scheme operator, it shall be liable to a pecuniary sanction of BGN 10,000 to BGN 40,000, and of BGN 40,000 to BGN 80,000 in the event of recurrence.

*Fines and Pecuniary Sanctions in Case of Breach of Regulation  
(EU) No 2016/1011*

**Article 187.** (1) Any person who commits a breach under Articles 4 to 10, Article 11, paragraph 1, letters ‘a’, ‘b’, ‘c’ and ‘d’, Article 11, paragraphs 2 and 3, Articles 12 to 16, Article 21, Articles 23 to 29 and Article 34 of Regulation (EU) 2016/1011 regarding interest rate benchmarks shall be liable to a fine of BGN 2500 to BGN 1,000,000. If the offender is a legal entity or a sole proprietor, it shall be liable to a pecuniary sanction of BGN 20,000 to 10 per cent of the annual turnover according to the last available financial statement approved by its management body or BGN 2,000,000, whichever is greater.

(2) Any person who commits a breach under Article 11, paragraph 1, letter d or Article 11, paragraph 4 of Regulation (EU) 2016/1011 regarding the interest rate benchmarks shall be liable to a fine of BGN 1500 to BGN 200,000. If the offender is a legal entity or a sole proprietor, it shall be liable to a pecuniary sanction of BGN 10,000 to 2 per cent of the annual turnover according to the last available financial statement approved by its management body or BGN 500,000, whichever is greater.

(3) Where profits gained or losses avoided as a result of the breach under paragraphs 1 and 2 can be determined, the offender shall be liable to a fine, pecuniary sanction, respectively, in the following amount: from the minimal amount under paragraph 1, paragraph 2, respectively, to triple the amount of the profit realised or loss avoided due as a result of the breach.

(4) For the purposes of paragraphs 1 and 2, where the legal person is a parent undertaking or a subsidiary of a parent undertaking which has to prepare consolidated financial accounts in accordance with Directive 2013/34/EU of the European Parliament and of the Council on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19), the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions – for banks, and Council Directive 91/674/EEC of 19 December 1991 on the annual accounts and consolidated accounts of insurance undertakings – for insurance companies according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking or if the person is an association, 10 per cent of the aggregate turnovers of its members.

### *Issue of, and Appeal Against, Penalty Decrees*

**Article 188.** (1) The statements of finding breaches under Articles 185 and 187 shall be issued by officers 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 officer authorised by him.

(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) The Bulgarian National Bank may disclose any penalty decree that has entered into force by virtue of which a person has been penalised or is liable to a pecuniary sanction, unless such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved. Where reference is made to this paragraph, Article 45 of Regulation (EU) No 2016/1011 shall apply.

## 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 is obliged to debit or credit the payment account.

2. 'Group' shall mean a group of undertakings consisting of a parent undertaking and all its subsidiaries.

3. '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. 'Remote payment transaction' shall mean a payment transaction initiated *via* internet or through a device that can be used for distance communication.

5. 'Account servicing payment service provider' shall mean a payment service provider providing and maintaining a payment account for a payer.

6. 'Payment initiation service provider' shall mean a payment service provider providing the services under Article 4, item 7.

7. 'Account information service provider' shall mean a payment service provider providing the services under Article 4, item 8.

8. '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 allowing the unchanged reproduction of the information stored, and others.

9. 'Member State' shall be a country which is a member of the European Union or another country which belongs to the European Economic Area.

10. '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.

11. '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.

12. 'Electronic communications network' shall mean a network within the meaning of § 1, item 15 of the Additional Provisions of the Electronic Communications Act.

13. 'Electronic communications service' shall mean a service within the meaning of § 1, item 17 of the Additional Provisions of the Electronic Communications Act.

14. 'Issuing of payment instruments' shall mean a payment service provided by a payment service provider contracting to provide a payer with a payment instrument to initiate and process the payer's payment transactions;

15. 'Institution' shall be a participating in a settlement finality system and responsible for execution of the financial obligations stemming from transfer orders within the system:

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) 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.

16. '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.

17. '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.

18. 'Credit interest rate' shall mean any rate at which interest is paid to the consumer in respect of funds held in a payment account.

19. '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.

20. '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.

21. '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;

22. '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.

