

PAYMENT SERVICES AND PYMENT SYSTEMS ACT

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Chapter one. GENERAL PROVISIONS

Section I. Subject and exceptions from the applicable field

Subject

Art. 1. This act shall provide for:

1. the requirements to the activity of the providers of payment services and the types of payment services;
2. the conditions and procedure for licensing and realization of activity by the payment institutions;
3. the conditions and procedure for entry in the register of Art. 19 and realization of activity by the service providers on provision of information for an account;
4. the conditions and procedure for licensing and realization of an activity by the companies for electronic money;
5. the requirements for provision of information while performing payment services;
6. the rights and obligations of the parties while performing payment services;
7. the requirements for transparency and comparison of the fees, paid by the consumers on payment accounts, transfer of payment accounts in the frames of the country and facilitation of the consumers in transborder opening of payment accounts in the frames of the EU;
8. conditions and procedure for opening and using by consumers of payment accounts for basic operations;
9. conditions and procedure for realization of activity by the payment systems;
10. the finality of the settlement in payment systems and settlement of security systems;
11. conditions and procedure for licensing and realization of activity by an operator of a payment system in finality of the settlement;
12. the payment supervision;
13. the procedure for consideration of complaints in relation to provision of payment services and issuance of electronic money, as well as the procedure for alternative solution of disputes.

Exceptions from the applicable field

Art. 2. (1) The provisions of Chapters Two, Four, Five and Ten shall not apply to:

1. payment operations, performed completely availability from the payer to the receiver without the involvement of an intermediary;
2. payment operations, performed by the payer to the receiver through trade representative, who has been authorized under a contract only on behalf of the payer or only on behalf of the receiver to hold negotiations or sign a contract for purchase or sale of goods or the provision of services;
3. payment operations, performed by the payer to the receiver through a trade representative, who has been authorized under a contract at the same time by the payer and the receiver, only if at no moment he does not acquire factual power over the funds on the payment operation;
4. carrying out the transport of coins and banknotes by profession, including their collection, processing and supply;
5. payment operations, related to collection or supply of money in availability, carried out in a non-trade way in the frames of charity or another non-profit-making activity;

6. services on provision of available money from the receiver to the payer, representing a part of a payment operation, performed after an explicit request by the user of the payment services, made immediately before the fulfillment of the payment operation for payment in a purchase of goods and services;

7. operations, related to exchange of currency in cash, where the funds are not in a payment account;

8. payment operations, performed on the ground of some of the following documents to the payment service provider in view to provision of funds to the receiver;

a) checks, bills of exchange and paper orders on paper media in the meaning of the Commerce Act or a relevant act of another Member State, which is not a party to the Geneva Conventions under letter "b";

b) checks on paper media, issued in compliance with the Geneva Convention of 19 March, 1931, on a single act on checks and bills of exchange on paper media, issued in compliance with the Geneva Convention of 7 June 1930 on a single act on bills of exchange and paper orders;

c) vouchers on paper media;

d) travel checks on paper media;

9. payment operations in relation to provision of services on rights of securities, including dividends, incomes or other distributions, buyback or sale, performed by persons under p. 16, or by investment firms, credit institutions, undertakings for collective investment or companies for assets management, providing investment services, as well as by other persons, who hold the right to perform custody of financial instruments;

10. services, provided by providers of technical services, assisting provision of payment services, if these providers do not acquire in any moment factual power over the funds of the transfer, including services on processing and storage of data, trust services or services for personal data protection, establishing authenticity of data and identification of persons, provision of information technologies and communication networks, provision and maintenance of terminals and devices, used for payment services, with the exception of the services on initiation of payment and the services on provision of information about an account;

11. services, performed on the basis of payment instruments, which may be used only in a limited way and meet one of the following conditions:

a) the instruments allow their user to acquire goods or services, only in premises of the issuer or in the frames of a limited network from service providers, who have signed trade contract with the issuer, who acts upon profession;

b) the instruments may be used only for acquiring of a very limited set of goods or services;

c) the instruments are valid only on the territory of the Republic of Bulgaria, provided upon request of a budgetary organization in the meaning of the Act on the Public Finances, or of a person from the public sector or trade company, serve for acquiring certain goods or services from providers, having signed contract with the issuer and are regulated by a national or local administrative body for acquiring concrete social or taxation purposes;

12. payment operations, performed in addition to the electronic communication services of a subscriber of the network, or the service from a provider of electronic communication networks or services, for buying of digital contents of voice services, notwithstanding of the device, used for buying or using digital contents, and charged at the expense of the subscriber, or performed by or through electronic device and charged at the expense of the subscriber in the frames of a charitable activity or for buying tickets, under the condition, that the value of every concrete single payment operation does not exceed BGN 100, and:

a) the total value of the payment operations for one subscriber does not exceed BGN 600 per month, or

b) where the subscriber feeds his account in advance in the provider of electronic communication network, or service, the total value of the payment operations does not exceed BGN 600 per months;

13. payment operations between suppliers of payment services, their representatives or branches at

their own expense;

14. payment operations and related services between a parent undertaking and its subsidiary or between subsidiary undertakings of one and the same parent undertaking, where an intermediary firm is a payment service provider, belonging to the same group;

15. services on drawing money in cash through terminal devices ATM, provided on behalf of one or more issuers of cards from providers, who are not party to the framework contract with the client, drawing money from a payment account, under the condition, that these providers do not perform other payment services; in these cases, the client shall be provided with information about all the fees for drawing, indicated in Art. 50, Art. 54, Para. 1, 2 and 7, Art. 57 and Art. 58 before the drawing, as well as after receiving the money in cash at the end of the operation;

16. payment operations, performed in a payment system, or in the system for settlement of securities between agents on the settlement, central co-counteragents, clearing houses and/or central banks and other participants in the system – from one side, and payment service providers – on the other;

17. post payment transfers in the meaning of § 1, p. 9 of the Additional Provisions of the Postal Services Act.

(2) For service providers on provision of information about an account, Chapters Four and Five shall not apply, with the exception of Art. 52, Art. 54, Para. 1, 2 and 7 and Art. 60 and where applicable - Art. 73, 75 and 98 - 100.

(3) A service provider, who provides some of the services under Para. 1, p. 11, letter "a" and "b", for which the total value for all executed payment operation during the previous 12 months exceeds BGN 2 000 000, shall notify BNB about the performed activity, by describing the provided services and indicating according which exception under Para. 1, p. 11, letter "a", and "b" performs this activity. On the basis of the notification and after an estimation of the criteria, indicated in Para. 1, p. 11, BNB shall take a grounded decision and shall inform the service provider, where the activity is not qualified as a limited network.

(4) A service provided, who performs operations under Para. 1, p. 12, shall annually notify BNB about the performed activity and shall provide a conclusion of an annual audit, which certifies, that the activity has been conserved with the limitations, provided by Para. 1, p. 12.

(5) The BNB shall notify the European Banking Authority (EBA) about the services, for which a notification has been sent under Para. 3 and 4.

(6) Description of the activities, for which a notification has been sent under Para. 3 and 4, shall be accessible in the public register under Art. 19 and in the EBA register.

Section II.

Payment service providers and types of payment services

Payment service providers

Art. 3. (1) Payment service providers in the meaning of this act shall be:

1. banks in the meaning of the Credit Institutions Act;
2. electronic money companies in the meaning of this act;
3. payment institutions in the meaning of this act;
4. service providers on provision of information about an account in the meaning of this act;
5. The European Central Bank and the national central banks of the Member States, where they do not act in their capacity of bodies of money policy or of bodies, performing public legal functions.

(2) Persons, who are not payment service providers, shall not have the right to provide payment services with the exception of the activities under Art. 2.

(3) The payment service provider shall not control the subject and legality of the transaction, in relation to which the payment service is provided, unless a normative act provides otherwise.

(4) The payment service providers and the payment systems shall process personal data of users of payment services, while observing the Protection of Personal Data Act, where in prevention, investigation and disclosure of frauds, related to payment services, the processing may be performed without the consent

of the person to whom the data relate.

Payment services

Art. 4. Payment services shall be:

1. services, related depositing money in cash on a payment account, as well as the related operations on servicing the payment account;
2. services, related to drawing money in cash from a payment account, as well as related operations on servicing the payment account;
3. execution payment operations, including transfer of funds on the payment account of the user in the payment service provider, or another payment service provider:
 - a) execution direct debits, including single direct debits;
 - b) execution payment operations through payment cards or other similar instruments;
 - c) execution credit transfers, including orders for periodical transfers;
4. execution payment operations, where the funds are a part of granted credit to the payment services user:
 - a) execution direct debits, including single direct debits;
 - b) execution payment operations through payment cards or other similar instruments;
 - c) execution credit transfers, including orders for periodical transfers;
5. issuing payment instruments and/or accepting payments with payment instruments;
6. execution cash money transfers;
7. services on initiation of payment;
8. services on provision of information about an account.

Chapter two.

PAYMENT INSTITUTIONS

Section I.

Licensing payment institutions and entry in the register of service providers on provision of information about an account

Payment institution

Art. 5. The payment institution shall be a legal person, established in a Member State, which has received from the competent body of the Member State of origin license for provision and performing payment services under Art. 4, p. 1 - 7 in the European Union.

Competent body

Art. 6. The BNB shall issue a license for performing activity as a payment institution, where the central office of the applicant is in the Republic of Bulgaria.

Prohibition for performing activity without a license

Art. 7. (1) A person, who intends to provide payment services under Art. 4, p. 1 - 7 as a payment institution, must receive a license for performing an activity as a payment institution before starting to provide payment services.

(2) The payment institutions shall have the right to provide only the payment services, included in their license.

Initial capital

Art. 8. At the moment of receiving a license, the payment institution must have initial capital, including one or more of the elements, indicated in Art. 26, Para. 1, letters "a" - "e" of Regulation (EU) N 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ, L 176/1 of 27

June 2013), called hereinafter "Regulation (EU) N 575/2013", in the amount not smaller than:

1. BGN 40 000 – where the payment institution provides only payment services under Art. 4, p. 6;
2. BGN 100 000 – where the payment institution provides only payment services under Art. 4, p. 7;
3. BGN 250 000 – where the payment institution provides some of the payment services under Art. 4, p. 1-5;

Own capital

Art. 9. (1) At any time of the performing the activity, the payment institution – with the exception of a payment institution, which offers only the payment services under Art. 4, p. 7, shall be obliged to have own capital in the amount, not smaller than the sum of the following elements, multiplied by coefficient "k", where the payment volume (PV) shall represent 1/12th part of the total sum of the payment operations, performed by the payment institution during the previous year:

1. 4% of the part of PV to BGN 10 million,
plus
2. 2,5% of the part of PV above BGN 10 million and up to BGN 20 million,
plus
3. 1% of the part of PV above BGN 20 million and up to BGN 200 million,
plus
4. 0,5% of the part of PV above BGN 200 million and up to BGN 500 million,
plus
5. 0,25% of the part of PV above BGN 500 million.

(2) The coefficient "k", which is used in defining the amount of the own capital under Para. 1 shall be:

1. 0,5 – where the payment institution provides only the payment service under Art. 4, p. 6;
2. 1 – where the payment institution provides some of the payment services under Art. 4, p. 1 - 5.

(3) The own capital of the payment institution, which provides payment services under Art. 4, p. 1 - 6, shall not fall under the larger of the values under Para. 1 or Art. 8 or p. 1 or 3.

(4) The own capital of a payment institution, which provides only payment services under Art. 4, p. 7, shall not fall under the value of Art. 8, p. 2.

(5) On the basis of an assessment of the processes of risk management, on the basis of data for the risks of losses and of the mechanisms for internal control of the payment institution, BNB may require from the payment institution to have own capital, which should be up to 20% of the sum, which is obtained in defining the amount under Para. 1, or allow the payment institution to have own capital, which is with up to 20% smaller than the sum, which is obtained in defining the amount under Para. 1.

(6) The payment institution, which provides payment services under Art. 4, p. 1 - 6, shall draw up and present to BNB statements about the amount of the own capital.

(7) The BNB shall issue an ordinance on the implementation of Art. 8 and of this Article.

Conditions for issuing a license

Art. 10. (1) A company, which wishes to receive a license for performing an activity as a payment institution, shall submit to BNB a written application.

(2) The documents, needed for issuing a license for a payment institution, shall be determined by a BNB ordinance.

(3) With submission of an application of issuing a license, the applicant shall produce before BNB a written declaration, that the submitted in the application information and the attached to the application documents are updated, complete and reliable.

(4) For issuing a license for a payment institution, the following conditions are to be executed at the same time:

1. it should be registered, or is in a process of establishment as a limited liability company or as a shareholding company;

2. the required under Art. 8 capital should be deposited, corresponding to the types payment services, which the applicant intends to perform;

3. the origin of the deposited capital in the company or the funds, with which assets have been acquired in their transfer should be transparent and legal;

4. the entered in the trade register central office and management address should coincide with the place, where the management of the applicant is really performed; the applicant must realize really at least a part of his activity, related to payment services in the Republic of Bulgaria;

5. the activity of the applicant, including the way of provision of the provided by the applicant payment services, to be clearly, in details and exhaustively defined;

6. to apply reliable rules and procedures for management of the activity, related to provision of payment services, which include:

a) a clear organizational structure, including planned use of representatives and branches, checks, which the applicant intends to perform in relation to them at least once a year, the conditions for assigning activities to subcontractor and the interrelation of the applicant with payment systems;

b) clearly defined, transparent and comprehensive responsibility rules;

c) effective procedures for establishment, management, control and reporting of the risks, to which the payment institution is exposed, or may be exposed;

d) suitable management framework and mechanisms for internal control, including reliable and effective administrative and accounting procedures;

e) reliable programme for the measures against money laundering, including mechanisms for internal control, established by the applicant for implementing the obligations on Measures against Money Laundering Act and the Measures against Financing Terrorism Act;

f) procedure for monitoring, processing and tracing the related to security incidents and complaints of clients, providing also a mechanism of reporting of incidents, under Art. 99;

g) a procedure for recording monitoring tracing and restricting of the access to sensitive data for the payments;

h) measures for provision of continuity of the activity, including a clear description of the most important processes, effective plans for extraordinary situations and procedure for regular tests and review of adequacy and effectiveness of these plans;

i) principles and definitions in collection of statistical data about the results from the activity, the payment operations and frauds in relation to the provided payment services;

j) security rules, which protect the users of payment services against found risks, frauds or illegal use of sensitive and personal data;

7. the business plan and prognosis budget for the first 3 years of the activity should show, that the applicant is able to use appropriate and adequate systems, resources and procedures, needed for the due performing an activity as a payment institution;

8. to apply reliable and appropriate measures for protection of the funds of users of payment services, as well as of the used payment instruments, if he provides payment services under Art. 4, p. 1 - 6;

9. managing and representing the applicant and members of his management and supervision bodies, including representatives of legal persons, shall be persons, who hold qualification, professional experience, reliability and applicability, for which requirements have been established by a BNB ordinance;

10. the persons, who directly or indirectly possess qualified share participation in the meaning of Art. 4, Para. 1, p. 36 of Regulation (EU) N 575/2013 in the capital of the applicant, have proved their reliability in view to the need of guaranteeing a stable and sensible management of the payment institution; the estimation shall be performed on the basis of the criteria under Art. 14, Para. 5, p. 1 - 3;

11. it has not been established that present close relations in the meaning of Art. 4, Para. 1, p. 38 of Regulation (EU) N 575/2013 between the applicant and other persons may affect the effective exercising of supervision;

12. upon estimation of BNB, the requirements or difficulties in applying some normative or

administrative acts of a third state, regulating the activity of one or more natural or legal persons, with whom the applicant has close relations, will not affect the effective exercising of the supervision functions of BNB;

13. to have an auditors company, which is a register auditor under the Independent Financial Audit Act.

(5) The rules under Para. 4, p. 6 must be comprehensive and complying with the nature, scale and complexity of the provided payment services by the payment institution.

(6) For issuing a license for performing payment services under Art. 4, p. 7, the applicant must have insurance "Professional responsibility" or other comparable guaranty for his responsibility, covering the territory of every state, on which he will offer payment services. The insurance must cover the responsibility of the payment service provider on initiation of payment under Art. 79, 91, 92, Art. 93, Para. 1, Art. 94 and 95.

(7) In case that the applicant wishes to provide payment services under Art. 4, p. 8 in addition to the payment services, for which he has submitted an application under Para. 1, the applicant must meet the requirements of Art. 18, Para. 2.

Examination of an application for issuing a license

Art. 11. (1) Within the term of 3 months from receiving the application under Art. 10, Para. 1 BNB shall conduct a compliance study of the produced documents with of the conditions for issuing a license and for the possibilities of the applicant to fulfill the requirements for performing the activity, for which he wishes to be licensed and shall take decision for issuing a license or refusal for issuing the license. Where needed, BNB may consult with other competent bodies.

(2) Where in conducting the study under Para. 1, BNB finds that the application is incomplete, BNB shall require from the applicant to produce within a term, not longer than 2 months, the deeded documents and information.

(3) Within the term of up to 3 months from receiving the documents and information under Para. 2, BNB shall take decision for issuing a license, or for refusal of issuing the license.

Issuing a license

Art. 12. (1) The BNB shall issue a license for performing an activity as a payment institution, where the applicant has produced all the required data and documents in compliance with the requirements of this act and the legislative acts on its implementation and if upon BNB estimation, the applicant meets the conditions for issuing a license.

(2) The license under Para. 1 shall be produced for an unlimited term and shall not be transferred to another person, as well as shall not be subject to succession.

(3) The Registry Agency shall enter the subject of activity the provision of payment services, for which the payment institution has been licensed, after it has been provided by the license, issued by BNB.

(4) The payment institution must meet the conditions under Art. 8 - 10 during the whole period of action of the issued license.

Changes after issuing a license

Art. 13. (1) After receiving a license, the payment institution shall immediately notify BNB about every change in the information and documents, produced in relation to issuing the license.

(2) Where a payment institution intends to provide other payment services, apart from those, for which the license has been issued, it shall submit an application for supplementation of the license, where Art. 10 – 12 shall apply correspondingly.

Control over participation in the capital

Art. 14. (1) A natural or legal person shall not be able without preliminary approval by BNB to acquire or increase – directly or indirectly – assets/company shares or rights of a vote on assets/company shares in a payment institution, license by BNB, if as a result of the acquiring his participation becomes

qualifies in the meaning of Art 4, Para 1, p. 36 of Regulation (EU) N 575/2013 of the capital, or if this participation reaches or exceeds the thresholds of 20, 30 or 50% of the assets/company shares, or right to vote on the assets/company shares, as well as where the payment institution becomes a subsidiary company.