23. 'Securities transfer order' shall mean any instruction by a participant in a settlement finality system to transfer the title to, or interest in, a security or securities by means of a book entry on a register, or otherwise.

24. 'Invalid unique identifier' shall mean an identifier which does not meet the standardised requirements, if any.

25. 'Netting' shall mean the conversion into one net claim or one net obligation 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 result that only a net claim can be demanded or a net obligation be owed;

26. '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.

27. 'Interoperable systems' shall mean two or more settlement finality systems whose system operators have entered into an arrangement with one another that involves cross-system execution of transfer orders.

28. 'Payment system operator' shall mean a system operator legally responsible for the operation of a payment system.

29. 'Personalised security credentials' shall mean personalised features provided by the payment service provider to a payment service user for the purposes of identification and/or authentication.

30. '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.

31. 'Payment transaction' shall mean an act, initiated by the payer or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee.

32. '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.

33. 'Payment order' shall mean any instruction by a payer or payee to his payment service provider requesting the execution of a payment transaction.

34. '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.

35. 'Payment card scheme' shall mean a scheme within the meaning of Article 2, point 16 of Regulation (EU) No 2015/751.

36. 'Payment brand' shall mean any material or digital name, term, sign, symbol or combination of them, capable of denoting under which payment card scheme card-based payment transactions are carried out.

37. 'Repeated' shall be the violation committed within a year of the enactment of the penalty order, whereby the person has been penalised for the same type of violation.

38. '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.

39. '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.

40. 'Consumer' shall mean a natural person who, in payment service contracts, is acting for purposes other than his trade or profession.

41. '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.

42. 'Parent undertaking' shall be a legal entity exercising control over one or more undertakings (subsidiaries).

43. '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 order 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, or both, with or without closing the former payment account.

44. 'Transferring payment service provider' shall mean the payment service provider from which the information required to perform the switching is transferred.

45. 'Acquiring payments with payment instruments' shall mean a payment service provided by a payment service provider contracting with a payee to accept and process payments with payment instruments, which results in a transfer of funds to the payee.

46. 'Receiving payment service provider' shall mean the payment service provider to which the information required to perform the switching is transferred.

47. 'Host Member State' shall mean the Member State other than the home Member State in which a payment service provider has a branch or an agent or provides directly payment services.

48. '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.

49. '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.

50. '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.

51. '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.

52. '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.

53. 'System operator' shall mean the entity or entities legally responsible for the operation of a system.

54. 'Own funds' shall mean funds as defined in point 118 of Article 4(1) of Regulation (EU) No 575/2013 where at least 75 per cent of the Tier 1 capital is in the form of Common Equity Tier 1 capital as referred to in Article 50 of that Regulation and Tier 2 is equal to or less than one third of Tier 1 capital.

55. 'Funds' shall mean banknotes and coins, money on account and electronic money.

56. '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.

57. 'Co-badging' shall mean the inclusion of two or more payment brands or payment applications of the same payment brand on the same payment instrument.

58. 'Fees' shall mean all charges and penalties payable by the payment service user to the payment service provider for or in relation to services linked to a payment account.

59. '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 another payment service user and/or the payment account of that other payment service user for a payment transaction.

60. 'Services linked to the payment account' shall mean all services within the meaning of Chapter Six 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 8, and overdraft facilities and overrunning.

61. 'Payment initiation service' shall mean a service to initiate a payment at the request of the payment service user with respect to a payment account held at another payment service provider.

62. 'Account information service' shall mean an online service to provide consolidated information on one or more payment accounts held by the payment service user with either another payment service provider or with one or more than one payment service providers.

63. 'Authentication' shall mean a procedure which allows the payment service provider to verify the identity of the payment services user, including the use of the user's personalised security credentials.

64. 'Securities' within the meaning of Chapter Eight shall mean financial instruments as defined in Article 4 of the Law on Markets in Financial Instruments.

65. 'Central counterparty' shall mean an entity which is interposed between the institutions in a settlement finality system which acts as the exclusive counterparty of these institutions with regard to their transfer orders.

66. 'Digital content' shall mean goods or services which are produced and supplied in digital form, the use or consumption of which is restricted to a technical device and which do not include the use or consumption of physical goods or services.

67. 'Sensitive payment data' shall mean data, including personalised security credentials, which can be used to carry out fraud. The name of the account holder and the account number do not constitute sensitive payment data for the providers of payment initiation services and account information service providers.

§ 2. This Law transposes provisions of:

1. Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market and amending Directives 2002/65/EC, 2009/110/EC, 2013/36/EU and Regulation (EU) No 1093/2010 and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35);

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 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. 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. 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, 28.8.2014, p. 214).

§ 3. 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

§ 4. The Law on Payment Services and Payment Systems (published in the *Darjaven Vestnik*, issue 23 of 2009; amended, issues 24 and 87 of 2009, issue 101 of 2010, issue 105 of 2011, issue 103 of 2012, issues 57 and 102 of 2015, issues 59 and 95 of 2016, issue 97 of 2017 and issue 15 of 2018) is repealed.

§ 5. The BNB statutory instruments on the enforcement of the repealed Law on Payment Services and Payment Systems shall remain in force insofar they do not contravene this Law.

§ 6. (1) Within six months of the entry into force of this Law, payment service providers shall bring their activity and legal relationships with third parties that have arisen prior to the entry into force of this Law in conformity therewith.

(2) Payment service providers may use the manners and procedure of notification, set out in Article 61, paragraph 1 and Article 62, 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. (1) The issued licenses to payment institutions and electronic money institutions, and the licenses and permissions to operators of payment systems issued under the repealed Law on Payment Services and Payment Systems shall remain valid.

(2) Within the term under § 6, paragraph 1 payment institutions and electronic money institutions under paragraph 1, shall provide to the BNB information and documents confirming compliance with the requirements of Article 10, paragraph 4, items 5, 6 and 13.



(3) Payment institutions licensed to provide payment services referred to in Article 4, item 7 of the repealed Law on Payment Services and Payment Systems, shall retain their licence for provision of payment services considered as payment services as per Article 4, item 3 of this Law, if within the period referred to in § 6, paragraph 1 they provide to the BNB information and documents confirming compliance with the requirements of Article 8, item 3 and Article 9 of this Law.

(4) Within six months of the entry into force of this Law, payment system operators shall bring their activities in conformity with this Law.

**§ 8.** (1) The electronic money institutions which have a licence to perform activities as payment institutions, shall, within one month of the entry into force of the Law, notify the BNB on which of the two licences they will perform activities under this Law.

(2) Where the institution shall perform activities as an electronic money institution and intends to continue to provide the payment services for which it has been licensed under Article 42, it shall inform the BNB using the notification under paragraph 1.

(3) Where the institution shall perform activities as a payment institution, within the term under paragraph 1, it shall terminate the issuance of electronic money, and shall ensure the complete and timely payment of its obligations related to the issuance of electronic money.

(4) In the event the electronic money institution under paragraph 1 does not submit a notification within the specified term, the license issued to the payment institution shall be cancelled.

(5) In the cases referred to in paragraphs 2 and 3, licences issued for a payment institution and electronic money institution, respectively, shall be cancelled.

(6) The cancellation of the licence referred to in paragraphs 4 and 5 shall be made by a decision of the BNB Governing Council.

**§ 9.** (1) Companies providing payment services under Article 4, items 7 and 8 shall, within three months of the entry into force of this Law, submit an application to the Bulgarian National Bank for the issuance of a license, entry in the register referred to in Article 19, respectively.

(2) In the cases referred to in paragraph 1, the provisions of Section I, Chapter Two shall apply.

(3) A company which does not submit an application within the term under paragraph 1 or has been refused a license, entry in the register referred to Article 19, respectively, shall not be allowed to perform activities as a payment institution, as an account information service provider, respectively.

**§ 10.** Until the entry into force of the regulatory technical standards that the European Commission adopted under Article 98, paragraph 4 of Directive (EU) 2015/2366 and the expiry of the 18-month period to comply with therewith, the account servicing payment service providers shall not impede the use of payment

initiation services and services on the provision of information on the accounts they service.

§ 11. The provisions of this Law shall also apply to incumbent administrative proceedings before the BNB upon entry into force of this Law.

§ 12. Settlement finality payment systems for which the European Securities and Markets Authority has been notified prior to the entry into force of this Law shall continue to be deemed such systems.

§ 13. Transfer orders or securities transfer orders which enter into a settlement finality system before the entry into force of this Law, but are settled thereafter, shall continue to be deemed as transfer orders or securities transfer orders within the meaning of §1, items 22 and 23 of the Additional Provisions.