(2) In order to receive approval, every person under Para. 1 shall notify BNB through a written application about its decision for acquisition and shall apply the needed documents, determined by an ordinance of BNB.

(3) The BNB shall perform an assessment on the basis of the documents and information, provided by the applicant, as well as on the basis of other information and documents, which it has at disposal.

(4) BNB shall examine the application for approval under Para. 2 within the term of up to 2 months, considered for its submission. Where it is needed for performing the assessment, BNB may submit a written request for provision of additional information, by defining term, not longer than 2 months, where for the period between the date of requiring the information and the date of its receiving, the term under sentence one shall stop to run.

(5) Approval shall be issued, while accounting its potential impact on the applicant over the payment institution in view to guaranteeing its future stable and reasonable management and if the estimation shows, that the applicant is suitable and possesses the needed financial stability. The estimation shall be performed under the following criteria:

1. reputation of the applicant;

2. qualification, professional experience and reliability, as well as suitability of the members of the management and supervision bodies of the applicant, for whose requirements shall be determined by an ordinance of BNB;

3. the financial stability of the applicant in view to the concrete specifics of the activity, which the payment institution performs or is to perform;

4. absence of reasonable grounds for suspicion, that in relation with the applied acquisition there has been carried out, or there has been an attempt for carrying out money laundering or financing terrorism, or that the realization of the applied acquisition would raise the risk of that.

(6) The BNB shall refuse issuing of approval, if it finds, that the applied acquisition fails to meet some of the criteria under Para. 5 or that the information, provided by the applicant is incomplete, in spite of the procedure under Para. 4.

(7) The BNB shall rule on the application in the term for performing the estimation with a grounded written act. The issued approval or refusal shall be communicated to the applicant.

(8) The BNB may set a term for realization of the acquisition, after whose expiry, the approval shall be void.

(9) The transactions, decision and actions, performed without the approval under Para. 1 shall be void.

(10) A natural or legal person, who intends to transfer directly, or indirectly his qualified share participation in a payment institution, licensed by BNB, or to decrease his qualified share participation, so that the assets/shares or rights to vote on the assets/shares to fall under 20%, 30% or 50% of the capital, or in such a way, that the payment institution would stop to be his subsidiary company, shall notify BNB in the term not later than 10 days before occurrence of the relevant circumstance about the size of the share participation, which he possessed before the transfer, and about the size of the share participation, which he will possess after the transfer.

(11) The payment institutions, licensed in the Republic of Bulgaria, shall notify BNB within 7 day term from learning about every acquisition or transfer of assets/shares of their capital, as a result of which the share participation of the shareholders exceed or fall under one of the thresholds, indicated in Para. 1.

Refusal for issuing a license

Art. 15. (1) The BNB shall refuse using license for performing an activity as a payment institution, where:

1. it finds, that the applicant fails to meet some of the conditions of Art. 10;
2. the applicant has not produced the needed information and documents or the produced documents contain incomplete, contradicting or untrue information.

(2) In case of refusal, the applicant may submit a new application for issuing a license for performing activity as a payment institution not earlier than 6 months from the enforcement of the refusal.

Withdrawal of a license

Art. 16. (1) The BNB may withdraw the issued license for performing activity as payment institution, where:

1. the payment institution fails to start performing the authorization activity in the term of 12 months from the date of issuing the license;
2. the payment institution has terminated its activity for more than 6 months;
3. serious violations have been found in the activity of the payment institution;
4. the license has been issued on the basis of untrue information and documents;
5. the payment institution does not any longer meet the conditions for issuing the license;
6. the payment institution does not have sufficient own capital or it cannot be considered, that it will continue to fulfill its obligations to the creditors;
7. upon a BNB estimation, the payment institution would be able to threaten the stability of the payment system, in which it participates, in case it continues its activity.

(2) BNB shall undertake suitable measures for notification of the public for withdrawal of the license.

(3) Within the term of up to 7 days after withdrawal of the license of the payment institution, BNB shall extend a request to the Registry Agency for deletion of this activity from the subject of activity of the relevant trader in the trade register.

(4) The BNB shall notify EBA about the grounds for every decision for withdrawal of a license for performing activity as payment institution.

(5) Within the term of one month from the withdrawal, or from making the license void, the payment institution shall produce to BNB reports under Art. 155. The reports shall contain information about the activity of the payment institution from the end of the last reported period to the withdrawal, or from making the issued license for performing an activity as payment institution, void.

(6) Within the term of 1 month from withdrawal of the license, the payment institution shall provide complete and timely fulfillment of the receivables to its clients, occurred in relation to the performed activity on provision of payment services.

Termination of the activity

Art. 17. (1) The payment institution shall notify BNB at least 2 months in advance about a forthcoming decision for termination of its activity on provision payment services.

(2) With its notification under Para. 1, the payment institution, which wishes to terminate its activity on provision of payment services, shall certify before BNB, that it has:

1. created the needed organization and plan for termination of its activity, without affecting the interests of the users of payment services;
2. provided complete and timely fulfillment of the obligations of the payment operations, performed through the payment institution.

(3) The plan for termination of the activity under Para. 2, p. 1, shall contain at least information about the terms and conditions for termination of signing contracts for provision of payment services and for fulfillment of already accepted payment orders, information about the terms and conditions for termination of the relations with representatives, sub-contractors and interaction with other providers of payment services and/or payment systems, as well as information about the terms and conditions for termination of signed contracts with users of payment services. The payment institution shall coordinate with BNB the plan for termination of the activity.

(4) With giving consent by BNB for termination of the activity, the license of the payment institution shall be considered void, where Art. 16, Para. 2 - 6 shall apply correspondingly.

Provider of services on provision of information about an account

Art. 18. (1) A company, which wishes to provide payment services under Art. 4, p. 8, shall submit to BNB a written application for entry in the public register under Art. 19.

(2) In order to be entered in the register under Art. 19, the applicant must meet the following requirements;

1. he should have insurance "Professional responsibility" or another comparable guaranty for his responsibility, covering the territory of every state, on which he will offer the payment services under Art. 4, p. 8; the insurance must cover the responsibility of the provider of payment services on provision of information about an account, comprising from unauthorized access to the payment account, or access to it with the purpose of a fraud, or unauthorized use of information about the payment account or using information about the payment account with the purpose of a fraud;

2. the activity of the applicant, including the way of provision of payment services, should be clearly, in details and exhaustively defined;

3. the business plan and the prognosis budget for the first 3 years of the activity should show, that the applicant is capable to use appropriate and adequate systems, resources and procedures, needed for the due performing an activity as provider of services on provision of information about an account;

4. he should apply reliable rules and procedures for management of the activity, related to provision of payment services under Art. 4, p. 8, which shall include:

a) clear organizational structure;

b) suitable management framework and mechanisms for internal control, including reliable and effective administrative and accounting procedures;

c) observation procedure, processing and tracing of the related with security incidents and complaints of clients, providing mechanism of reporting of incidents, under Art. 99;

d) procedure for recording, monitoring, tracing and limiting of the access to sensitive data about the payments;

e) measures for provision of continuity of activity, including clear description of the most important processes, the effective plans for exceptional situations and procedure for regular tests and review of the adequacy and effectiveness of these plans;

f) security rules, which protect users of payment services against the established risks, frauds or illegal use of sensitive and personal data;

5. the managing and representing the applicant and members of his management and supervision bodies, including as representatives of legal persons shall be persons, holding qualification, professional experience, reliability and suitability.

(3) Within the terms under Art. 11 BNB shall consider the application under Para. 1 and shall take decision for entry or shall refuse entry in the public register under Art. 19.

(4) BNB shall refuse entry in the register, where:

1. it considers, that the applicant fails to meet the requirements for entry;

2. the applicant has not produced the needed information and documents or the produced documents contain incomplete, contradicting or untrue information.

(5) BNB shall delete from the register a person, if it finds that:

1. he has stopped meeting the requirements of this Art.;

2. the entry has been made on the basis of untrue information or untrue data;

3. he does not fulfill his obligations under this act or the instruments on its implementation, or other normatively established requirements for realization of the activity;

4. the person has terminated his activity for more than 6 months.

(6) Provider of services on provision of information about an account may declare in writing before

BNB, that he wishes to terminate the performing the activity on provision of information about an account, by notifying BNB at least 1 month before the decision about this.

(7) In the cases under Para. 6, BNB shall delete the provider from the register, starting from the date, on which he terminates his activity, indicated in the notification.

(8) The BNB shall undertake suitable measures for notification of the public about the deletion under Para. 5 and 6.

(9) Para. 1 – 8 shall also apply correspondingly to a payment institution, which wishes to provide payment services under Art. 4, p. 8.

Register

Art. 19. (1) The BNB shall keep a public register of:

1. the licensed by it payment institutions, of their branches and representatives;
2. the licensed by it companies for electronic money and their branches and representatives;
3. providers of services of provision information about an account;
4. providers of services under Art. 2, Para. 3 and 4.

(2) The register shall contain the following data about the payment institution, ore about the company for electronic money;

1. the number of the license, issued by BNB;
2. the UIC;
3. the name, central office and management address;
4. the services, for which the license has been issued to the payment institution;
5. the branches of the payment institution, or of the company for electronic money in the country and in other Member States with their addresses and indication of the persons, who manage and represent them;

6. the representatives of the payment institution, or the company for electronic money in the country and in other Member States with indication of the UIC, central office and management address – for legal persons and for the natural persons – the names in the identity document;

7. withdrawal of the issued license or termination of the activity of the payment institution, or of the company for electronic money.

(3) The register shall contain the following data about the service provider of provision of information about an account:

1. the number of the order for entry in the register;
2. the UIC;
3. the name, central office and management address;
4. the deletion from the register.

(4) The register shall contain the following data about the service providers under Art. 2, Para. 3 and 4:

1. the number of the order for entry in the register;
2. the UIC;
3. the name, central office and management address;
4. description of the relevant activities, about which a notification has been received under Art. 2, Para. 3 and 4.

(5) The register under Para. 1 shall be publicly accessible in electronic mode and shall be regularly updated.

(6) The BNB shall issue an ordinance on the implementation of Art. 18 and of this Art..

Section II.

Activities, related to provision of payment services

Additional activities

Art. 20. (1) Apart from the indicated in Art. 4 payment services, the payment institutions may also perform the following activities:

1. provision of operative and closely related to the payment services assisting services, like: provision of implementation of payment operations, exchange of currency, storage of documents, related to the payment services, storage and processing of data;

2. performing activity as a payment system operator with the exception of payment systems, providing settlement finality in the meaning of Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems, amended by Directive 2009/44/EU of the European Parliament and of the Council of 6 May 2009 (OJ, L 146/37 of 10 June 2009);

3. other trade activity while observing the normative requirements for its performing.

(2) The payment institution, which intends to perform some of the activities under Para. 1, shall notify BNB in writing about this before starting performing the relevant activity, by producing information about the way of its performing.

(3) Where a payment institution performs apart from the payment services, indicated in Art. 4, also another trade activity, BNB shall have the right to require separation in an independent company of the activity of provision of payment services, if upon consideration of BNB the other trade activity affects or may affect the financial stability of the payment institution or the possibility of BNB as supervision body to monitor for implementation of the requirements of this act.

(4) Where a service provider of provision of information about an account performs apart from the payment services under Art. 4, p. 8 also another trade activity, which affects or may affect the possibility of BNB as supervision body to monitor for the implementation of the requirements under this act, Para. 3 shall apply.

Granting credits

Art. 21. (1) The payment institutions may grant credits, related to the payment services under Art. 4, p. 4 or 5, if the following conditions have been executed at the same time:

1. the credit is of ancillary nature and shall be granted only in relation to fulfillment of certain payment operation;

2. the term of payment of the credit, granted in relation to a payment operation, shall not exceed 12 months;

3. the funds, of which the credit is granted, have not been received and are not held by the payment institution in view to fulfillment of a payment operation;

4. the own capital of the payment institution at any time, upon consideration of BNB is sufficient in view to the size of the granted credit.

(2) A payment institution, which intends to grant credits under Para. 1, shall notify in writing BNB about this, before starting to grant credits, by providing information about the way this activity is performed.

(3) Where it finds, that some of the conditions under Para. 1 is not present, BNB may prohibit the granting of credits by the payment institution till removal of the violation.

(4) While granting credits to users, the Consumer Loans Act shall apply.

Section III.

Requirements to the activity of the payment institutions

Payment accounts at payment institutions

Art. 22. (1) The payment institutions may maintain payment accounts only for performing payment operations.

(2) The payment institutions may receive funds from users of payment services only in view to provision of payment services.

(3) The received funds by the payment institutions from users of payment services in view to

provision of payment services shall not be receiving deposit or other recoverable funds in the meaning of the Credit Institutions Act, as well as electronic money in the meaning of Art. 34, Para. 1.

(4) Over the funds of the payment accounts in payment institutions shall be negotiated interest in favor of the user of payment services.

Security measures

Art. 23. (1) The payment institutions shall not mix and account separately on a security account the funds, received from users of payment services or through another provider of payment services for fulfillment of payment operations, with the funds of a person, who is not a user of payment services, or with their own funds.

(2) Security account shall be a separate account in a bank, licensed in an EU Member State, on which the payment institutions deposit funds, received from users of payment services or through another provider of payment services for fulfillment of payment operations, which have not been transferred to the receiver yet, or to another provider of payment services by the end of the working day, following the day on which the funds have been received. Over the funds, no security may be imposed on security accounts and compulsory fulfillment performed for obligations of a payment institution to persons, other than users of payment services.

(3) With opening of an insolvency procedure for a payment institution, the funds, received from the users of payment services or through another provider of payment services for fulfillment of payment operations, shall not be included in the mass of the insolvency, but shall be returned by the syndic in proportion to the received funds by the users of payment services.

(4) Where a part of the received funds by the payment institution funds are intended for performing future payment operations, and the remaining of them – for non-payment services, the payment institution shall apply the measures under Para. 1 and 2 for the funds, intended for performing future payment operations.

Accounting accountability

Art. 24. (1) The payment institutions shall present to BNB financial statements, which reflect their financial conditions separately, as well as on a consolidated basis.

(2) The BNB shall issue an ordinance on the implementation of Para. 1.

(3) Providers of payment services shall store for at least 5 years the whole accounting and other information and documentation about the provided by them payment services, including the signed contracts and the performed additional activities, unless an act provides a longer term.

Auditors

Art. 25. (1) The annual financial statements of the payment institutions shall be subject to an independent financial audit by an audit company, which shall be a registered auditor pursuant to the Independent Financial Audit Act and who holds experience, related to at least one conducted and finalized commitment of an undertaking of public interest under § 1, p. 22, letters "a" - "g" of the Additional Provision of the Accountancy Act.

(2) In its report the auditor shall give conclusion about the reliable presentation of the property and the financial condition of the payment institution and the received financial result.

(3) The auditor shall carry out a review and shall express opinion also on the reliability of the internal control systems of the payment institution.

(4) Persons, who have material interests in the payment institution, other than those of users of payment services or are employees or representatives of the payment institution, shall not be elected for its auditors or participate in the audit of this institution.

(5) The payment institution shall elect the auditor under Para. 1 for the term under the requirements of the Independent Financial Audit Act. With the election, the auditor shall produce a declaration, with which he shall certify the fulfillment of the requirements of Para. 1.

(6) The auditor's company, to which during the last 3 years sanctions have been imposed under Art. 110, Para. 1 of the Independent Financial Audit Act, shall not be auditor of a payment institution.

Obligations of the auditors

Art. 26. (1) The auditors shall inform immediately in writing BNB about all the circumstances, which have become known to them during the check and which:

1. are violation of the acts, legislation normative acts and the BNB acts, which regulate the activity of the payment institution;
2. affect, or may lead to affecting the normal functioning of the payment institution;
3. lead, or would lead to a situation, in which the payment institution will not be able to fulfill its money obligations;
4. are grounds for refusal of the auditor to express the auditor's opinion, for expression of negative or qualified auditor's opinion;
5. are related to actions of an administrator of a payment institution in the meaning of § 1, Para. 1, p. 1 of the Additional Provisions of the Credit Institutions Act, which cause or may cause substantial damage to the payment institution or its clients;
6. are connected to untrue or incomplete data in the statements and reports, which the payment institution regularly presents to BNB.

(2) The auditors of the payment institution shall be obliged after a written request by BNB to produce to it the relevant documentation about the circumstances under Para. 1, as well as other information and documents, acquired during the audit.

(3) The auditors shall not bear responsibility for violation of the relevant legal or contractual conditions for keeping confidentiality in the cases, where under this act they have provided information to BNB in good faith.

Access of the payment institutions to accounts in banks

Art. 27. Banks and branches of banks, performing activity on the territory of the country, shall open and maintain payment accounts of the payment institutions in an ordinary, non-discriminatory and proportional way, which shall not stop the possibility of the payment institutions to provide payment services. In every case of refusal, the bank shall present to BNB a grounded opinion.

Section IV.

Representatives and subcontractors of the payment institution

Representatives

Art. 28. (1) The payment institution may perform the activity, for which it has been licensed directly or through a representative.

(2) Representative shall be a trader, who carries out an activity on behalf of a licensed by BNB payment institution on provision of payment services.

(3) The payment institution shall submit an application to BNB for entry in the register under Art. 19 its representatives with the needed documents.

(4) Within the term of 2 months from receiving the application or if the application is incomplete – after receiving the needed documents and information, BNB shall enter or refuse to enter the representative, where it shall notify the payment institution about this fact.

(5) The representatives shall not be able to start an activity before their entry in the register.

(6) The BNB shall issue an ordinance on the implementation of this Art..

Entry and deletion of representatives

Art. 29. (1) After checking the produced information and documents by the payment institution, BNB shall enter the representative in the register under Art. 19.

(2) BNB may undertake additional actions for checkup of the information, presented in the

documents under Art. 28, Para. 3, in case that this information is incorrect.

(3) BNB shall refuse the entry of the representative, if it finds, that the presented documents:

1. contain incorrect or untrue information, or
2. do not comply with the requirements of this act and of the legislative acts on its implementation.

(4) BNB shall delete from the register the representative, if it stops to meet the requirements of this act and the legislative acts on its implementation, as well as if it finds, that the entry has been made on the basis of untrue information or documents.

(5) The BNB shall delete from the register a representative on the basis of a written application, submitted by the payment institution at least 7 days before the date of termination of performing the activity.

(6) The payment institution shall notify BNB immediately about every change in the information and documents, presented in relation to entry of a representative.

Responsibility of the payment institution

Art. 30. (1) The payment institution shall bear responsibility about the actions of its employees, branches, representatives or subcontractors.

(2) The representatives or branches of the payment institution shall inform users of payment services that they act on behalf of the payment institution.

(3) In case of deletion of the representative from the register, the documents and funds in relation to the un-paid obligations and unfinished relations on provision of payment services, or activities, related to provision of such services, shall be provided to the payment institution.