§ 14. In Article. 8, paragraph 2 of the Law on Distance Provision of Financial Services (published in the *Darjaven Vestnik*, issue 105 of 2006, amended, issues 23 and 82 of 2009, issue 61 of 2014 and issues 14 and 57 of 2015), the words ‘Articles 39, 41 and 42 respectively’ shall be replaced by ‘Articles 58, 60 and 61 respectively’.

§ 15. The Law on the Bulgarian National Bank (published in the *Darjaven Vestnik*, issue 46 of 1997; amended, issues 49 and 153 of 1998, issues 20 and 54 of 1999, issue 109 of 2001, issue 45 of 2002, issues 10 and 39 of 2005, issues 37, 59 and 108 of 2006, issues 52 and 59 of 2007, issues 24, 42 and 44 of 2009, issues 97 and 101 of 2010, issues 48 and 62 of 2015, issues 51 and 59 of 2016, issues 97 and 103 of 2017 and issue 7 of 2018) shall be amended, as follows:

1. In Article 2, paragraph 7, the words ‘payment institutions and electronic money institutions’ shall be replaced by ‘payment service providers and electronic money issuers’.

2. In Article 16:

a) a new item 19 shall be inserted:

‘19. shall issue, refuse to issue, withdraw or suspend the license or register, refuse to register, delete or suspend the registration of the administrators of interest rate benchmarks, and endorse or refuse to endorse interest rate benchmarks provided from a third country under Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L 171/1 of 29 June 2016);’

b) the existing item 19 becomes item 20.

3. In Article 20, paragraph 4, the words ‘payment institutions and electronic money institutions’ shall be replaced by ‘payment service providers and electronic money issuers’.

4. In Article 39, paragraph 3 is repealed.

5. In Article 42, the words ‘in an ordinance’ shall be inserted after the word ‘Bank’.

§ 16. The Law on Credit Institutions (published in the Darjaven Vestnik, issue 59 of 2006; amended issue 105 of 2006, issues 52, 59 and 109 of 2007, issue 69 of 2008, issues 23, 24, 44, 93 and 95 of 2009, issues 94 and 101 of 2010, issues 77 and 105 of 2011, issues 38 and 44 of 2012, issues 52, 70 and 109 of 2013, issues 22, 27, 35 and 53 of 2014, issues 14, 22, 50, 62 and 94 of 2015, issues 33, 59, 62, 81, 95 and 98 of 2016, issues 63, 97 and 103 of 2017 and issues 7 and 15 of 2018) shall be amendeded, as follows:

1. In Article 14, paragraph 4, the words the words ‘or after requesting the necessary documents and information’ shall be inserted after the words ‘receipt of the application’.

2. In Article 56:

a) in paragraph 1, item 3, the words ‘Article 19’ shall be replaced by the words ‘Article 21’;

b) paragraph 3 shall be amendeed, as follows:

‘(3) The information shall be available to:

1. the Prosecutor's Office and investigative bodies;

2. the National Police Chief Directorate, the Combating Organized Crime Chief Directorate and Regional Directorates of Interior;

3. the State National Security Agency;

4. the Countering Corruption and Forfeiture of Illegally Acquired Assets Commission;

5. the Financial Supervision Commission;

6. the National Revenue Agency;

7. the Customs Agency;

8. the Inspectorate to the Supreme Judicial Council for the purposes of Chapter Nine, Section Ia of the Judicial System Act with respect to the property of judges, prosecutors and investigating magistrates.’

c) paragraphs 8, 9 and 10 are inserted:

‘(8) The system shall store information about persons who are co-debtors and guarantors on loans.

(9) Except for the cases referred to in paragraph 3 the access to the information in the system shall be provided in accordance with Article 62, paragraph 5.

(10) Information in the system shall be stored for a term of five years from the last reporting period.’