Requirements while using subcontractor

Art. 31. (1) Where the payment institution intends to assign to subcontractor realization of operative functions, related to payment services, it shall notify BNB about this, where it shall present information and documents about subcontractor (name, central office and management address, and UIC, and for foreign persons – the IC, or Tax N, issued by the relevant body of the Member State, in which the subcontractor is established), as well as detailed description of the services, which the payment institution intends to assign to him.

(2) Assigning important operative functions to subcontractor, including functions, related to information systems, shall not be performed in a way, which at the same time decreases the quality of the internal control of the payment institution, or the possibility BNB to monitor the implementation of the requirements of this act.

(3) Important operative functions shall be those, in which a deficiency or omission in their implementation would lead to substantial violation of the requirements of this act, the financial indicators, reliability and/or continuity in provision of payment services by the payment institution.

(4) While assigning important operative functions to the subcontractor, the following requirements shall be observed:

1. the assignment should not lead to transfer of functions, related to management of the payment institution to third persons;
2. the assignment should not lead to change of the rights and obligations of the payment institution to the users of the provided by it payment services;
3. the conditions, in which the license has been issued to the payment institution should not be violated or changed, also the requirements to its activity.

(5) The payment institution shall undertake the needed measures, in order to provide observation of the requirements of this act by the persons, to whom operative functions have been assigned.

(6) The payment institutions shall notify BNB immediately about every change in the information and documents, presented in relation to using subcontractors.

Section V.

Right to establishment and freedom to provide services

Performing activity on the territory of another Member State by a payment institution, licensed in the Republic of Bulgaria

Art. 32. (1) A payment institution in the Republic of Bulgaria may perform payment services, included in its license on the territory of another Member State through a branch, representative, or directly, after notifying BNB in writing about its intention to perform activity on the territory of another Member State.

(2) With the notification under Para. 1, the payment institution shall inform BNB about:

1. the Member State, on whose territory intends to perform activity;
2. the way, in which the payment institution will perform activity – through a branch, representative or directly;
3. the type of payment services, which will be provided on the territory of the other Member State.

(3) Where the payment institution intends to provide payment services through a branch or representative, apart from the information under Para. 2, it shall provide documents and information to BNB about every branch or representative, determined by an ordinance of BNB.

(4) Within the term of up to 1 month from receiving the notification under Para. 1 of the documents under Para. 3 - where applicable – BNB shall send them to the competent bodies of the hosting state.

(5) With receiving notification by the competent body of the hosting state, containing assessment of the received information, including about suspicion about money laundering or financing terrorism in relation to intended provision of payment services through a representative or branch, BNB shall get acquainted with the assessment of the competent body. In case that BNB does not accept the assessment, it shall notify the relevant competent body about the grounds of its decision.

(6) BNB may refuse entry of the representative or the branch after an assessment of the document under Para. 3 and the information, contained in the notifications under Para. 1 and 5.

(7) Within the term of 3 months from receiving the notification under Para. 1 and - where applicable – of the documents under Para. 3, BNB shall announce its decision to the competent bodies of the hosting state and to the payment institution.

(8) The payment institution shall notify BNB about the date, from which it will perform activity through a representative or a branch. BNB shall notify about this the competent bodies of the hosting state.

(9) The representative or the branch may start performing the activity in the hosting state after they are entered by BNB in the register under Art. 19.

(10) The BNB shall delete already entered representative or a branch, where the entry has been performed on the basis of untrue information and documents, where serious violations have been found in the activity of the representative or the branch, as well as where the payment institution declares in writing before BNB, that it wishes to terminate performing the activity through the relevant representative or branch. BNB may delete already entered representative or branch after an assessment of the information, contained in the notification under Para. 5.

(11) The payment institutions shall notify BNB immediately about all changes, occurred in relation to the information under Para. 2 and – where applicable – to the documents under Para. 3.

(12) In relation to realization of its supervision powers, BNB shall cooperate with the competent bodies of the hosting state, where a payment institution, licensed in the Republic of Bulgaria realizes activity through a branch, representative or directly on the territory of this Member State.

(13) BNB shall exchange with the competent bodies of the hosting Member State information and documents, needed or realization of supervision, including information about violations and suspected violations by a branch, representative or subcontractor of a licensed in the Republic of Bulgaria payment institution, as well as any other substantial information, requested by the competent bodies of the hosting state or provided to them upon initiative of BNB.

(14) BNB may perform checks on site of a licensed by it payment institution, realizing activity on

the territory of another Member State, after having notified in advance the relevant competent bodies of this Member State. BNB may delegate to the competent bodies of the hosting state to perform checks on site over the activity of a licensed by BNB payment institution, performing activity on the territory of this Member State.

(15) Where BNB is referred by a competent body of the hosting state, that a payment institution, licensed by BNB, performing activity through a representative of branch on its territory, violates the national legislation of the hosting state, transposing Titles II, III and IV of Directive (EU) 2015/2366 (OJ, L 337/35 of 23 December, 2015), called hereinafter "Directive (EU) 2015/2366", and considers, that the signal is grounded, shall take the needed measures for termination of the violation on behalf of the relevant payment institution. The BNB shall timely notify the competent body of the hosting state and where applicable – the competent bodies of other interested Member State about the measures undertaken.

(16) Service provided of provision of information about an account, registered by BNB, may perform activity on the territory of another Member State under this Art..

Performing activity on the territory of the Republic of Bulgaria by a payment institution, licensed in another Member State

Art. 33. (1) With receiving a notification by a competent body of a Member State about an intention of a payment institution to perform activity on the territory of the Republic of Bulgaria through a branch, representative or directly, BNB shall perform assessment of the presented with the notification documents and information, including where there is grounded suspicion, that this payment institution will use the branch or the representative on the territory of the Republic of Bulgaria with the purpose of money laundering or financing terrorism. Within one-month term from receiving the notification, BNB shall send the result of the performed assessment to the competent body of the state of origin.

(2) A payment institution, licensed in another Member State, may perform on the territory of the Republic of Bulgaria the included in its license payment services through a branch, representative or directly, after BNB is notified by the competent body, having issued the license, about his decision to enter the relevant branch or representative in his register, as well as about the date, from which the relevant branch, or representative intends to begin to perform activity. The representative or the branch may begin performing activity on the territory of the Republic of Bulgaria, after being entered in the register of the sending Member State.

(3) BNB shall cooperate with the competent bodies of the sending Member State, where a licensed by them payment institution performs activity through a branch, representative or directly on the territory of the Republic of Bulgaria.

(4) BNB shall exchange with the competent bodies of the sending Member State information and documents, needed for the performance of supervision of the licensed by them payment institution, including information about violations or suspected violations by a branch, representative or subcontractor of such an institution, as well as any other information, requested by the competent bodies of the sending Member State, or produced to them upon an initiative of BNB.

(5) The competent bodies of a Member State of origin may – after preliminary notification about this to BNB – perform a check on site of the licensed by them payment institution, performing activity on the territory of the Republic of Bulgaria. The BNB may – in delegation of the competent bodies of the sending Member State – perform a check on site in a payment institution, licensed in another Member State and performing activity on the territory of the Republic of Bulgaria.

(6) BNB may require the payment institutions, which provide payment services on the territory of the Republic of Bulgaria through a representative or a branch, produce information about their activity for the needs of the payment supervision and for statistical purposes.

(7) Payment institutions, which perform activity on the territory of the Republic of Bulgaria through a representative, shall establish in the cases and under the conditions, defined by a BNB ordinance, a central contact unit. BNB may request from the central contact unit information about the activity of the

payment institution through a representative on the territory of the Republic of Bulgaria for the needs of the payment supervision and for statistical purposes.

(8) BNB shall notify the competent bodies of the sending Member State, where a payment institution, performing activity on the territory of the Republic of Bulgaria through a branch or representative, violates some of the provision of Chapters Two, Four or Five of this act.

(9) In case that a branch or representative of a payment institution, licensed in another Member State, violates some of the provision of Chapter Four or Five of this act, BNB shall take the needed measures for termination of the violation by the relevant branch or representative.

(10) In extraordinary situations, where immediate actions are needed for overcoming serious threat of the interests of users of payment services in the Republic of Bulgaria, BNB may undertake supervision measures under Art. 169 and Art. 170, Para. 1, p. 2 - 4 to a payment institution, performing activity on the territory of the Republic of Bulgaria. The supervision measures must be appropriate and proportional and should not lead to advantage for the users of payment services in the Republic of Bulgaria to the other users of payment services of the same payment institution in other Member States.

(11) The action of the supervision measures under Para. 10 shall be terminated, where actions are undertaken by the payment institution for overcoming the found serious threats, including with the assistance of the competent body of the sending Member State, of EBA or in cooperation with them.

(12) The BNB shall notify, where possible in advance, the competent body of the sending Member State, the competent bodies of other affected Member State, EBA and the European Commission about imposing supervision measures under Para. 10, as well as about the grounds for that.

(13) A service provider of provision of information about an account, registered in another Member State, may perform activity on the territory of the Republic of Bulgaria under this Art..

Chapter three. ELECTRONIC MONEY

Section I. General provisions

Electronic money and issuers of electronic money

Art. 34. (1) Electronic money shall be money value, stored in an electronic, including magnet form, which represents receivable to the issuer, it is issued in receiving funds with the purpose of performing payment operations and shall be accepted by a natural or legal person, other than the issuer of electronic money.

(2) Issuers of electronic money in the meaning of this act shall be:

1. banks in the meaning of Art. 2 of the Credit Institutions Act;
2. companies for electronic money, received license in the meaning of this act;
3. The European Central Bank and the national central banks of the Member States, where they do not act in their capacity of bodies of the money policy or of bodies, realizing public legal functions.

(3) persons, who are not issuers of electronic money, shall not have the right to issue electronic money with the exception of the cases under Para. 5.

(4) Electronic money, to which the issuer has provided distance access in view to fulfillment of payment operations, shall be stored in an account for electronic money. The electronic money account shall be a payment account, in which electronic money are kept.

(5) The provision of this Chapter shall not apply to:

1. money value, stored in the instruments, indicated in Art. 2, Para. 1, p. 11;
2. money value, which is used for performing payment operations, indicated in Art. 2, Para. 1, p.

12.

Issuing and back buying

Art. 35. (1) Issuers of electronic money shall issue electronic money on a nominal value in receiving funds.

(2) Issuers of electronic money shall back buy at any time and in nominal value the money value of the kept electronic money.

(3) In the contract between the issuer and holder of electronic money, the conditions for back buying shall be indicated clearly and unambiguously, including all related to these fees, and to issuing electronic money, to which distance access is provided through a prepaid card, and the conditions for using the card by the users of payment services, who has the right to use the payment instrument, where the holder of electronic money shall be produced with information about these conditions, before he is bound to a contract or offer.

(4) For the back buying a charge may be applied only if this is indicated in the contract, in compliance with Para. 3 and if at least of the following conditions are present:

1. where the back buying has been requested before expiry of the contract;
2. where the contract envisages an expiry date and the holder of electronic money terminates the contract before this date;
3. where the back buying has been requested for a year after the date of expiry of the contract.

(5) The charge under Para. 4 shall be proportional to the real costs, made by the issuer of electronic money.

(6) Where the back buying is requested before expiry of the contract, the holder of electronic money may request back buying of a part of the electronic money or the whole amount.

(7) Where the back buying is requested by the holder of electronic money on the date of expiry of the contract or up to one year after that, the electronic money company shall:

1. buy back the whole value of the kept electronic money, or
2. buy back all the funds, requested by the holder of electronic money, if the company for electronic money performs another activity in the meaning of Art. 42, Para. 1, p. 5 and the share of funds, intended to be used as electronic money has not been preliminary announced.

(8) Notwithstanding of the provision of Para. 5, 6 and 7, the rights of back buying by persons, other than the users, who accept payments with electronic money, shall be provided by the contract between the issuers of electronic money and the relevant persons.

Section II. Licensing

An electronic money company

Art. 36. (1) An electronic money company shall be a legal person, which has received license for issuing electronic money under this Section.

(2) Any person, who intends to issue electronic money as an electronic money company, must receive a license for performing activity as an electronic money company, before starting to issue electronic money.

Conditions for issuing, refusal for issuing, withdrawal of a license and termination of the activity

Art. 37. (1) BNB shall issue a license for performing an activity as an electronic money company, where the central office of the applicant is in the Republic of Bulgaria.

(2) To the issuing conditions, refusal for issuing, withdrawal of a license and termination of the activity, the provisions of Art. 10 - 13, Art. 15 - 17 and Art. 19, Para. 2 and 5 shall apply.

(3) The license for performing activity as a payment institution – if such has been issued to the applicant – shall become void with issuing a license for performing an activity as an electronic money company.

(4) In case, that the applicant intends to continue to provide payment services as additional activity

under Art. 42, with the application for issuance of license for performing an activity as an electronic money company shall notify BNB about this fact.

(5) The documents, needed for issuing a license for an electronic money company shall be determined by an ordinance of BNB.

Initial capital

Art. 38. At the moment of receiving the license, the electronic money company must possess initial capital, including one or more of the elements, indicated in Art. 26, Para. 1, letters "a" - "e" of Regulation (EU) N 575/2013, in the amount of not less than BGN 700 000.

Own capital

Art. 39. (1) The own capital of an electronic money company shall not fall under the larger than the values, defined under Para. 2 – 6 or under Art. 38.

(2) In relation to the activities, indicated in Art. 42, Para. 1, p. 1, which have not been related to issuing electronic money, the requirements for amount of the own capital of the electronic money company shall be calculated according to Art. 9, Para. 1 and 2.

(3) In relation to the activity of issuing electronic money, the amount of the own capital of the electronic money company must be 2% of the average value of the issued by it electronic money in circulation.

(4) Average value of the electronic money in circulation means the average value of the total amount of the financial liabilities, related to issuance of electronic money at the end of every calendar day for the previous 6 calendar months, calculated on the first calendar day of every calendar month and applied to the same calendar month.

(5) The electronic money company shall have at any time own capital, which shall not fall under the amount of the required amounts, indicated in Para. 2 and 3.

(6) On the basis of an evaluation of the processes of risk management on the basis of data for risks from losses and of the mechanisms for internal control of electronic money company, BNB may require from the electronic money company to have own capital, which exceeds up to 20% of the sum, which is received in defining the amount under Art. 9, Para. 1 and 2, or allow the electronic money company to have own capital, which is up to 20% smaller than the sum, which is obtained in defining the amount under Art. 9, Para. 1 and 2.

(7) The BNB shall issue an ordinance on the implementation of this Section.

Section III.

Requirements to the activity

Prohibition for accepting deposits and for applying interests

Art. 40. (1) The electronic money company shall not accept deposits or other recoverable funds in the meaning of the Credit Institutions Act.

(2) The received by the electronic money company funds from a holder of electronic money shall be immediately exchanged for electronic money. These funds shall not be a deposit or other recoverable funds in the meaning of the Credit Institutions Act.

(3) Issuer of electronic money may apply interests or provide any other benefits, related to the continuity of the term, for which the holder of electronic money holds the electronic money.

(4) To the accounting accountability and auditors of the electronic money company, correspondingly Art. 24, 25 and 26 shall apply.

Protection measures

Art. 41. (1) The electronic money company shall apply in relation to the funds, received in exchange of issued electronic money, the protection measures, indicated in Art. 23.

(2) The funds, received in the form of payment with a payment instrument, shall not be subject to

the protection measures under Para. 1, until they are credited to the payment account of the electronic money company or are provided at disposal in some other way to the electronic money company in compliance with the requirements for the term of implementation, indicated in Art. 87, Para. 2. In all the cases, these funds shall be subject to protection measures not later than 5 working days after issuance of the electronic money.

(3) The electronic money company shall inform BNB in advance about every substantial change in the measures, undertaken for protection of the funds, which have been received in exchange of the issued electronic money.

Additional activities

Art. 42. (1) Apart from issuing electronic money, the electronic money company shall have the right to the following activities:

1. provision of payment services under Art. 4;
2. provision of credit, related to payment services under Art. 4, p. 4 or 5, where the conditions under Art. 21 have been executed;
3. provision of operative services and of closely related ancillary services in relation to issuing electronic money or provision of payment services, indicated in p. 1;
4. performing activity as operator of a payment system with the exception of payment systems, providing finality of settlement under Directive 98/26/EC, without referring to the provision of Art. 125 and 126;
5. other activity, while observing the normative requirements for its performing.

(2) The electronic money company, which intends to perform some of the activities under Para. 1, shall notify in writing BNB about this, before starting to perform the relevant activity, and where it intends to provide payment services, shall provide information about the relevant type payment services and about the way or their performing, as well as about Professional Responsibility insurance or other comparable guaranty for the responsibility of the services under Art. 4, p. 7 and 8.

(3) The credit under Para. 1, p. 2 shall not be granted from the funds, received in exchange of electronic money and kept in compliance with Art. 40.

(4) In relation of the funds, which are received for provision of payment services under Art. 4, apart from the activity of issuing electronic money, Art. 22 and 23 shall apply correspondingly.

(5) Where the electronic money company apart from issuing electronic money and provision of payment services, also performs another trade activity, BNB shall be entitled to require separation in an independent company the activity of issuing electronic money and/or provision of payment services, if upon BNB consideration the other activity affects, or could affect the financial stability of the electronic money company or the possibility BNB as a supervision body to monitor for the implementation of the requirements of this act.

Representatives, branches and subcontractors

Art. 43. (1) An electronic money company shall not be able to issue electronic money through representatives.

(2) An electronic money company may distribute and buy back electronic money through representatives – traders, acting on its behalf.

(3) To the representatives of an electronic money company, correspondingly Art. 28, Para. 2 - 6, Art. 29 and 30, shall apply, and to the subcontractors, - Art. 30 and 31 shall apply.

(4) An electronic money company may provide through representatives payment services, if the conditions of Art. 28, Para. 2 - 6, Art. 29 and 30 have been observed, or assign realization of operative functions, related to payment services, if the conditions of Art. 30 and 31 have been observed.

(5) An electronic money company, licensed in the Republic of Bulgaria may perform activity directly or through a branch on the territory of another Member State under Art. 32. An electronic money company, licensed in another Member State may perform activity directly or through a branch on the

territory of the Republic of Bulgaria under Art. 33.

(6) An electronic money company, licensed in the Republic of Bulgaria may distribute and buy back electronic money on the territory of another Member State through a representative under Art. 32. An electronic money company, licensed in another Member State may distribute and buy back electronic money on the territory of the Republic of Bulgaria through a representative under Art. 33.

(7) An electronic money company, licensed in the Republic of Bulgaria may provide payment services on the territory of another Member State through a representative under Art. 32. An electronic money company, licensed in another Member State may provide payment services on the territory of the Republic of Bulgaria through a representative under Art. 33.