3. In Article 56a:

a) in paragraph 1, the wording ‘data on distraint on bank accounts’ shall be added after the word ‘entities’;

b) in paragraph 2, the word ‘monthly’ shall be replaced by the word ‘weekly’;

c) in paragraph 3:

aa) item 2 shall be amendeed as follow:

‘2. The National Police Chief Directorate, the Combating Organized Crime Chief Directorate and Regional Directorates of Interior;

bb) item 6 shall be amended, as follows:

‘6. the Inspectorate to the Supreme Judicial Council for the purposes of Chapter Nine, Section Ia of the Judicial System Act with respect to the property of judges, prosecutors and investigating magistrates.’

cc) a new item 9 shall be inserted:

‘9. the Customs Agency;’

dd) the existing item 9 becomes item 10 and shall be amended, as follows:

‘10. the persons under Article 56, paragraph 1;’

ee) the existing item 10 becomes item 11 and shall be amended, as follows:

‘11. state and private bailiffs in case of enforcement proceedings.’

d) in paragraph 11, the words ‘items 1 to 8’ are replaced by ‘items 1 to 9’;

e) paragraph 13 shall be inserted:

‘(13) The inclusion in and the exclusion from the information system of persons under paragraph 3 shall be done by an act of the Deputy Governor heading the Banking Department.’

4. Article 153, paragraph 1 shall be amended as follows:

‘(1) Statements of the violations found under Articles 152, 152b and 152c shall be drawn up by officials authorised by the Deputy Governor heading the Banking Supervision Department within six months from the day when the violator has been identified but not later than five years from the committed violation.’

§ 17. The Law on the Recovery and Resolution of Credit Institutions and Investment Firms (published in the *Darjaven Vestnik*, issue 62 of 2015; amended, issue 59 of 2016, issues 85, 91 and 97 of 2017, and issue 15 of 2018) shall be amended, as follows:

1. In Article 66, paragraph 2, item 6, the words ‘Chapter Va’ shall be replaced by ‘Chapter VIII’.

2. In § 1, item 69 of the Additional Provisions, the words ‘Chapter Va’ shall be replaced by ‘Chapter VIII’.

§ 18. In Article 182, paragraph 5 of 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, issues 36 and 102 of 2008, issues 23, 42, 82 of 2009, issues 15, 18 and 97 of 2010, issue 18 of 2011, issues 38 and 56 of 2012, issues 15, 27 and 30 of 2013, issue 61 of 2014, issues 14, 57, 60 and 102 of 2015, issues 59 and 74 of 2016, issues 8, 58 and 103 of 2017 and issue 7 of 2018), the words ‘Chapter Eight’ shall be replaced by ‘Chapter Ten’.

§ 19. Article 109a of the Law on Public Offering of Securities (published in the *Darjaven Vestnik*, issue 114 of 1999, amended, issues 63 and 92 of 2000, issues 28, 61, 93 and 101 of 2002, issues 8, 31, 67 and 71 of 2003, issue 37 of 2004, issues 19, 31, 39, 103 and 105 of 2005, issues 30, 33, 34, 59, 63, 80, 84, 86 and 105 of 2006, issues 25, 52, 53 and 109 of 2007, issues 67 and 69 of 2008, issues 23, 24, 42 and 93 of 2009, issues 43 and 101 of 2010, issues 57 and 77 of 2011, issues 21, 94 and 103 of 2012, issue 109 of 2013, issues 34, 61, 62, 95 and 102 of 2015, issues 33, 42, 62 and 76 of

2016, issues 62, 91 and 95 of 2017 and issues 7 and 15 of 2018) shall be amended as follows:

1. In paragraph 1, the words ‘Article 78a’ shall be replaced by ‘Article 128’.

2. In paragraph 4, the words ‘Chapter Five’ shall be replaced by ‘Chapter Eight’.

§ 20. In Article 35a of the Law on Government Debt (published in the *Darjaven Vestnik*, issue 93 of 2002, amended, issue 34 of 2005, issue 52 of 2007, issue 23 of 2009, issue 101 of 2010, issue 99 of 2011, issue 103 of 2012, issue 15 of 2013, issue 50 of 2015, issues 43 and 98 of 2016 and issue 91 of 2017), the words ‘Chapter Five ‘A’ shall be replaced by ‘Chapter Eight’.

§ 21. In Article 46, paragraph 1, item 15 of the Law on Bank Bankruptcy (published in *Darjaven Vestnik*, issue 92 of 2002; amended, issue 67 of 2003, issue 36 of 2004, issues 31 and 105 of 2005, issues 30, 34, 59 and 80 of 2006, issues 53 and 59 of 2007, issue 67 of 2008, issue 105 of 2011, issue 98 of 2014, issues 22, 41, 50, 61, 62 and 94 of 2015, issues 33 and 95 of 2016 and issues 91 and 103 of 2017), the words ‘Article 103’ shall be replaced by ‘Article 145’.