(8) In the cases under Art. 37, Para. 3 BNB shall send to the competent bodies of the hosting state information about occurred changes.

Qualified share participation

Art. 44. To the conditions for acquiring, transfer or decreasing the qualified share participation in an electronic money company, the provision of Art. 14 shall apply correspondingly.

Access of electronic money companies to bank accounts

Art. 45. Banks and branches of banks, performing activity on the territory of the country shall open and maintain the payment accounts of the electronic money companies in an objective, non-discriminatory and proportional way, which shall not hinder the possibility of the electronic money companies to provide the payment services. In every case of refusal, the bank shall produce to BNB a grounded opinion.

Chapter four.

REQUIREMENTS TO THE INFORMATION WHILE PORVIDING PAYMENT SERVICES

Section I.

General provisions

Applicable field

Art. 46. (1) The provision of this Chapter shall apply to single payment operations, framework contracts and payment operations – subject to these contracts.

(2) The requirements of this Chapter shall apply to payment operations in currency of a Member State, where the provider of payment services to the payer and the provider of payment service to the receiver or the single provider of payment services on the payment operation are located on the EU territory.

(3) The requirements of this Chapter – with exception of Art. 54, Para. 1, p. 2, Art. 60, p. 2, letter "e" and Art. 64, p. 1 shall also apply to payment operations in currency, other than the currency of a Member State, where the provider of payment services to the payer and the provider of payment service to the receiver or the single provider of payment service on the payment operation are located on the EU territory in relation to those parts of the payment operation, which are performed in the EU.

(4) The requirements of this Chapter – with the exception of Art. 54, Para. 1, p. 2, Art. 60, p. 2, letter "e", Art. 60, p. 5, letter "g" and Art. 64, p. 1 shall also apply to payment operation in all the currencies, where only one of the provider of payment services is located in the frames of the EU territory, in relation those parts of the payment operation, which are carried out in the EU.

(5) Where the user of a payment service is not a consumer, the parties of the payment operation may agree, that in their relations, the requirements of this Chapter will not be completely or partially applied.

Obligation for informing

Art. 47. (*) (1) Providers of payment services shall provide at disposal to the consumers the brochure of the European Commission, on the rights of consumers while using payment services in an accessible way on their internet sites – if any – as well as on paper media in providers of payment services,

their branches, representatives and subcontractors.

(2) The BNB shall public on its [internet site](#) the brochure under Para. 1.

(3) In relation to disabled persons, the information under Para. 1 shall be provided in an understandable way and in an accessible form.

Exceptions from the requirements for information about payment instruments and electronic money at a low value

Art. 48. For payment instruments and electronic money, which according to the framework contract are used only for performing certain payment operations, which do not exceed BGN 60, or their equivalence in foreign currency, or which are limited payment of BGN 300, or their equivalence in foreign currency, or in which funds are kept, which do not exceed BGN 300, or their equivalence in foreign currency at any moment, the following may be negotiated:

1. the provider of payment services should not have obligations to provide information under Art. 60, 61 and 64 and provide to the payer only information about the major characteristics of the payment service, including information about the way, in which may be used the payment instrument, the responsibility, the due fees and other substantial circumstances, needed for taking an informed decision, as well as about the place, where any other information under Art. 60 is at disposal;

2. from the provider of payment services should not be required to offer changes in the conditions of the framework contract in the way and in the terms, provided in Art. 62;

3. after fulfillment of the payment operation, the provider of payment services should not have obligation to produce information under Art. 65 and 66, where he:

a) shall provide or give at disposal only a reference allowing to the user of payment services to identify the payment operation, its value and due fees for it and/or in case of several payment operations of one and the same type, performed to one and the same receiver – only information about their total amount and the due fees for them;

b) shall not be obliged to provide or give at disposal information under letter "a", if there is not technical possibility for this; in this case the provider of payment services shall provide to the payer possibility to check the amount of the available funds.

Fees and provision of information

Art. 49. (1) The provider of payment services shall not charge the users of payment services fees for provision of information, required under this Chapter.

(2) The parties of a contract for provision of a payment service may agree the payment of fees for additional information or for provision of information at shorter than the established in this act periods, or for provision of information through means of communication, other than those established in the framework contract, upon request of the user of payment service. In these cases, the provider of payment services may charge fees which are adequate and corresponding to his real costs.

Currency and exchange of currency

Art. 50. (1) Payment shall be carried out in the currency, agreed between the parties.

(2) Where a service of exchange of currency is offered on an ATM terminal device, at the place of payment or by the receiver, before initiation of a payment operation, the party, offering to the payer the service of currency exchange, shall inform him in advance about all the charged and commissions, and the exchange rate, which will be used in the currency exchange.

(3) The payer shall accept the service of currency exchange in relation to a payment operation on the basis of the information under Para. 2.

Information about the fees, due for using payment instruments

Art. 51. (1) Where the receiver of payment on a payment operation, realized by a certain payment instrument, requires a charge or offers discount for its use, he shall inform the payer about this before the beginning of the payment operation.

(2) Where for the use of a certain payment instrument the provider of payment service or a third person, who participates in the operation, requires a charge, he shall inform about this the user of payment services before the beginning of the payment operation.

(3) The payer shall pay the fees, indicated in Para. 1 and 2 only if he has been informed about the complete amount before the beginning of the payment operation.

Evidence importance while providing information

Art. 52. The payment service provider shall bear evidence importance that he has observed the requirements for provision of information, provided by this Chapter.

Section II. Single payment operations

Applicable field

Art. 53. (1) This Section shall apply to single payment operations, which are not subject to a framework contract.

(2) Where a payment order for a single payment operation is transmitted through a payment instrument, settled by a framework contract, the payment service provider shall not be obliged to produce or provide at disposal to the user information, which has already been provided to him by another payment service provider, as well as information, which will be provided in implementation of this framework contract.

Preliminary information

Art. 54. (1) Before the user of payment services is bound to a contract or by an offer for performing a single payment service, the payment service provider shall provide or give at disposal to the user of payment services in an accessible way the following preliminary information in relation to the provided services by him:

1. the type and characteristics of the information or unique identifier, or another information, which must be provided to the user of payment services, in order to provide the exact initiation or implementation of the payment order;
2. the maximum term for implementation of the provided payment service;
3. all the charged and commissions, due by the user of payment services to the payment service provider, as well as breakdown by type and value of these fees in the cases where this is applicable;
4. where applicable, the current or reference exchange rate, which will be used in the payment operation;
5. the term, after which funds, unclaimed by the recipient will be returned to the payer – while performing the available money transfers; this term shall not be longer than 7 days from the date of order of the transfer.

(2) In addition to the information under Para. 1, before initiation of payment, the service provided of initiation of payment shall provide or give at disposal to the payer the following information:

1. name, central office and management address of the payment service provider on initiation of payment and – where applicable – address of his representative or branch, established in the Member State, where the payment services are provided, as well as any other contact data, including e-mail address, which may be used for contact with the service provider upon initiation of a payment;
2. contact data of the competent body.

(3) The information under Para. 1 and 2 shall be provided in type on a clear and understandable text and in accessible form in the official language of the Member State, in which the payment service is provided, or in another language, agreed between the parties.

(4) Upon request of the user of payment services, the payment service provider shall provide to him the information under Para. 1 and 2 on a paper or another long-term media.

(5) Where upon request of the user of payment service, the contract for a single payment service has been signed with means for distance communication and there is no possibility the payment service provider to observe the requirements of Para. 1 and 2, the provider shall fulfill his obligations immediately after fulfillment of the payment operation.

(6) The obligations of the payment service provider under Para 1 and 2 may be executed through provision to the user of payment service the draft contract for a single payment service or of the payment order, of they contain the complete information under Para. 1 and the requirements of Para. 3 have been observed.

(7) Where applicable, in view to the specifics of the payment operation, the payment service provider shall provide to the user of payment service in an accessible way every other information under Art. 60, where is significant for the payment operation.

Information, provided by the payer and receiver after submission of a payment order through service provider upon initiation of payment

Art. 55. In addition to the information under Art. 54, where the payment has been initiated through submission of a payment order through a service provided upon initiation of a payment, immediately after the initiation of the payment, the service provider on initiation of payment shall provide or give at disposal to the payer and if needed – to the receiver the following information:

1. confirmation about the successful initiation of the payment to the payment service provider, servicing the payer's account;
2. registration number of the payment operation and – where needed – information about the payer, as well as any other information, accompanying the payment operation;
3. the value of the payment operation;
4. Where applicable, the amount of the fees, payable to the service provider upon initiation of the payment for the operation and also – if applicable - information about their type and value.

Information, provided to the payment service provider, servicing the payer's account in services upon initiation of payment

Art. 56. Upon the initiation of a payment through submission of a payment order through service provider on initiation of payment, this provider shall give at disposal to the payment service provider, servicing the payer's account, the registration number of the payment operation.

Information, provided to the payer after receiving the payment order

Art. 57. (1) Immediately after receiving the payment order, the payment service provider to the payer shall provide or give at disposal to the payer in an accessible way the following information in relation to the provided by him services:

1. the registration number of the payment operation and where needed, information about the receiver;
2. the value of the payment operation expressed in the currency in which the payment order has been given;
3. the amount of all charged and commissions, due by the payer in relation to the payment operation and – where applicable – presented in type and value;
4. where applicable – the exchange rate, used by the payment service provider in the payment operation or data about this rate, where it is different from the preliminary announced one, under Art. 54, Para. 1, p. 4, and the value of the payment operation, after the performed currency exchange;
5. the date of receiving the payment order.

(2) For the information under Para. 1, the requirements of Art. 54, Para. 3 and 4 shall apply.

Information, provided to the receiver after fulfillment of the payment order

Art. 58. (1) Immediately after fulfillment of the payment operation, the payment service provider for the receiver shall provide or give at disposal to the receiver in an accessible way the following

information in relation to the provided services:

1. the registration number of the payment operation and if needed – information about the payer, as well as any other information, accompanying the payment operation;
2. the value of the payment operation, expressed in the currency, in which the funds are provided at disposal of the receiver;
3. the amount of all the fees and commissions, due by the receiver in relation to the payment operation and where applicable – presented in type and value;
4. where applicable, the exchange rate, used in the payment operation by the payment service provider to the receiver, as well as the value of the payment operation before the currency exchange;
5. value of validation of the account of the receiver.

(2) To the information under Para. 1, the requirements of Art. 54, Para. 3 and 4 shall apply.

Section III.

Framework contracts

Applicable field

Art. 59. (1) This Section shall apply to payment operations, which are subject to a framework contract.

(2) Framework contract shall be a contract for payment services, settling the future fulfillment of certain or of a set of payment operations, which may define the obligations and conditions for opening and keeping a payment account and shall contain at least the preliminary information under Art. 60.

Preliminary information

Art. 60. Within a sufficient term, before the user of payment services is bound with a framework contract or with a proposal for signing of such a contract, the payment service provider must provide to the user of the payment service the following information about:

1. the payment service provider:
 - a) name, central office and management address, and where applicable – the address of the representative or the branch, established in the Member State, in which the payment services are offered, as well as another address, including e - mail address, needed for connection with the payment service provider;
 - b) indication of the competent body, responsible for the supervision of the payment service provider, of the register in the competent body, in which the relevant payment service provider has been entered and of his registration number or another equal way for his identification (UIC);
2. the payment services:
 - a) description of the payment services, which will be provided;
 - b) the type and characteristics of the information or a unique identifier, which must be provided to the user of payment services, so that the exact fulfillment of a payment order is provided;
 - c) the form and procedure of giving agreement for fulfillment of the payment operation and for withdrawal of this consent;
 - d) data about the moment of receiving the payment order under Art. 83 and about the deadline for acceptance of the payment order, - if any – defined by the payment service provider;
 - e) the maximum term for fulfillment of the provided payment services;
 - f) data about the possibility for negotiation of limits of payments while using payment instruments;
 - g) the rights of the user of payment services under Art. 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), called hereinafter "Regulation (EU) 2015/751", in case of joining measures in card-based payment instruments;
3. the fees commissions, interest rates and exchange rates in relation to the provided payment services:

a) all the fees and commissions, due by the user of the payment service to the provider, including those, which are related to the way and periods of provision or giving at disposal of the information under this act, as well as the type and value of these fees, in the cases, in which this is applicable;

b) where applicable, the interest rate and the exchange rate, which are applied, and if a reference interest rate or exchange rate is used – the way of their calculation, as well as the relevant date, index or basis for defining such a reference interest rate or exchange rate;

c) if it has been agreed, immediately application of the changes in the reference interest rate or exchange rate and data about the information requirements about the changes in compliance with Art. 62;

4. the procedure for realization of communication between the contract parties:

a) where applicable, the communication means, including the technical requirements to the equipment and software of the user of payment services, agreed between the parties for providing information, or notifications under this act;

b) the way and periods with which the required information under the law will be provided or given at disposal to the user of payment services;

c) the language/s in which the framework contract will be signed and the communication will be realized during the contract force;

d) the right of the user of payment services to receive at any time the conditions of the framework contract in compliance with Art. 61;

5. the protection measures:

a) description of the actions, which must be undertaken by the user of payment services in view to keeping the security of a certain payment instrument, as well as the procedure for notification of the provider of payment services in case of loss, theft, embezzlement or unauthorized use of a payment instrument under Art. 75, p. 2;

b) procedure, in which the payment service provider notifies in a secure way the user of payment services in case of suspicion for or in case of a fraud or threat of security;

c) if it has been agreed, the conditions in which the payment service provider has the right to block a certain payment instrument under Art. 74;

d) the responsibility of the payer with indication of the amount of the sum under Art. 80;

e) the term and way, in which the user of payment services is obliged to notify the payment service provider about any unauthorized or incorrectly executed payment operation under Art. 77, as well as the responsibility of the payment service provider for unauthorized payment operations under Art. 79;

f) the responsibility of the payment service provider for the fulfillment of the payment operations under Art. 91, 92 and Art. 93, Para. 1;

g) the conditions for recovery of the funds in compliance with Art. 82;

6. amendment and termination of the framework contract:

a) if negotiated, information, that the user of payment services will be considered as bound by the changes in the conditions of the framework contract, unless he notifies the payment service provider, that he does not accept these amendments, before the date on which the amendments come into force;

b) the contract term;

c) indication, that the user of payment services has the right to terminate the framework contract and the agreements, related to it, under Art. 63;

7. the procedure for legal defense:

a) indication of the provided according to the contract applicable law and/or competent court;

b) indication of the procedures for alternative resolution of disputes, accessible for the payment service user.

Way of provision of the information

Art. 61. (1) The information under Art. 60 shall be provided on paper or another long-term media in a type of understandable text and in accessible form in the official language of the Member State, in which

the payment service is offered, or in another language, agreed between the parties.

(2) Where upon request of the user of payment services, the framework contract has been signed through means of distance communication and there is no possibility the payment service provider to observe the requirements of Art. 60, the payment service provider shall fulfill his obligations immediately after signing the framework contract.

(3) The obligations of the payment service provider under Art. 60 may be executed through provision to the user of payment service the draft framework contract if it contains the whole information under Art. 60 and the requirements of Para. 2 have been observed.

(4) During the action of the framework contract, the user of payment services shall have the right upon request to receive the conditions of the framework contract, as well as the preliminary information under Art. 60 on paper or another long-term media.

Changes in the framework contract

Art. 62. (1) All the envisaged amendments of the framework contract, including referring to changes if the preliminary information under Art. 60, shall be produced in advance in the way, indicated in Art. 61, Para. 1 by the payment service provider to the user of payment services in the term not shorter than 2 months before the date, on which it is proposed the amendments to be enforced.

(2) The user of payment services may accept or reject the amendments before the date on which it is proposed to be enforced.

(3) Where applicable – together with the notification under Par. 1, the payment service provider shall inform the user of payment services, that he considers that the latter has accepted the amendments in the conditions of the framework contract, unless he notifies the payment service provider, that he does not accept these amendments before the date, on which the amendments are to be enforced. In these cases, the payment service provider must notify the user of payment service, that the latter has the right to terminate the framework contract at any time before the date, on which it is proposed the amendments to be enforced, without bearing responsibility for costs and compensations.

(4) Where the framework contract envisages such opportunity, the changes in the interests rates and exchange rates may be applied immediately and without preliminary notification under Par. 1, if these changes are on the basis of the reference interest rate or referent exchange rate and the possibility for immediate application of these changes has been indicated in the preliminary information under Art. 60.

(5) In the cases under Par. 4, the user of payment services must be informed about the changes at first possibility, where the changes must be produced to him on paper or another long-term media, unless between the contract parties another term or way has been agreed, in which the information must be provided or given at disposal.

(6) Where the changes of the interest rates, the exchange rates or the due fees and commissions are more favorable for the user of payment services, they shall apply without preliminary notification.

(7) While execution payment operations, the payment service providers shall apply and calculate the changes in the interest rate or the exchange rate in an objective way, which shall not harm the rights of the users of payment services.

(8) The scope of the provided payment services may be extended upon mutual agreement of the parties, where the term under Para. 1 shall not apply.

(9) The provision of Art. 147b of the Consumer Protection Act about changes in the general conditions shall not apply in relation to changes in the framework contract, performed under the procedure and conditions of this Art..

Termination

Art. 63. (1) The user of payment services may at any time terminate the framework contract, unless the contract parties have agreed a notice period, which shall not be longer than 1 month.

(2) In termination of a framework contract, which has been in force for more than 6 months, the user of payment service shall not owe fees or compensations for the termination.

(3) Apart from the cases under Para. 2, the fees and compensations for termination of a framework contract must be appropriate and coordinated with the real costs of the payment service provider.

(4) Where it has been agreed in the framework contract, the payment service provider may terminate a unlimited framework contract with a notice with the term of at least 2 months. The notice shall be presented to the user of payment services on paper or another long-term media.

(5) With the termination of a framework contract, the user of payment services shall pay the feed, charged periodically for payment services, proportionally to the expired period of the contract force. Where such fees have been paid in advance, they shall be recovered proportionally to the term of termination.

(6) Para. 1 – 5 shall not apply in termination of a framework contract because of failure to fulfill an obligation by one of the parties.

Information before execution a single payment operation

Art. 64. In the cases, where the payer has requested fulfillment of a single payment operation on a framework contract, with receiving a request by the payer of this payment operation, the payment service provider shall produce to him explicit information about:

1. the maximum term for its implementation;
2. the fees and commissions, due by the payer and where applicable – provision of them in type and value.

Information, provided to the payer about single payment operations on a frameworks contract

Art. 65. (1) After the account of the payer is debited with the sum of a single payment operation on a framework contract or if the payer does not use a payment account – after receiving the payment order, the payment service provider to the payer, shall produce to him immediately on a paper or another long term media the following information:

1. registration number of the payment operation and where needed – information about the receiver;
2. the value of the payment operation, expressed in currency, in which the payment account of the payer is debited, or in the currency, indicated in the payment order;
3. data about the amount of all fees and interests, due by the payer in relation to the payment operation, presented in type and value;
4. the exchange rate, used by the payment service provider in relation to the payment operation, and the value of the payment operation after the carried-out currency exchange;
5. the value date of the payment account, or the date of receiving the payment order.

(2) The framework contract must envisage, that the payer may request the information under Para. 1 to be produced or given at disposal at least once a month, free and in an agreed way, which allows the payer to store and reproduce the information in an unchanged type.

Information, provided to the receiver about single payment operations on a framework contract

Art. 66. (1) After fulfillment of a single payment operation on a framework contract, the payment service provider shall produce to the receiver timey on paper or another long term media the following information:

1. registration number and information about the payer, as well as any other information, accompanying the payment operation;
2. the value of the payment operation, expressed in the currency, in which the payment account of the receiver has been certified;
3. data about the amount of all the fees and interests, due by the receiver in relation to the payment operation, presented in type and value;
4. the exchange rate, used in the payment operation by the payment service provider to the receiver and the value of the payment operation before the currency exchange;

5. the value of the date of the receiver's account.

(2) The framework contract is to envisage, that the information under Para. 1 shall be provided or given at disposal to the receiver at least once a month, free and in an agreed way, which allowed the receiver to store and reproduce the information in unchanged type.

Chapter five.

RIGHTS AND OBLIGATIONS IN PROVIDING AND USING PAYMENT SERVICES

Section I.

General provisions

Applicable field

Art. 67. (1) The requirements of this Chapter shall apply to payment operations in currency of a Member State, where the payment service provider to the payer and the payment service provider to the receiver or the single provider of payment service on the payment operation are located on the EU territory.

(2) The requirements of this Chapter – with the exception of Art. 86 - 88 shall also apply to payment operations in currency, other than the currency of a Member State, where the payment service provide to the payer and the payment service provider to the receiver or the single provider of payment service on the payment operation are located on the EU, in relation to those parts of the payment operation which are carried out in the EU.

(3) The requirements of this Chapter, with the exception of Art. 68, Para. 2 and 4, Art. 82, 86, Art. 87, Para. 2, Art. 91, 92, Art. 93, Para. 1 and Art. 95 shall also apply to payment operations in all currencies, where only one of the payment service providers is located in the frames of the EU territory, in relation to those parts of the payment operation, which are carried out in the EU.

(4) Where the user of a payment service is not a user, the user of payment services and the payment service provider may agree, that in their relations they will not apply Art. 68, Para. 1, Art. 70, Para. 4 and 5, Art. 78, 80, Art. 82, Para. 2 and 3, Art. 85, 91, 92 and Art. 93, Para. 1, as well as negotiate a term ,other than the envisaged in Art. 77.

(5) The BNB shall define by an ordinance the procedure and conditions for opening payment accounts for fulfillment of payment operations and for using payment instruments.

Applicable fees

Art. 68. (1) The payment service provider shall not charge the users of payment service fees for fulfillment of his information obligations or for undertaking correction and precautionary measures, unless where this Chapter provides otherwise. If charging of fees is admitted, they shall be agreed between the user of payment services and the payment service provider and must comply with the real costs of the payment service provider.

(2) In payment operations, which are carried out on the EU territory and in which the payment service providers to the payer, also to the receiver or the single provider of payment service on the payment operation are on the EU territory, the receiver shall pay the fees, which are collected by his payment service provider, and the payer shall pay the fees, which are collected by his payment service provider.

(3) The payment service provider shall not stop the receiver to require from the payer to pay fees, to offer his discount or in another way to encourage him to using a certain payment instrument, where all applied fees shall not exceed the direct costs, made by the receiver for using the concrete payment instrument.

(4) The receiver shall not require form the payer the payment of fees for using payment instruments, related to cards, as well as for the payment service, in relation to which is applied Regulation (EU) N 260/2012 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), called hereinafter "Regulation

(EU) N 260/2012".

(5) Services, which provide technical fulfillment of a payment operation, including using the relevant communication services for exchange of financial communication in a standard format, shall be included in the fee for the relevant payment operation.

(6) Payment service provider shall charge a user of payment service equal fees for payments in Euro on the territory of the country and for transborder payment in the frames of EU, which are at equal value and with the same value, and which have equal characteristics in relation to initiation, performing and finalization of the payment.

Exceptions for payment instruments and electronic money at a low value

Art. 69. (1) For payment instruments and electronic money, which according to the framework contract are used only for performing single payment operations, which do not exceed BGN 60, or their equivalence in a foreign currency, or which have limit of payments BGN 300, or their equivalence in a foreign currency, or of which funds are stored, which in neither moment exceed BGN 300, or their equivalence in a foreign currency, the payment service providers may negotiate with the users of payment services:

1. not to apply Art. 75, p. 2, Art. 76, Para. 1, p. 4 - 6 and Art. 80, Para. 5 and 6, if the payment instrument does not allow blocking or prevention of its further use;

2. not to apply Art. 78, 79 and Art. 80, Para. 1, 2, 3, 5 and 6, if because of reasons, inherent to the payment instrument, the payment service provider is not in condition to prove, that the payment operation has been authorized;

3. that the payment service provider will not have the obligations under Art. 84, Para. 1, 2 and 3 to provide notification for refusal of fulfillment of a payment order, if the reasons for this refusal are evident in view to the concrete circumstances;

4. that the payer will not have the right to withdraw a payment order, after he has transferred the payment order or after he has agreed for fulfilment of the payment operation of the receiver;

5. the terms for fulfillment to be applied, other than the established ones in Art. 87, Para. 2 - 7.

(2) The provisions of Art. 79 and 80 shall also apply to electronic money, unless the payment service provider to the payer cannot block the payment account, in which the electronic money are 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, called hereinafter "Regulation (EU) 2015/847", may not be applied while execution an available money transfer at the value of BGN 300 to a payment account on the territory of the country, which allows payment only for provision of goods and services, if the following conditions have been executed:

1. the payment service provider to the receiver is an obliged subject under The Measures against Money Laundering Act; and

2. the payment service provider to the receiver can through a unique identifier of the transaction, in the meaning of Art. 3, p. 11 of Regulation (EU) 2015/847 trace through the receiver transfer of funds by a person, who has agreement with receiver about provision of goods and services.

Section II.

Permission of payment operations

Agreement and withdrawal of the agreement

Art. 70. (1) The payment operation shall be authorized, if the payer has ordered it, or has agreed about its fulfilment. In case of lack of agreement, the operation shall not be authorized.

(2) The permission by the payer shall be given before the fulfillment of the payment operation, or if it has been agreed between the payer and his payment service provider – after the fulfillment of the operation.

(3) Agreement for fulfillment of a payment operation or of a set of payment operations, shall be given in a procedure and way, agreed between the payer and the relevant provider, or the relevant payment service providers. The agreement for fulfillment of the payment operation may also be given through the receiver or the service provider upon initiation of payment.

(4) The order, or agreement of the payer for fulfillment of a payment operation may be withdrawn by the payer at any time, but not later than the moment, at which the payment operation has become irrevocable under Art. 85.

(5) With the withdrawal of the agreement for fulfillment of a set of payment operations, all future payment operations shall be considered as not authorized.

Confirmation of available funds

Art. 71. (1) The payment service provider, servicing an account, upon request by a payment service provider, who issues payment instruments, related to cards, shall immediately confirm if the sum, needed for fulfillment of a payment operation related to a card, is available in the payment account of the payer, if the following conditions have been executed:

1. the payment account of the payer is accessible online at the moment of the request;
2. the payer has given explicit agreement to the payment service provider, servicing an account, to give confirmation, if the sum, corresponding to a certain payment operation, related to a card, is available in the payment account of the payer;
3. the agreement under p. 2 has been given, before the first request for confirmation has been made.

(2) The payment service provider, who issued payment instruments may request confirmation under Para. 1, if the following conditions have been executed:

1. the payer has given an explicit agreement to the payment service provider to request such a confirmation;
2. the payer has initiated the payment operation, related to a card, having used a payment instrument, related to a card, issued by the payment service provider, and
3. (*) before every request for confirmation, the payment service provider, which issues payment instruments, certifies his identity before the payment service provider, servicing the account and connects with him in a secured way in compliance with requirements, indicated in a delegated act, which the European Commission adopts under Art. 98, Para. 4 of Directive (EU) 2015/2366.

(3) The confirmation under Para. 1 shall be only positive or negative response, without producing account statement. The confirmation shall not be stored or used for other purposes, unless for fulfillment of the payment operation, related to a card.

(4) The confirmation under Para. 1 shall not give rights to the payment service provider, servicing the account, to block funds in the payer's payment account.

(5) The payment service provider, servicing the account, upon request on behalf of the payer, shall give him the identification data of the payment service provider, who issues payment instruments, as well as a response under Para. 3.

(6) Para. 1 – 5 shall not apply to payment operations, initiated through payment instruments, related to cards, in which electronic money are stored.

Access to a payment account in services of initiation of payment

Art. 72. (1) A service provider, upon initiation of payment may provide services under Art. 4, p. 7 to the payer only if the payment account is online accessible.

(2) Where the payer has given consent under Art. 70 for fulfillment of a payment, the payment service provider, servicing the account, while observing his obligations under Para. 4, shall guarantee the right of the payer to use the service on initiation of payment.

(3) The service provider upon initiation of payment:

1. at neither moment shall hold the funds of the payer in relation to provision of the service on initiation of payment;

2. shall guaranty, that the personalized funds for security of the user of payment services shall not be accessible for other persons, and that they are transferred by the service provider upon initiation of payment in a secured and efficient way;

3. shall guarantee, that any other information about the user of the payment service, received in provision of the services on initiation of payment, is provided only to the receiver and only with the explicit consent of the user of payment services;

4. (*) in every initiated payment he shall certify his identity before the payment service provider, servicing the payer's account and shall connect with him, with the payer and with the receiver in a secured way in compliance with requirements, indicated in a delegated act, which the European Commission adopts under Art. 98, Para. 4 of Directive (EU) 2015/2366;

5. shall not store sensitive data about the payments of the user of payment services;

6. shall not require from the user of payment services other data, apart from the needed ones for provision of the service of initiation of payment;

7. shall not use, process or store data for purposes, other than fulfilment of the service of initiation of payment, which the payer has explicitly requested;

8. shall not change the sum, receiver or other information in relation to the payment operation.

(4) The payment service provider, servicing an account shall be obliged:

1. (*) to connect in a secured way to the service providers of initiation of payment in compliance with the requirements, indicated in a delegated act, which the European Commission adopts under Art. 98, Para. 4 of Directive (EU) 2015/2366;

2. immediately after receiving the payment order from the service provider of initiation of payment, to provide or give at disposal the whole information about the initiation of the payment operation, as well as other information, accessible to him, in relation to fulfilment of the payment operation to the service provider of initiation of payment;

3. to apply equal conditions to payment orders, transferred through a service provider of initiation of payment and payment orders, transferred directly by the payer, in relation to terms, priority or fees, unless objective reasons are present for application of different conditions.

(5) Provision of services of initiation of payment may also be performed without signed contract for this between the service provider of initiation of payment and the payment service provider, servicing the account.

Access to information about a payment account and its using under conditions of providing information about an account

Art. 73. (1) The user of payment services shall have the right to use services under Art. 4, p. 8, only if the payment account is online accessible.

(2) The service provider of provision of information about an account shall be obliged:

1. to provide the services, if there is an explicit consent of the user of payment services;

2. to guarantee that the personalized means of security of the user of payment service are not accessible by other persons, apart from the user and issuer of personalized means of security and that where they are transferred by him, this becomes in a secure and efficient way;

3. (*) with every establishment of a connection he shall certify his identity before the relevant payment service provider, servicing the account of the user of payment services and connects to him and the user of payment services in a secured way in compliance with requirements indicated in a delegated act, which the European Commission adopts under Art. 98, Para. 4 of Directive (EU) 2015/2366;

4. to use only information, of certain payment accounts, and the related to them payment operations;

5. not to request sensitive data about the payments, related to the payment accounts;

6. not to use, process or store data for purposes, other than fulfilment of the service of provision of information about an account, which the user of payment services has explicitly requested.

(3) The payment service provider, servicing an account, shall be obliged in relation to the payment account:

1. (*) to connect in a secured way with the service provider of provision information about an account in compliance with requirements, indicated in a delegated act, which the European Commission adopts under Art. 98, Para. 4 of Directive (EU) 2015/2366, and

2. to apply equal conditions to the requests for data, transferred through a service provider of provision of information about an account, and such, transferred directly to him, unless there are objective reasons to apply different conditions.

(4) Services of provision of information about an account may also be performed without signed contract about this between the service provider of provision information about an account and the payment service provider, servicing the account.

Restrictions in using a payment instrument and of the access to payment accounts on behalf of payment service providers

Art. 74. (1) In the cases, where an agreement is given by using concrete payment instrument, the payer and his payment service provider may agree limits of the payment operations, executed through the payment instrument.

(2) Where it has been agreed in the framework contract, the payment service provider shall have the right to block the using of a payment instrument because of objective reasons, related to:

1. the security of the payment instrument;

2. suspicion about unauthorized use of a payment instrument;

3. use of the payment instrument with the purpose of a fraud;

4. substantial risk the payer not to be able to fulfill his obligations for payment – in payment instruments with provision of a credit.

(3) In the cases under Par. 2, if possible- before blocking or latest – immediately after this, the provider shall inform the payer about the blocking of the payment instrument and about the reasons, imposed the blocking, unless giving such information is not allowed because of security reasons or in view to observation of normative requirements, stopping informing the payer.

(4) The payment service provider shall de-block the payment instrument, or replace it by a new payment instrument, after the blocking reasons fall.

(5) A payment service provider, servicing an account, may refuse access to the payment account to a service provider of provision information about an account, or to a service provider of initiation of payment because of objective and supported by evidences reasons, related to authorized access or access to the payment account with the purpose of a fraud on behalf of the service provider of provision information about an account, or of the service provider of initiation of payment, including unauthorized initiation of a payment operation or initiation of a payment operation with the purpose of a fraud.

(6) In the cases under Para. 5, the payment service provider, servicing an account, shall inform the payer about the refusal for access to the payment account and about the reasons for that in the agreed form, if possible – before the access is denied or latest immediately after this, unless where giving such information is not allowed because of security reasons, or in view to observation normative requirements, stopping the informing of the payer.

(7) The payment service provider, servicing the account, shall allow access to the payment account immediately after the reasons for refusal of access under Para. 5, fall.

(8) The payment service provider, servicing the account, shall immediately notify BNB about the circumstances under Para. 5, related to the service provider of provision of information about an account, or to the service provider of initiation of payment, by providing the relevant data on the case. The BNB may undertake actions after consideration of the concrete circumstances.

Obligations for the user of payment services in relation to payment instruments and personalized security means

Art. 75. The user of payment services, who has the right to use a certain payment instrument, shall have the following obligations:

1. to use the payment instrument in compliance with the conditions for its issuance and use, which must be objective, non-discriminatory and proportional;
2. to notify the payment service provider or an authorized by him person about loss, theft, embezzlement and unauthorized use of the payment instrument immediately after learning about it;
3. after receiving the payment instrument to undertake all reasonable actions for observing his personal security means, including not to recording any information about these security means over the payment instrument and not storing such information together with the payment instrument.

Obligations of the payment service provider in relation of the payment instruments

Art. 76. (1) The payment service provider, who issued a payment instrument, shall have the following obligations:

1. to provide inaccessibility of the personalized security means of the payment instrument for persons, other than the user of payment services, who has the right to use the payment instrument, without affecting the obligations of the user of payment services under Art. 75;
2. not to send a payment instrument, where such is not requested, unless in exchange of a payment instrument, already held by the user of payment services;
3. to store within 5-year term the information, which allows tracing of the operations, performed with the payment instrument;
4. to create the needed technical and other conditions for accepting notification by the user of payment services under Art. 75, p. 2 at any time, and in case of request for de-blocking under Art. 74, Para. 4 – in the frames of the working time;
5. upon request, sent by the user of payment services, within the term of up to 18 months, starting from the notification date under Art. 75, p. 2 to provide to him the relevant evidences, that the user has made such a notification;
6. to provide to the user of payment services possibility to perform free the notification under Art. 75, p. 2, where his may charge only the value of the costs for exchange, directly related to the payment instrument, if any;
7. after the notification under Art. 75, p. 2 to prevent timely every use of the payment instrument;
8. to guaranty, that he applies to the user of payment services, who has the right to use the payment instrument, the requirements of Chapter Four and of this Chapter.

(2) The payment service provider shall take the risk of irregular use in sending the payment instrument to the payer, as well as in sending the personalized security means of a payment instrument.

Notification and corrections in relation of unresolved or incorrectly executed payment operations

Art. 77. (1) The payment service provider shall correct an unauthorized or incorrectly executed payment operation, only if the user of payment services has informed him without unreasonable delay, after having learnt about such an operation, which creates opportunity to claim his rights, including in the meaning of Art. 91, 92 and Art. 93, Para. 1, but not later than 13 months from the date of debiting his account.

(2) It is considered, that the user of payment services has learnt about the unauthorized or incorrectly executed payment operation latest with receiving the information under Art. 57, Para. 1 or Art. 65, Para. 1.

(3) The term under Para. 1 shall not apply, where the payment service provider has not executed his obligations for provision of information about the payment operation under Chapter Four.

(4) Where a service provider on initiation of payment participates, the correction under Para. 1 shall be performed by the payment service provider, servicing the account.

Proving authenticity and the exact fulfillment of a payment operation

Art. 78. (1) Where the user of a payment service claims, that he has not allowed fulfillment of a payment operation, or that there is an incorrectly executed payment operation, the payment service provider shall bear evidence burden in establishing the authenticity of the payment operation, its exact registration, accounting, as well as for the fact, that the operation has not been affected by a technical damage or another shortcoming in the service, provided by the payment service provider.

(2) In the cases, where the payment operation has been initiated through service provider on initiation of payment, in the frames of his participation, he shall bear evidence burden in establishing the authenticity of the payment operation, its exact registration and the fact, that the operation has not been affected by technical damage or other shortcoming, related to the payment service, for which he is responsible.

(3) Establishing the authenticity is a procedure, which allows to the payment service provider to check the correct use of a concrete payment instrument, including its personalized security means. Using a concrete payment instrument shall be defined by the rules and procedure of the payment service provider on fulfillment of the relevant payment operation.