§ 22. In Article 37a, paragraph 6 of the Law on the Activities of Collective Investment Schemes and Other Undertakings for Collective Investments (published in the *Darjaven Vestnik*, issue 77 of 2011; amended, issue 21 of 2012, issue 109 of 2013, issue 27 of 2014, issues 22 and 34 of 2015, issues 42, 76 and 95 of 2016, issues 62, 95 and 103 of 2017 and issue 15 of 2018), the words ‘Chapter Five A’ shall be replaced by ‘Chapter Eight’.

§ 23. In Article 7, item 15 of the Law on Bank Deposit Guarantee (published in the *Darjaven Vestnik*, issue 62 of 2015; amended, issues 96 and 102 of 2015, issue 103 of 2017 and issues 7 and 15 of 2018), the words ‘to the Bulgarian National Bank and’ are deleted.

§ 24. In the second sentence of Article 34, paragraph 1 of the Law on Administrative Violations and Sanctions (published in the *Darjaven Vestnik*, issue 92 of 1969; amended, issue 54 of 1978, issue 28 of 1982, issues 28 and 101 of 1983, issue 89 of 1986, issue 24 of 1987, issue 94 of 1990, issue 105 of 1991, issue 59 of 1992, issue 102 of 1995, issues 12 and 110 of 1996, issues 11, 15, 59, 85 and 89 of 1998, issues 51, 67 and 114 of 1999, issue 92 of 2000, issues 25, 61 and 101 of 2002, issue 96 of 2004, issues 39 and 79 of 2005, issues 30, 33, 69 and 108 of 2006, issues 51, 59 and 97 of 2007, issues 12, 27 and 32 of 2009, issues 10, 33, 39, 60 and 77 of 2011, issues 19, 54 and 77 of 2012, issue 17 of 2013, issues 98 and 107 of 2014, issue 81 of 2015, issues 76 and 101 of 2016 and issues 63 and 101 of 2017), the words ‘banking’ shall be deleted, and the words ‘Law on payment services and payment systems’ are inserted after ‘Law on Measures Against Market Abuse With Financial Instruments’.

§ 25. The Law on Consumer Credit (published in the *Darjaven Vestnik*, issue 18 of 2010; amended, issue 58 of 2010, issue 91 of 2012, issue 30 of 2013, issues 35 and 61 of 2014, issues 14 and 57 of 2015 and issue 59 of 2016) shall be amended, as follows:

1. Article 5, paragraph 7 shall be amended, as follows:

‘(7) In case of a variable rate loan, for which an interest rate benchmark is used, the creditor or, where applicable, the credit intermediary shall give the consumer information about the name of the benchmark and of its administrator and the potential implications on the consumer relating to the benchmark in a separate document, which shall be annexed to the Standard European Consumer Credit Information Form referred to in paragraph 2. Any additional information provided by the creditor or credit intermediary to the consumer, shall be submitted in a separate document annexed to the form under paragraph 2.

2. Article 14, paragraph 3 shall be amended, as follows:

‘(3) Where the change in the borrowing rate is caused by a change in a reference rate and the new reference rate is made publicly available by appropriate means and the information concerning the new reference rate is also kept available in the business premises of the creditor, the parties may agree in the credit agreement that the information referred to in paragraph 1 is to be given to the consumer periodically.’

3. In § 1 of the Additional Provisions, item 6 shall be amended, as follows:

‘6. ‘reference interest rate’ shall mean the borrowing rate which is used as the basis for calculating the variable interest rate applicable to the loan agreement. It shall be an interest rate benchmark pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ, L 171/1 of 29 June 2016), or an index and/or indicator(s) published by the Bulgarian National Bank and/or the National Statistical Institute, or a combination thereof.’

**§ 26.** The Law on Real Estate Loans to Consumers (published in the *Darjaven Vestnik*, issue 59 of 2016; amended, issue 97 of 2016 and issue 103 of 2017) shall be amended, as follows:

1. The following shall be inserted at the end of Article 5, paragraph 2, item 6: ‘and in the case of a variable rate loan for which an interest benchmark is used – the name of the benchmark and of its administrator and the potential implications on the consumer relating to changes in the value of the benchmark’.