(4) Where the user of payment service claims, that he has not allowed payment operation, the registered by the payment service provider, including by the service provider on initiation of payment – where applicable – use of payment instrument shall not be a sufficient evidence, that the payment operation has been allowed by the payer, or that the payer has acted with a fraud, or that he intentionally or with a gross negligence has not executed some of the his obligations under Art. 75. The payment service provider, including the service provider on initiation of payment, - where applicable – shall provide evidences, that there is fraud or gross negligence, on behalf of the user of payment services.

Responsibility of the payment service provider for unauthorized payment operations

Art. 79. (1) In case of an unauthorized payment operation, the payment service provider to his payer shall recover immediately the value of the unauthorized payment operation and in any case not later than the end of the following working day, after he has noticed, or has been informed about the operation, unless where the payment service provider to the payer has reasonable grounds for a fraud and notifies the relevant competent bodies about this fact. Where needed, the payment service provider to the payer shall recover the payment account to the payer in the conditions, in which it would be, if the unauthorized operation were not executed. Valuer to validate the payment account of the payer shall not be later than the date at which the account has been debited with the sum of the unauthorized payment operation.

(2) Where the payment operation has been initiated through a service provider on initiation of payment, the payment service provider, servicing the account shall immediately recover – and in any case not later than the end of the following working day the sum of the unauthorized payment operation and – where applicable – shall recover the debited payment account in the condition, in which it would be, if the unauthorized payment operation were not executed.

(3) Where the service provider of initiation of payment bears responsibility for the unauthorized payment operation, upon request of the payment service provider, servicing the account, shall immediately compensate the latter for the suffered damages and the sums, paid as a result of the recovery of the funds of the payer, including the sum on the unauthorized payment operation.

(4) The service provider on initiation of payment shall bear evidence burden under Art. 78, Par. 2 in establishing the authenticity of the payment operation in the frames of his participation, its exact registration, as well as for the fact, that the operation has not been affected by technical damage or by another shortcoming, related to the payment service, for which the provider of initiation of payment is responsible.

(5) Para. 1 – 4 shall also apply to electronic money, unless where the payment service provider to the payer cannot block the payment account in which the electronic money or the payment instrument are kept.

Responsibility of the payer for unauthorized payment operations

Art. 80. (1) The provision of Art 79 shall not apply and the payer may suffer the losses, related to all unauthorized payment operations, comprising from using a lost, stolen or illegally assigned payment instrument to maximum amount, agreed between the payment service provider and the user, but not more than BGN 100.

(2) Para. 1 shall not apply, where:

1. the loss, theft or illegally acquired payment instrument were not established by the payer before the payment, unless where the payer has acted with the purpose of a fraud, or

2. the damage has been caused by an action, or lack of action of an employee, of a representative or a branch of the payment service provider, or of the subcontractor.

(3) The payer shall suffer all losses, related to unauthorized payment operation, where he has caused them through a fraud or with lack of fulfillment of one or more of his obligations under Art. 75 intentionally or because of gross negligence. In these cases, the payer shall suffer the damages notwithstanding of their size.

(4) Where the payment service provider to the payer does not require deep establishment of the identity of the client, the payer shall not suffer losses, unless where he has acted with the purpose of a fraud. Where the receiver or payment service provider to the receiver fails to accept the deep establishment of the client's identity, he shall recover the property damages, caused to the payment service provider to the payer.

(5) After the notification under Art. 75, p. 2, the payer shall not suffer any property damages, comprising from using a lost, stolen or illegally acquired payment instrument, with the exception of the cases, where the payer has acted through a fraud.

(6) Where the payment service provider fails to provide appropriate ways for notification at any time for a lost, stolen or illegally acquired payment instrument under the requirements of Art. 76, Para. 1, p. 4, the payer shall not bear responsibility for the property damages, comprising from using this payment instrument, with the exception of the cases, where the payer has acted through a fraud.

(7) Para. 1 – 6 shall also apply to electronic money, unless where the payment service provider to the payer cannot block the payment account, on which the electronic money is kept, or block the payment instrument.

Payment operations, in which the sum of the operation has not been known in advance

Art. 81. (1) In case that a payment operation has been initiated by the receiver or through him in relation to a payment operation, related to a card, and the exact sum of the operation is not known at the moment, in which the payer agrees for fulfillment of the payment operation, the payment service provider to the payer may block funds in the payment account of the payer only where the payer has agreed for blocking an exact amounts of funds.

(2) After receiving information about the exact amount on the payment operation and latest immediately after receiving a payment order, the payment service provider to the payer shall timely unblock the funds, blocked in the payer's account under Para. 1.

Recovery of funds in a payment operation, executed upon initiative of, or through the receiver

Art. 82. (1) The payer shall have the right to request from his payment service provider recovery of the whole sum on already executed and allowed payment operation, where it has been ordered by or through the receiver and the following conditions have been observed:

1. at the moment of giving authorization for fulfillment of the payment operation its exact value has not been indicated, and

2. the value of the payment operation exceeds the expected by the payer value in view to his previous costs for similar operations, the conditions of the frameworks contract and other specific for the case circumstances.

(2) The recovery of funds request under Par. 1 shall be extended by the payer in the term of 56 days

from the date, on which his account has been debited. Upon request of the payment service provider, the payer shall produce evidences about the presence of the conditions under Para. 1.

(3) The payment service provider to the payer in the term of up to 10 working days from receiving the request, shall recover to the payer the whole sum of the payment operation or shall refuse its recovery, while indicating the grounds for refusal and the bodies, before which the payer may object, if he does not accept the laid down grounds for refusal. In the cases under Apr. 7, the provider shall not refuse recovery of the sum.

(4) The recovery shall include the whole sum, on the executed payment operation, where the value date for crediting the payment account of the payer is not later than the date, on which the account has been debited with the sum of the payment operation.

(5) For the purposes of Para. 1, p. 2, the payer shall not refer to reasons, related to a executed currency exchange, where the reference exchange rate has been applied, agreed with the payment service provider.

(6) In the frameworks contract between the payer and his payment service provider may be negotiated, that the payer will not have the right to recovery under Para. 1, where he has agreed for fulfillment of the payment operation directly to his payment service provider and the payment service provider or the receiver has provided or given at disposal to the payer information about the forthcoming payment operation in an agreed way at least 28 days before the date of fulfillment of the payment operation.

(7) In direct debates under Art 1 of Regulation (EU) N 260/2012 the payer shall have the right to unconditional recovery of the funds in the frames of the term under Par. 2 and 3.

Section III.

Fulfilment of payment operation

Receiving a payment order

Art. 83. (1) The moment of receiving the payment order shall be the moment in which the payment service provider to the payer shall receive the payment order on the agreed by the parties procedure and way for receiving the payment order. The account of the payer shall not be debited before receiving the payment order.

(2) Where the moment of receiving is not a working day for the payment service provider to the payer, the payment order shall be considered as received on the following working day.

(3) The payment service provider may define deadline in the frames of the working day, after which every payment order shall be considered as received on the following working day.

(4) Where the user of payment services, who submits payment order and his provider have agreed the payment order to be executed on a certain day or on the day, following the expiry of a certain term, or on the day, on which the payer provides to his payment service provider the needed funds for fulfilment of the order, as a moment of receiving the payment order shall be considered the agreed day, and where this day is not a working day for the payment service provider – the following working day.

Refusal for fulfilment of a payment order

Art. 84. (1) Where the payment service provider refuses the fulfilment of a payment order or refuses to initiate a payment operation, the refusal – and if possible – the reasons for it and the procedure for correction of factual mistakes, led to refusal – must be communicated to the user of payment services, unless where there is a prohibition for provision of a similar information according to another act, or an EU act.

(2) The payment service provider shall provide, or give at disposal to the user of payment services the notification under Para. 1 timely and in an agreed with the user way in the terms of Art. 87, Para. 2 - 8.

(3) The framework contract may envisage possibility the payment service provider to charge a fee, corresponding to his real costs, for provision of notification, where the refusal for fulfilment of a payment order has been objectively grounded.

(4) Where there are all the envisaged in the framework contract conditions, the payment service

provider to the payer shall not have the right to refuse fulfillment of a authorized payment order, notwithstanding if it has been submitted by the payer, including through a service provider of initiation of payment, or by, or through the receiver, unless where for the fulfillment of the order there is limitation under a normative act.

(5) For the purposes of Art. 87, Para. 2 - 6, Art. 91, 92 and Art. 93, Para. 1 a payment order, which fulfillment is refused, shall be considered as not received.

Irrevocability of the payment order

Art. 85. (1) The payment service provider shall not be able to cancel the payment order after its receiving from the payment service provider to the payer.

(2) Where the payment operation is performed upon an initiative of a service provider on initiative of payment or from the receiver or through him, the payer shall not be able to cancel the payment order, after he has given consent to the service provider on initiation of payment to initiate a payment operation or after has given his consent for fulfillment of the payment operation in favor of the receiver.

(3) In the cases under Art. 83, Para. 4 the user of payment services may cancel the payment order latest by the end of the working day, before the agreed day.

(4) In a direct debit, the payer may cancel the payment order latest by the end of the working day before the agreed day for debiting his account.

(5) After expiry of the terms under Para. 1 – 4, but not later than the crediting of the receiver's account, the payment order may be cancelled only with consent about this between the user of payment services and the relevant provider, where in the cases of Para. 2 and 4 the consent of the receiver shall be required.

(6) The relevant payment service provider shall have the right to charge a fee for cancelation of the payment order, where this possibility has been provided by the framework contract.

Transferred and received sums on the payment order

Art. 86. (1) The payment service provider/s to the payer, the payment service provider/s to the receiver and all intermediaries to the payment service providers shall be obliged to transfer in full amount the sum on the payment operation, without deducting any fees from it.

(2) No partial transfer on certain payment orders or requests for direct debit shall be admitted.

(3) The receiver and the payment service provider may negotiate, that the relevant payment service provider shall have the right to deduct his fees from the transferred sum, before certifying the receiver's account. In the provided to the receiver information, the value of the payment operation shall be indicated separately from the amount of the fees, which will be deducted from it.

(4) In case of deduction of fees, other than those, indicated in Para. 3, the payment service provider shall provide receiving the whole sum on the payment operation by the receiver, and where the payment operation has been performed upon initiative of, or through the receiver, his payment service provider shall provide receiving the whole sum on the payment operation by the receiver.

Section IV.

Term of execution and value date

Term for execution of payment operations in BGN, EUR and payment operations, related to a single currency exchange between BGN and EUR

Art. 87. (1) The terms for execution of payment operation under this Art. shall apply to payment operations:

1. in BGN;

2. in EUR;

3. related to single currency exchange between BGN and EUR, in the condition, that the exchange is carried out in the Republic of Bulgaria, as well as in cases of transborder payment operations, where the

payment operation is executed in EUR.

(2) The payment service provider shall be obliged to provide certification of the payment account of the payment service provider with the sum of the payment operation by the end of the following working day after the moment of receiving the payment order. This term may be extended by one more working day in initiation of payment operation on paper media.

(3) In execution of payment operations in BGN between the payment service providers, participating in a payment system under Art. 145, or in a payment system under Art. 149, Para. 2, the payment service provider to the payer shall provide certification of the payment account of the payment service provider to the receiver in the same working day, in which the payment order is received.

(4) The payment service provider under Para. 3 shall inform the user about the working time, in which payment orders are received for execution during the same working day.

(5) The payment service provider to the receiver shall define the value date of certification and shall give at disposal in the payment account of the receiver the sum of the payment operation after receiving the funds from the relevant payment service provider under Art. 89.

(6) The Payment service provider to the receiver shall transfer to the payment service provider to the payer the payment order, given from or through the receiver in the frames of the envisaged between the receiver and his provider the terms, so that there is possibility for settlement of the agreed date.

(7) Where the receiver has no payment account at the payment service provider, the funds shall be provided in the term of Para. 2 – 6 at disposal of the receiver by the payment service provider, who receives the funds for the receiver.

(8) Where available money have been deposited by a user in a payment account at the payment service provider in currency, in which the relevant payment account is opened, the payment service provider shall give at disposal the sum and shall define the value date of certification immediately after the moment of receiving the funds. Where the user of payment service is not a consumer, the sum shall be given at disposal and the value date shall be defined latest on the following working day after receiving the funds.

Terms for execution of payment operations in other currency

Art. 88. (1) In payment operations, other than those indicated in Art. 87, Para. 1, the terms under Art. 87 shall apply, unless where between the user of payment services and his provider something else has been negotiated.

(2) In payment operations in the frames of EU, the negotiated terms under Para, 1 shall not be longer than 4 working days after the moment of receiving the payment order.

Value date of certification and value date of debiting the payment account

Art. 89. (1) The value date of certification of the payment account of the receiver shall not be later than the working day, on which the account of the payment service provider to the receiver has been certified with the sum of the payment operation.

(2) The payment service provider to the receiver shall give at disposal to the receiver the sum in the payment operation immediately, after the account of the payment service provider to the receiver is certified with this sum, where on behalf of the payment service provider to the receiver:

1. there is no currency exchange, or

2. there is currency exchange between EUR and Member State currency, or between the currencies of the two Member States.

(3) The debiting under Para. 2 shall also apply to payments, executed in one payment service provider.

(4) The value date of debiting of the payment account of the payer shall not be earlier than the moment, in which the payment account is debited with the sum of the payment operation.

Section V.

Responsibility

Inexact unique identifier

Art. 90. (1) Where a payment order has been executed in compliance with the indicated in it identifier, the order shall be considered as exactly executed in relation to the receiver, indicated in the unique identifier.

(2) The payment service provider shall not bear responsibility for non-execution or inexact execution of a payment operation in incorrect indicated by the user of payment service unique identifier.

(3) In case of non-execution of a payment operation because of indication of invalid unique identifier, the payment service provider to the originator shall recover the sum on the payment account of the originator on the following working day.

(4) In the cases under Para. 2 and 3 the payment service provider shall be obliged – in the frames of the due care – to lay efforts for recovery of the sun on the payment operation. Where it is negotiated in the framework contract, the payment service provider may charge a fee for this recovery.

(5) The payment service provider to the receiver shall assist the payment service provider to the payer, including by providing him the whole needed information about recovery of the funds.

(6) In case, that recover of the sum under Para. 4 is impossible, the payment service provider to the payer, in a written request on behalf of the payer, shall provide to him the whole available information, which is needed for recovery of the fund under the general procedure.

(7) With provision of additional information about the payment operation, apart from the indicated in Art. 54, Para. 1, p. 1 and Art. 60, p. 2, letter "b", the payment service provider shall bear responsibility for execution of the payment operation only in compliance with the unique identifier, provided by the user of payment services.

(8) The structure and application of a unique identifier "International bank account number" (IBAN) of the kept by the payment service providers account shall be defined by an ordinance of BNB.

Non-execution, incorrect or delayed execution of payment operation in payment ordered by the payer

Art. 91. (1) Where a payment order has been submitted directly by the payer, the payment service provider to the payer shall bear responsibility before the payer for the exact execution of the payment operation, unless he proves before the payer, or before the payment service provider to the receiver, that the payment service provider to the receiver has received the sum on the payment operation in the term under Art. 87, Para. 2, where in this case the payment service provider to the receiver shall bear responsibility before the receiver for the exact execution of the payment operation.

(2) Where the payment service provider to the payer bears responsibility under Para. 1, he shall timely recover to the payer the sum of the non-executed or incorrectly executed payment operation – and where applicable – shall recover the debited payment account in the condition, in which it would be, if the payment operation would not have been executed incorrectly. The value date of certification of the payment account of the payer shall not be later than the date, on which the account has been debited with the sum of the payment operation.

(3) Where the payment service provider to the receiver bears responsibility under Para. 1, he shall immediately give at disposal to the receiver the sum on the payment operation, and – where applicable – shall certify the payment account of the receiver with the relevant sun with a value date not later than the date, on which the account would have been certifies, if the operation were executed exactly, in compliance with Art. 89.

(4) Where the payment operation has been delayed, the payment service provider to the receiver, upon request on behalf of the payment service provider to the payer, acting on behalf of the payer, shall certify the payment account to the receiver with a value date not later than the date, on which the account would have been certifies, if the operation were executed without delay.

(5) In case of non-executed or incorrectly executed payment operation, ordered by the payer, his payment service provider, upon request, shall undertake actions in the frames of the due care for tracing the payment operation and shall notify the payer about the result, without requesting from the payer to pay fees about that.

Non-execution, incorrect or delayed execution of payment operations in payment, ordered by the receiver

Art. 92. (1) Where a payment order has been sent by, or through the receiver, the payment service provider to the receiver shall bear responsibility before the receiver about the exact transfer of the payment order of the payment service provider to the payer in compliance with Art. 87, Para. 6. Where the payment service provider to the receiver bears responsibility under this Para., he shall immediately transfer the relevant payment order to the payment service provider to the payer. In case of a delayed transfer of the payment order, the value date of debiting the payment account of the receiver with the sum on the operation shall not be later than the date, on which the account would have been certified, if the operation were executed without delay.

(2) The payment service provider to the receiver shall bear responsibility before the receiver for the execution of the payment operation in compliance with Art. 89 and shall give at disposal to the receiver the sum on the payment operation immediately after certification of the account of the payment service provider to the receiver with this sum. The payment account of the receiver shall be certified with the sum on the operation with a date value not later than the date, on which the account would have been certified if the operation were executed exactly.

(3) In case of non-executed or incorrectly executed payment operation, for which the payment service provider to the receiver does not bear responsibility under Para. 1 and 2, the payment service provider to the payer shall bear responsibility before the payer and shall recover to the payer with no ungrounded delay the sum of the non-executed or incorrectly executed payment operation, as well as the sums, needed for bringing the payment account in the conditions, in which it would have been, if the payment operation would not have been executed incorrectly. The value date for certification of the payment account to the payer shall not be later than the date, on which the account was debited with the sum of the payment operation.

(4) Para. 3 shall not apply in the cases, where the payment service provider to the payer proves, that the payment service provider to the receiver has received the sum on the payment operation, even in the cases of delayed execution of the payment operation. In this case, the payment service provider to the payer shall certify the payment account of the receiver with a value date not later than the date, on which the account would have been certified if the operation were executed correctly.

(5) In case of non-executed or incorrectly executed payment operation, ordered by the receiver, his payment service provider upon request, shall undertake actions in the frames of the due care for tracing the payment operation and shall notify the receiver about the result, without requiring from him payment of fees for that.

Responsibility for recovery of fees and interests

Art. 93. (1) The payment service provider shall bear responsibility before the relevant users for recovery of all paid by them fees, as well as for recovery of all the interests, charged to the users as a result of non-execution or the incorrect – including delayed- execution of the payment operation.

(2) Payment service provider shall also have the right to compensation to the complete amount of the suffered by them harms, under the applicable law to the contract with the payment service provider.

Responsibility in services on initiation of payment in non-execution, incorrect, or delayed execution of payment operations

Art. 94. (1) Where a payment order has been submitted by the payer through a service provider on initiation of payment, the payment service provider, servicing the account shall recover to the payer the sum

on the non-executed or incorrectly executed payment operation an – where applicable – shall recover the debited payment account in the conditions, in which it would be, if the payment operation were not executed incorrectly.

(2) The service provider on initiation of payment shall bear evidence burden, that the payment order has been received by the payment service provider, servicing the account of the payer, in compliance with Art. 83, as well as that in the frames of his participation he has established the authenticity of the payment operation, the operation has been exactly registered and it has not been affected from a technical damage or another shortcoming, related to non-execution, the incorrect or delayed execution of the operation.

(3) Where the service provider on initiation of payment is responsible for non-execution, incorrect or delayed execution of a payment operation, he shall immediately, upon request of the payment service provider, servicing the account, compensate the latter for suffered damages and the sums, paid as a result of the recovery of the payer's funds.

Right to regress claim

Art. 95. Where the payment service provider bears responsibility, including because of non-applying of deep establishment of the client's identity under this act because of actions of another payment service provider, or of intermediary, the payment service provider, or the intermediary, who has caused failure to execute or incorrectly execution of the payment operation, shall pay to the payment service provider, born the responsibility, compensation for all suffered damages, as well as any other additional compensation, agreed in the agreements between the payment service providers and/or with the intermediaries according to the applicable law to these agreements.

Correction transfers

Art. 96. (1) Where the payment service provider to the payer bears responsibility before the payer for incorrect executed payment operation, in which the funds have incorrectly come into an account, other than the indicated in the payment order unique identifier, or for non-authorized payment operation, in which the account of the receiver has been certified by a sum, other than the one, indicated by the payer in the payment order, or in which a payment operation has been executed more than once, the payment service provider to the payer shall have the right to request from the payment service provider to the receiver execution of official correcting transfer from the account of the receiver, in which incorrectly funds have come, in the term up to 5 working days form the date, on which the payment service provider to the payer has recovered the sum of the incorrectly executed payment operation in the payer's account, but not later than one month, after he has been notified by the payer or in another way about the incorrectly executed payment operation.

(2) Where a payment service provider on initiation of payments bears responsibility in the cases under Para. 1, he may send a request for executing an official correcting transfer to the payment service provider to the receiver, directly or through the payment service provider, servicing the account in the term under Para. 1.

(3) The payment service provider to the receiver of incorrectly executed or unauthorized payment operation in the term of up to 5 working days from receiving the request under Para. 1 or 2, shall execute correcting transfer from the account of the receiver in an account of the payment service provider to the payer, servicing an account or – where applicable – in an account of a payment service provider on initiation of payments.

(4) In the cases, where under the procedure and terms of Para. 1 – 3. No official correcting transfer has been made, the relations between the parties shall be settled under the general procedure.

(5) The BNB shall define by an ordinance the conditions and procedure for executing correcting transfers.

Extraordinary and unforeseen circumstances

Art. 97. The responsibility, provided by this Chapter shall not be born in the cases of extraordinary and unforeseen circumstances, outside the control of the country, referring to existence of such circumstances, from whose consequences would inevitable occur, in spite of the laid efforts for their prevention, as well as in the cases, where the payment service provider has acted in execution of normatively established obligations according to the EU legislation or the legislation of a Member State.

Section VI.

Operational risks and risks, related to security and establishment of identity

Management of operational risks and risks, related to security

Art. 98. (1) Payment service providers shall create suitable measures for restriction and control mechanisms for management of operational risks, including the risks, related to security, in connection with the provided by them payment services, as well as establish and maintain effective procedures for management of incidents, for finding and classifying significant operational incidents and incidents, related to security.

(2) Payment service providers shall produce to BNB updated and complete assessment of the operational risks and of the risks, related to security, in relation to the provided by them payment services, as well as of the adequacy of the measures, for limitation and control mechanisms, applied by them to these risks.

Reporting incidents

Art. 99. (1) Payment service provider, licensed by BNB, in an occurred substantial operational or security related incident shall immediately notify BNB about this fact.

(2) Where the incident affects or may affect the financial interests of the users of payment services, the payment service provider shall immediately notify them about the incident and about all the measures, which he undertakes, in order to limit the unfavorable consequences from the incident.

(3) With receiving notification under Para. 1, BNB shall timely send information about the incident to EBA and ECB. BNB may also notify other competent bodies on the territory of the Republic of Bulgaria and – where needed – shall undertake actions for protection of the financial system.

(4) Payment service provider, licensed by BNB shall produce to BNB statistical data about frauds, related to the payments.

(5) BNB shall produce to EBA and ECB the data under Para. 4 in summarized form.

(6) BNB shall issue an ordinance on the application of Art. 98 and of this Art..

Establishing identity

Art. 100. (*) (1) Payment service providers shall apply deep establishment of the payer's identity, where the payer:

1. accesses the payment account online;
2. initiates electronic payment operation;
3. performs other action from a distance, in which a risk of a fraud could occur in the payment, or other abuse.

(2) In payment operations under Para. 1, letter "b" initiated from a distance, the payment service providers shall apply deep establishment of identity of the client through changeable elements, related the operation with a concrete sum and receiver.

(3) In the cases under Para. 1, the payment service provider shall introduce appropriate measures for security and protection of confidentiality and inviolability of the personalized security means of users of payment services.

(4) Deep establishment of the client's identity shall be a procedure of establishment of the identity, which is developed in a way, which protects confidentiality of data and which includes using 2 or more of the following independent elements:

1. knowledge – something, which only the user knows;
2. possession – something, which only the user possesses;
3. characteristic peculiarity – something, which characterizes the user.

(5) Violation of some of the elements under Para. 4 shall not influence the reliability of the remaining ones.

(6) In the cases, where the payments have been initiated through a service provider of initiation of payment, Para. 2 and 3 shall apply, and in the cases, where the information is required through a service provider on provision of information about an account, Para. 1 and 3 shall apply.

(7) The payment service provider, servicing the account, shall give opportunity to the service provider on initiation of payment and to the service provider of provision information about an account, to rely on the provided by him procedures for establishment of the identity of the user of payment services in compliance with Para. 1 and 3, and where a service provider of initiation of payment participates, - in compliance with Para. 1, 2 and 3.

Chapter six.

TRANSPARENCY AND COMPARABILITY OF THE FEES. TRANSFER OF PAYMENT ACCOUNTS. ACCESS TO PAYMENT ACCOUNTS FOR BASIC

Section I.

General provisions

Applicable field

Art. 101. (1) This Chapter shall apply in relation to payment accounts, through which the consumers may carry out at least the following:

1. depositing funds in a payment account;
2. drawing money in cash form a payment account, and
3. execution and receiving payment operations, including credit transfers to and from third persons.

(2) The provisions of Section IV of this Chapter shall apply equally to banks, licensed by BNB and to branches of banks, realizing activity on the territory of the country, which provide payment services to users. The provisions of Sections II and III of this Chapter shall apply to all payment service providers, licensed by BNB, the branches and representatives of payment service providers, realizing activity on the territory of the country.

Section II.

Transparency and comparability of fees, related to a payment account

List of the most representative services, related to payment account

Art. 102. (In force from 30.04.2018) (1) The BNB shall adopt with an Ordinance a list of the most representative services, related to a payment account, which contains national. Also standardized terms at the EU level.

(2) The services under Par. 1 shall be those services, which the users use most often, in relation to their payment accounts, and/or which bear the largest costs for the users.

Documents with information with the fees

Art. 103. (In force from 31.10.2018) (1) In a sufficient term, before the consumer to be bound to a payment account contract, the payment service provider must provide to him on paper media or on another long-term media a document with information about the fees, containing the standardized terms of the list under Art. 102. Provision of the document with information about the fees shall not affect the obligations of the payment service provider under Art. 60, p. 3 or under the Consumer Loans Act.

(2) The document under Para. 1 must meet the following requirements:

1. to represent a short and independent document;

2. to be presented and structured in a clear and easy for reading way, using readable style;
3. its readability should not be damaged, if a color original is printed or copied in black and white;
4. to be drawn up in the Bulgarian language, or in another language agreed between the user and payment service provider;
5. to be exact and not contain misleading information;
6. the fees in the document should be indicated in the currency of the payment account or in another currency of a Member State, agreed between the consumer and the payment service provider;
7. to be titled: "Document with information about the fees" in the upper part on the first page close to the general symbol, which differentiates this document from other documents;
8. to include text, that the document contains fees about the most representative services, related to a payment account and that complete pre-contractual and contractual information about all the services is available in other documents.

(3) Where one or more services are offered as a part of a package services, related to a payment account, the document with the information about the fees, shall indicate the fee for the whole package, services, including in the package and their number, as well as additional fee for every service outside the services, for which the package fees is due.

(4) The document with information about the fees shall be drawn up in a standardized format and shall contain a common symbol under a delegated act, which the European Commission adopts under Art. 4, Para. 6 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), called hereinafter "Directive 2014/92/EU".

Glossary

Art. 104. (In force from 31.10.2018) (1) The payment service providers shall produce to the users a glossary, whose minimal contents shall include the standard terms of the list under Art. 102. And the relevant definitions.

(2) While drawing up the glossary under Para. 1, as well as for introducing other definitions, a clear and unambiguous language shall be used, which shall not be misleading, avoiding technical terms.

Provision of the document with information about the fees and the glossary

Art. 105. (In force from 31.10.2018) (1) The document with information about the fees and the glossary shall be produced by the payment service providers at disposal of the users at any time. They shall be produced in a way, which provides easy access to them, including persons, who are not clients. They shall be provided on site in the premises of the providers, to which users have access, and where they are in electronic form - through internet sites of the payment service providers.

(2) Upon request of the user, the documents under Para. 1 shall be provided free and on paper or another long-term media.

(3) The document with information about the fees may be provided with other information, required under the EU legislation, or the Bulgarian legislation about the payment accounts and the related services.

Report on the fees

Art. 106. (In force from 31.10.2018) (1) Payment service providers shall provide, upon request of users, free at least once a year report about all the charged fees and if applicable – information about the interest percentage for overdraft on the payment account, credit interest percentage on the payment account and the total amount of the interests for the relevant period for the services, related to the payment account. In the report the payment service providers shall use the terms from the list under Art. 102.

(2) The requirements under Para. 1 shall not affect the obligation of the payment service providers to provide information under Art. 65 and 66 as well as under the Consumer Credit Act.

(3) The payment service provider and the user shall agree about the way for provision of the report

under Para 1, where upon request by the user, the report shall be provided also on paper media.

(4) The report about the fees may be provided with other information, required under the EU legislation or the Bulgarian legislation about the payment accounts and related services.

Contents of the report

Art. 107. (In force from 31.10.2018) (1) The report under Art. 106 shall contain the following formation:

1. a single fee, charged for every service, and how many times the service has been used during the relevant period;

2. in case that the services are produced in a package – the fees for the package of service as a whole, how many times the package fee has been charged during the relevant period and additional fees, charged for exceeding the number of services, included in the package;

3. the total amount of the paid fees for the relevant period for every provided service, for every package of services and for the services, exceeding the number, included in the package;

4. where applicable – the interest percentage for overdraft on the payment account and the total amount of the interest on the overdraft for the relevant period;

5. where applicable – the credit interest rate on the payment account and the total amount of the interest for the relevant period;

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

(2) The report under Art. 106 must meet the following requirements:

1. to be represented and structured in a clear and easy to read way, using readable style;

2. to be exact and not contain misleading information;

3. to be in the currency of the payment account or in other currency, agreed between the user and the payment service provider;

4. to be titled "Report on fees" at the upper part of the first page of the report, close to the common symbol, which differentiates the report from other documents;

5. to be drawn in the Bulgarian, or other language, agreed between the user and the payment service provider.

(3) The report on fees shall be drawn up in a standard form and shall contain a common symbol under a delegated act, which the European Commission adopts under Art. 5, Para. 4 of Directive 2014/92/EU.

Information for the users

Art. 108. (In force form 31.10.2018) (1) In the provided to the users contractual, trade and marketing information, the payment service providers shall use – where applicable – standard terms from the list under Art. 102.

(2) In the document with information about the fees and the report on fees, the payment service providers may use trade names, under the condition that they are addition to the standard terms of the final list under Art. 102 and serve as secondary name of these services.

(3) The payment service providers may use trade names for their services in the provided to the users contractual, trade and marketing information, under the conditions, that they clearly indicate – where applicable – their corresponding standard terms in the list under Art. 102.

Internet site for comparison of fees

Art. 109. (In force from 31.10.2018) (1) The users shall have the right to free access at national level to at least one internet site for comparison of the fees, imposed by the payment service providers for provision of the services, included in the list under Art. 102.

(2) The internet site under Para. 1 must meet the following requirements:

1. to be functionally independent, while guaranteeing, that the payment service providers are equally represented as a result of searching;

2. to indicate clearly who is the owner of the internet site;
3. to define clear, objective criteria, on the basis of which the comparison will be made;
4. to use a clear and unambiguous language and where possible – standard terms of the list under Art. 102;

5. to provide exact information and indicate the time of the last updating;
6. to include wide scope of offers for payment accounts, covering substantial part of the market, and where the provided information does not contain complete review of the market, this shall be clearly messaged before showing the results;

7. to provide effective procedure for reporting of incorrect information about the published fees.

(3) The BNB shall maintain an [internet site](#) under Para. 1. Other persons, maintaining internet sites, which meet the indicated requirements in Para. 1 and 2, shall notify BNB about this fact in view to their inclusion in the provided under Para. 5 information.

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

(5) BNB shall provide information on its website about the available [internet sites](#), which meet the indicated in this Art. conditions.

(6) The relations between the Ministry of Finance and BNB in relation to recovery of the costs, made by BNB shall be settled by a contract.

(7) The BNB shall issue an Ordinance on the implementation of this Art..

Payment accounts, offered in a package

Art. 110. Where the payment accounts are offered as a part of a package with another product or service, which are not connected with a payment account, the payment service provider shall notify the user about the possibility the payment account to be opened and kept separately. In case of such possibility, the payment service provider shall provide separate information about the costs and fees, related to each of the other products and services, offered in the package, which may be bought separately.

Section III.

Transfer of a payment account

Provision of a service on transfer of a payment account

Art. 111. Payment service provider shall provide to a user the service of transfer of a payment account, described in this Section, where the payment accounts are kept in one and the same currency in payment service providers, on the territory of the Republic of Bulgaria.

Service for transfer of a payment account

Art. 112. (1) The accepting payment service provider shall begin a procedure of transfer of a payment account upon request of the user also after he has received authorization from the user. In case that there are 2 or more holders of an account, authorization shall be received by each of them. The authorization shall be given in writing in the Bulgarian language or in another language, agreed between the parties, where a copy of it shall be produced to the user.

(2) With the authorization under Para. 1, the user shall give consent:

1. for execution on behalf of the transferring payment service provider of any of the actions, indicated in Para. 4;

2. for execution on behalf of the accepting payment service provider each of the actions, indicated in Para. 7.

(3) With the authorization of Para. 1, the user may also indicate:

1. which concrete incoming credit transfer, orders for periodic transfers and consents for direct debits must be transferred;

2. date, at least 6 working days after the date, on which the accepting payment service provider has

received the documents from the transferring payment service provider under Para. 5, from which the orders for periodic transfers and direct debits to be executed from an opened or the kept in the accepting payment service provider payment account.

(4) Within 2 working days after receiving the authorization under Para. 1, the accepting payment service provider shall request from the transferring payment service provider realization of the following activities, if they are included in the authorization by the user:

1. to provide to the accepting payment service provider and to the user – if he explicitly requested that – a list of the existing orders for periodic transfers and the available information about the consents for direct debits, which are to be transferred;

2. to send to the accepting payment service provider and to the user with explicit sent by him request the available information about the kept periodic credit transfers and consents for direct debits, which are kept by the receiver, executed in the payment account of the user, for the previous 13 months;

3. to stop accepting direct debits and incoming credit transfers from the date, indicated in the authorization, where the transferring payment service provider does not have a system for automated re-direction of the incoming credit transfers and direct debits to the payment account of the user in the accepting payment service provider;

4. to stop execution of the orders for periodic transfers from the date, indicated in the authorization;

5. to transfer the positive balance – if any – in the payment account, opened or kept in the accepting payment service provider, on the indicated by the user date, and

6. to close the payment account, kept in the transferring payment service provider on the indicated by the user date.

(5) With receiving a request under Para. 4, the transferring provider shall execute the following actions, if they are included in the authorization of the user:

1. he shall send to the accepting provider the information, indicated in Para. 4, p. 1 and 2 within 5 working days;

2. where the transferring provider does not have a system for automated re0irection of the incoming credit transfers and direct debits to the payment account, held, or opened by the user in the accepting payment service provider, he shall stop accepting of the incoming credit transfers and direct debits on the payment account form the date, indicated in the authorization, and shall inform the payer or receiver about the grounds of not accepting the payment operation;

3. he shall stop to execute the orders for periodic transfers from the date, indicated in the authorization;

4. he shall transfer the positive balance - if any – to the payment account, opened or kept in the accepting provider, on the indicated in the authorization date;

5. he shall close the payment account on the indicated in the authorization date, where the applicable under Art. 63 term has been observed and the user has no unpaid obligations on this account and in the condition, that the envisaged in p.1, 2 and 4 actions have been executed; the transferring provider of payment services shall immediately notify the user if his payment account cannot be closed because of unpaid obligations.

(6) The transferring payment service provider shall not have the right to block payment instruments before the date, indicated in the authorization, provided by the user, so that the provision of payment services to the user should not be terminated during the provision of the service of transfer, apart from the cases under Art. 74, Para. 2.

(7) Within the term of 5 working days after receiving the requested by the transferring payment service provider information under Para. 4, the accepting payment service provider shall execute the following actions, if they have been envisaged in the authorization and as far as the provided by the transferring payment service provider information gives him possibility to execute them:

1. he shall draw up the requested by the user orders for periodic transfers and shall execute them form the date, indicated in the authorization;

2. he shall execute the needed preparation for accepting direct debits and shall accept them from the date, indicated in the authorization;

3. if needed – he shall notify the users about their rights under Art. 5, Para. 3, letter "d" of Regulation (EU) N 260/2012;

4. he shall notify the indicated in the authorization payers, who execute incoming periodic credit transfers on the payment account of the user, about the data of the payment account of the user, kept in him and shall send them a copy of the provided authorization; where the accepting payment service provider does not have the whole information, needed for notification of the payers, he shall require from the user or from the transferring payment service provider to produce the missing information;

5. he shall notify the indicated in the authorization receivers of funds on direct debits of the payment account of the user about the data of the payment account of the user, kept by him and about the date, on which the direct debits are to be executed from this account and shall send them a copy of the provided authorization; if the accepting payment service provider does not have the whole information, needed for notification of the receivers, he shall require the user, or the transferring payment service provider to produce the missing information.