2. Article 6, paragraph 5 shall be amended, as follows:

‘(5) In the case of a variable rate loan for which an interest rate benchmark is used, the creditor or, where applicable, the credit intermediary, shall give the consumer information about the name of the benchmark and of its administrator and the potential implications on the consumer relating to the benchmark in a separate document, which shall be annexed to the Standard European Form referred to in Annex 2. Any additional information provided by the creditor or credit intermediary to the consumer shall be submitted in a separate document annexed to the form under Annex 2.’

3. Article 24, paragraph 1, item 8 shall be amended, as follows:

‘8. the borrowing rate with a clear indication of whether it is fixed or variable or a combination of both, the conditions governing the application of the borrowing rate and any index or reference rate applicable to the initial borrowing rate and, in the case of a variable rate loan for which an interest rate benchmark is used – the name of the benchmark and of its administrator and the potential implications on the consumer relating to the benchmark, as well as the periods, conditions and procedure for changing the borrowing rate; if different borrowing rates apply in different circumstances, the above mentioned information on all the applicable rates shall be provided;’

4. Article 28, paragraph 4 shall be amended, as follows:

‘(4) Where the change in the borrowing rate is caused by a change in a reference rate and the new reference rate is made publicly available by appropriate means and the information concerning the new reference rate is also kept available in the business premises of the creditor, the parties may agree in the credit agreement that the information referred to in paragraph 1 is to be given to the consumer periodically.’

5. In § 1 of the Additional Provisions:

a) item 24 shall be amended, as follows:

‘24. ‘reference interest rate’ shall mean the borrowing rate which is used as the basis for calculating the variable interest rate applicable to the loan agreement. It shall be an interest rate benchmark pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ, L 171/1 of 29 June 2016), or an index and/or indicator(s) published by the Bulgarian National Bank and/or the National Statistical Institute, or a combination thereof.’;

b) item 25 is repealed.

6. The words ‘credit agreements with no fixed duration’ in the main text of Article 29, paragraph 2, item 3 (1) of Annex 1 shall be replaced by ‘open-end credit agreements’; and a new sub-item ‘cc’ shall be inserted.

‘cc) an open-end credit agreement is a credit agreement with no fixed duration under the terms of which the credit has to be repaid in full within or after a period but, once repaid, become available to be drawn down again;’.

§ 27. The Law on Combating Corruption and the Withdrawal of Illegally Acquired Property (Darjaven Vestnik, issue 7 of 2018) shall be amended, as follows:

1. Article 44, paragraph 5 shall be amended, as follows:

‘(5) The Commission may receive information from the information systems under Articles 56 and 56a of the Law on Credit Institutions, and to request disclosure of bank secrets.’

2. In § 5 of the Transitional and Final Provisions, a new paragraph 3 shall be inserted:

‘(3) The terms referred to Articles 166–168 shall apply to property forfeited in favour of the state under the repealed Law on Forfeiture of Illegally Acquired Assets in Favour of the State and the Law on Forfeiture in Favour of the State of Criminal Assets.’

**§ 28.** The Law shall enter into force on the date of its publication in the Darjaven Vestnik except for:

1 Article 47, which shall enter into force after the European Commission issues an electronic brochure on the rights of consumers under Article 106, paragraph 2 of Directive (EU) 2015/2366 and Article 71, paragraph 2, item 3, Article 72, paragraph 3, item 4 and paragraph 4, item 1, Article 73, paragraph 2, item 3 and paragraph 3, item 1 and Article 100, which shall enter into force 18 months after the entry into force of the regulatory technical standards that the European Commission adopted under Article 98, paragraph 4 of Directive (EU) 2015/2366; until the entry into force of Article 100, paragraphs 1–6, payment service providers shall comply with the requirements of the Final Guidelines on the Security of Internet Payments of 19 December 2014 of the European Banking Authority;

2. Article 102, which shall enter into force on 30 April 2018, and Articles 103–109 which shall enter into force on 31 October 2018;

3. paragraph 16, item 2c of the Transitional and Final Provisions with regard to paragraph 8, which shall enter into force on 1 January 2019;

4. paragraph 25 and § 26, items 1–5 of the Transitional and Final Provisions which shall enter into force on 1 July 2018.