(8) Where the user chooses in person to provide the indicated in Para. 7, p. 4 and 5 information to the payers, or to the receivers of funds, instead of providing his explicit consent, the accepting payment service provider to execute the notification, in the term under Para. 7, the accepting payment service provider shall provide to the user standard notification letters, which shall indicate the data about the payment account and the initial date, defined in the authorization.

Fees, related to the service of transfer of payment account

Art. 113. (1) The payment service providers shall not be able to charge fees to users for access to referring to them information about existing orders for periodic transfers and direct debits, kept by the transferring or acting payment service provider.

(2) The transferring payment service provider shall not charge fees to the user or to the accepting payment service provider in the cases of Art. 112, Para. 5, p.1.

(3) In case, that the transferring payment service provider collects from the user fees in closing the payment account, they shall be defined in compliance with the requirements of Art. 63, Para. 2 and 5.

(4) In case of charging fees to the user by the transferring or accepting payment service provider for each of the services, provided by Art. 112, with the exception of the services under Para. 1 – 3 of this Art., the fees must be acceptable and comply with the real costs of the payment service provider.

Financial losses for the users

Art. 114. (1) Financial losses, including fees and interests, born by the user and comprising directly from failure to observe the obligations under Art. 112 on behalf of a participating in the procedure of transfer of a payment account payment service provider, they shall be recovered immediately by this payment service provider.

(2) Para. 1 shall not apply, in case that:

1. the failure to execution is due to extraordinary and unforeseeable circumstances outside the control of the payment service provider, whose consequences inevitably would occur, in spite of all the efforts for their prevention, or

2. the payment service provider has acted in execution of a normatively established obligation under the EU legislation or the Bulgarian legislation.

Information about the service of transfer of a payment account

Art. 115. (1) Payment service providers shall provide to users information about the service of transfer of a payment account, which refers to:

1. the function of the transferring and accepting payment service provider of each stage of the procedure of transfer of the payment account under Art. 112;

2. the term for execution of the relevant stages;
3. fees, in case of any, in relation to the transfer of the payment account;
4. any information, which would be required by the user, and
5. information about the procedures of alternative settling of disputes, indicated in the Chapter Ten.

(2) The information under Para. 1 shall be provided free to the users and upon request – on paper media or another long-term media in all accessible for the users' premises of the payment service providers, as well as in electronic form on their websites, at any moment.

Facilitating the users in transborder opening of an account

Art. 116. (1) Where a certain user notifies his payment service provider, that he wishes to open a payment account in a payment service provider, located in another Member State, with receiving such a request, the payment service provider, in which the user has an open payment account shall:

1. provide free to the user a list of all active at the moment orders for periodic credit transfers and consents for direct debits, which are kept in the payment service provider to the payer – if any – and the available information about the incoming periodic credit transfers and direct debits, the consent about which is kept by the receiver, executed on the payment account of the user for the previous 13 months; this list shall not cause obligation for the new payment service provider to provide services, which he provides in principle;

2. transfer the positive balance – if any – from the payment account of the user on the payment account, open or kept in his payment service provider, under the conditions, that the request contains the full identification data for the new payment service provider and for the user's payment account;

3. close the payment account of the user.

(2) Where the term under Art. 63 has been observed and where the user has no unpaid obligations, on the payment account, the payment service provider shall execute the actions under Para. 1, on the indicated by the user date, which shall be at least 6 working days, after the payment service provider receives the request of the user, unless agreed otherwise. The payment service provider shall immediately notify the user if his account cannot be closed because of unpaid obligations.

Section IV.

Access to payment accounts

Non-discrimination

Art. 117. (1) Users, residing legally in the EU, shall not be subject to discrimination on behalf of the banks on the basis of their nationality or residing, nor under other ground under Art. 21, of the EU Charter of Fundamental Rights where these users submit an application for opening a payment account or try to receive access to a payment account on the territory of the Republic of Bulgaria.

(2) The conditions, applicable in relation to opening and keeping a payment account for basic operation in the meaning of Art. 118, shall not discriminatory.

Payment account for basic operations

Art. 118. (1) The payment account for basic operations shall be a payment account, through which the following services in BGN shall be provided on the territory of the country:

1. opening, using and closing the payment account;
2. depositing funds in the payment account;
3. drawing money in cash form the payment account from a desk or terminal device ATM during the bank working time, or outside it;
4. execution of the following payment operations:
 - a) direct debits;
 - b) payment operations, executed through a payment card, including payment via internet;
 - c) credit transfers, including orders for periodic transfers on ATM and POS and at desks, where

they are available, and via the online banking systems of the bank.

(2) The banks shall offer every service under Para. 1 in a payment account for basic operations, if they provide it to users, possessing a payment account, different from the account for basic operations.

(3) The banks shall provide possibility on a payment account for basic operations to be performed unlimited number of operations, referring to the services, indicated in Para. 1.

(4) The banks shall provide to the users possibility to manage and execute payment operation from their payment account for basic operations on site in offices of the bank, and/or through the online banking system – if any.

(5) The banks shall provide free to the users accessible information and assistance in relation to the characteristics of the offered payment accounts for basic operation, the related to them fees and conditions for their use. The information must clarify, that the purchase of additional service is not obligatory condition for access to the payment account for basic operations.

(6) The BNB, the banks under Art. 119, Para. 1 and the persons, maintaining websites under Art. 109, Para. 1 shall undertake the needed measures for increasing the public awareness about the possibility for using payment accounts for basic operations.

(7) The measures under Para. 6, undertaken by the banks under Art. 119, Para. 1 shall include at least giving at disposal at any time an information brochure about the account for basic operation on paper media in their premises, to which the users have access and in electronic form via their website.

(8) The information brochure under Para. 7 shall contain information, defined by BNB, about the payment account for basic operations and the applied fees on it by the relevant bank.

Right to access to the payment account for basic operations

Art. 119. (1) All the banks, licensed by BNB and branches of banks, realizing activity on the territory of the country, which provide payment services to users, shall provide payment accounts for basic operations in the meaning of Art. 118.

(2) Users, residing legally in the EU, including such without permanent address, persons, seeking international protection and users, who have been provided with authorization for residence, but who are impossible to be expelled upon legal or factual reasons, shall have the right to open and use a payment account for basic operations.

(3) The banks, which have received an application for opening a payment account for basic operations, must open the payment account for basic operations or to refuse opening of such an account not later than 10 days after receiving all the needed documents.

(4) The banks shall refuse opening of a payment account for basic operations, where opening of such an account would lead to breaking the established provision in the legislation on prevention using financial system for money laundering and financing terrorism.

(5) The banks may refuse opening of a payment account for basic operations to a user, if he already holds:

1. a payment account for basic operations kept by the same or another bank on the territory of the country, or

2. more than one payment account, through which he can use all the services under Art. 118, Para. 1 kept by the same or another bank on the territory of the country, unless he has been notified, that his account will be closed.

(6) In case of refusal for opening a payment account, the banks shall notify the user about the refusal, as well as about the concrete grounds for the refusal immediately after the decision has been taken, unless the disclosure of this information would be contradictive to the purposes of the national security, public order or the legislation on prevention of using the financial system for the purposes of money laundering and financing terrorism. The notification shall be made in writing and for it fee shall be collected. With the notification the banks shall inform the users about the procedure for submitting claims against the refusal under Art. 174 and about the possibility to refer to BNB and Conciliation Commission on Payment

Disputes, by providing contact data.

(7) The access to a payment account for basic operations shall not be bound to purchasing additional services or bank assets, unless the execution of such a purchase is conditions for all the banks users.

(8) The banks may require from a user to declare the circumstances under Para. 5.

(9) Banks, licensed by BNB and bank branches, realizing activity on the territory of the country, which provide upon exception payment services to users and as far as the users are of a limited number and category, may not offer payment accounts for basic operations under Art. 118.

Fees on payment accounts for basic operations

Art. 120. (1) The banks shall provide to users the services, indicated in Art. 118, Para. 1 free or against acceptable fees, notwithstanding of the number of payment operations, executed on the account.

(2) Where 10 or more banks offer some of the services, indicated in Art. 118, Para. 1 without a fee on payment accounts of users, different from payment accounts for basic operations, this service shall be defined as free in the published by BNB average amount of the fees under Para. 6.

(3) Where some of the services, indicated in Art. 118, Para. 1 is offered by 10 or more banks on payment accounts of users, other than payment accounts for basic operations, without a fee to a certain threshold, the banks shall offer this service without s fee to the published by BNB average amount of this threshold under Para. 6.

(4) The fees, charged to users for not observing their obligations on the framework contract for a payment account for basic operations, must be acceptable.

(5) The acceptable fees under Para. 1 and 4 must be coordinated with the level of the incomes in the Republic of Bulgaria, where they shall be lower than the average amount of the fees, collected by the banks for relevant services on payment account of users, other than payment accounts under Art. 118, and - than the amount of the fees, which the bank applies on a tariff for the relevant services on payment accounts or users, other than payment accounts under Art. 118.

(6) The BNB shall publish on its website once a year an average amount of the fees, charged by the banks for the relevant services on payment accounts of users, other than payment accounts under Art. 118, as well as average amount of the threshold under Para. 3.

(7) For the purposes of Para. 6, BNB may require form the banks information about the charged by them fees for the relevant services on payment accounts of users.

Framework contracts for payment accounts for basic operations and termination

Art. 121. (1) As far as this Art. provides otherwise, to the framework contracts for a payment account for basic operations, the provision of Art. 59 – 66 shall apply.

(2) The banks may unilaterally terminate a framework contract for a payment account for basic operations only where at least one of the following conditions has been fulfilled:

1. the user has intentionally used the payment account for illegal purposes;
2. during more than 24 consecutive months on the payment account not payment operation has been performed;
3. the user has provided untrue information, so that the payment account for basic operations to be opened, where the provision of untrue information would lead to refuse for its opening;
4. the user no longer resides legally in the EU;
5. the user afterwards has opened in a bank another payment account, which gives him possibility to use the numerated services in Art. 118, Para. 1;
6. the user violates the conditions of the framework contract.

(3) Where a bank terminates the framework contract for a payment account for basic operations under one or more of the grounds, indicated in Para. 2, p. 2, 4 - 6, it shall notify the user about the reasons and grounds for termination with a notice with the term at least 2 months, unless the disclosure of this information would be contradicting to the purposes of the national security or public order. The notification

shall be made in writing and for it fee shall not be collected.

(4) Where a bank terminates a framework contract for a payment account for basic operations under para. 2, p. 1 or 3, the termination shall come into force immediately.

(5) With the notification for termination under Para. 3, the banks shall inform the users about the procedure for submitting a claim against the termination under Art. 174 and about the possibility to refer to BNB and the Conciliation Commission on Payment Disputes, by providing them contact data with the indicated bodies.

(6) The BNB shall issue an Ordinance on the implementation of this Section.

Chapter seven. PAYMENT SYSTEMS

Payment system

Art. 122. (1) A payment system is a system for transfer of funds, which functions on the basis of formal and standard procedures and common rules for processing, clearing and/or settlement of payment operations.

(2) The payment system shall be serviced by an operator of a payment system. Where the participants in the payment system are more than one, the operator shall be determined with an agreement for payment system, signed between them.

Settlement in a payment system

Art. 123. (1) The settlement in a payment system is transfer of money funds in accounts for settlement in view to execution of orders for transfer between participants in the payment system.

(2) A settlement account shall be an account at an agent of settlement, used for storing money funds and for payment in transactions between participants in the system.

(3) A settlement agent may be only a central bank or a bank in the meaning of Art. 2, Para. 5 of the Credit Institutions Act.

(4) The settlement agent must provide reliable and effective administrative and accounting procedures, corresponding to the characteristics of the system and the volume of the executed through it operations.

(5) BNB may define additional requirements for liquidity to the banks – settlement agents.

Storage orders to the payment system

Art. 124. Participants in the payment system and the operator of the payment system shall store the orders to the payment system for the term of at least 5 years, starting from the date of their introduction.

Access to payment systems

Art. 125. (1) The access rules to payment systems of payment service providers must be objective, non-discriminatory and comparable, where they shall not restrict the access more than the needed for protection against specific types of risk, as a settlement risk, operational risk and business risk, as for protection of the financial and functional stability of the payment system.

(2) The payment systems shall not impose to payment service providers, to users of payment services or to other systems:

1. restriction rules about affective participation in other payment systems;
2. rules, which impose discrimination between payment service providers in relation t the rights, obligations and privileges of the participants, or
3. restrictions, based on the legal status of the payment service providers.

Restrictions for the access to payment systems

Art. 126. (1) The provision of Art. 125 shall not apply in relation to payment systems:

1. 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 by Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009;

2. drawn up exclusively by payment service provider, who are part of one group.

(2) Where a participant in a system under Para. 1, p. 1 admits payment service provider, who is not a participant in the system, to send orders for transfer through it, this participant shall produce upon request the same possibility in an objective, non-discriminatory and proportional way to other payment service providers in compliance with the requirements of Art. 125. In case of refusal for provision of access to the system, the refusal shall be grounded.

Rules of the payment system

Art. 127. (1) The rules of every payment system shall be inseparable part of the agreement for the relevant system.

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

1. the operator of the payment system;
2. the settlement agent and the way for provision irrevocability of orders for transfer;
3. the participants in the payment system;
4. the requirements to the procedure, way and form of the payment orders, sent by the user of payment services to the system participants;
5. the access rules and conditions for participation in the payment system;
6. the conditions for leaving or discharge of a participant from the payment system;
7. the rights and obligations of the participants and the operator of the payment system;
8. the way of submission of the orders for transfer, their form and structure;
9. the way of submission, the form and structure of the information for the operations on the settlement accounts;
10. the principle for operation of the payment system and the method for settlement of counter-claims and obligations of the participants;
11. the moment of accepting an order for transfer from the payment system, as well as the time period, in which the payment system accepts orders;
12. the moment of irrevocability of an order for transfer, accepted by the payment system, if the system is with finality of settlement;
13. the way of provision of funds for the settlement of the orders for transfer, submitted to the payment system;
14. the currency/s, in which the payment system operates;
15. availability of potential financial, operative and technical risks for participants, as well as measures for these risks management;
16. the tariff of the offered services;
17. rules for management of financial and operational risks;
18. the rules and technical ways for protection of the information against unlawful access or use;
19. the rules for extraordinary situations.

(3) The provisions of the agreement under Para. 1 and the rules of the payment system must provide observation of the requirements of this act and the legislative instruments on its implementation. The operator and participants shall be obliged to observe the rules and agreement for the relevant payment system.

Chapter eight.

FINALITY OF SETTLEMENT IN PAYMENT SYSTEMS AND SETTLEMENT SYSTEMS OF SECURITIES

Section I.

General provisions

General provisions

Art. 128. (1) Payment system and securities settlement systems 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 by Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009, called hereinafter "finality settlement system" is a system, which meets at the same time the following conditions:

1. represents a written agreement between 3 or more participants, without including the system operator of this system, as well as the agent on settlement, the central co-counteragent, the clearing house or indirect participant – if any – with general rules and standard clearing procedures, through a central co-counteragent, or without such, or for execution of orders for transfers between the participants;

2. the participants have chosen the legislation of a Member State to settle the agreement for the system;

3. the rules and procedures of the system has been coordinated with the requirements for finality of the settlement under this Chapter.

(2) The participants in finality settlement system may choose the Bulgarian legislation to settle the agreement for the system only if the central office and the management address – at least one of them – are located on the territory of the Republic of Bulgaria.

(3) The finality settlement system shall be services by a system operator. The system operator may also act as agent of settlement, central co-counteragent or clearing house.

(4) An agreement, signed between operatively compatible systems shall not be a finality settlement system.

(5) The Ministry of Finance shall notify the European Security and Markets Authority about the systems under Para. 1 and about the system operators under Para. 3, where the Bulgarian legislation provides for the agreement for the system, after a compliance checkup for the rules and procedures of the systems is made with the requirements for finality of the settlement.

(6) The BNB shall provide to the Ministry of Finance the needed information for performing the notification under Par. 5 on the payment systems under Para. 1 and the system operators of payment systems under Para. 3.

Agent of settlement of the finality settlement system

Art. 129. (1) The agents of settlement shall be a person, providing to the institutions and/or the central co-counteragent, participating in the system, settlement account, through which the order for transfer, or transfer in this system are settled and providing credit, depending on the case to those institutions and/or to the central co-counteragent for the purposes of the settlement.

(2) A settlement account in the meaning of this Chapter shall be an account at a central bank, settlement agent or central co-counteragent in transactions between participants in the system.

(3) For payment finality settlement systems, where the Bulgarian legislation provides the agreement for the system, a settlement agent shall be BNB.

(4) The settlement of money funds in BGN of settlement systems of securities, for which the Ministry of Finance has made notification under Art. 128, Para. 5 shall be performed in the payment system for gross settlement in real time RINGS, under the rules and procedures under Art. 145, Para. 4.

Participants in the finality settlement system

Art. 130. (1) Participant in the finality settlement system may be only:

1. The BNB and a central bank of another Member State;
2. a settlement agent;
3. central co-counteragent;

4. clearing house;
5. institution in the meaning of § 1, p. 15 of the Additional Provisions;
6. a system operator.

(2) Indirect participant in the finality settlement system may be an institution in the meaning of § 1, p. 15 of the Additional Provisions, a central co-counteragent, a settlement agent, clearing house or a system operator, who is in contractual relations with a participant in the finality settlement system, executing orders for transfer, according to which the indirect participant may give orders for transfer through the system, in the conditions, that he is known to the system operator.

(3) According to the rules of the system, one and the same participant may act as central counteragent, settlement agent or clearing house in a finality settlement system, or perform all these functions or a part of them.

(4) Upon request by the persons, who have legal interest, the institutions shall inform about the finality settlement systems, in which they participate and shall provide information about the basic rules, providing the functioning of these systems.

Recovery measures or termination procedures to a participant in a finality settlement system

Art. 131. (1) Recovery measures, or termination procedures to a participant in a finality settlement system shall be the undertaken measures to a bank or procedures under Art. 133 of The Credit Institutions Act, as well as any other provided by the law measure, applied by an administrative body, or by the court to a participant in a system, including termination or imposing restrictions over his transactions or payments.

(2) A moment of imposing recovery measures or for opening of termination procedure shall be the moment, where the relevant court or administrative body takes decision for imposing the measures or for opening the procedure.

(3) With taking the decision for imposing recovery measures or for opening a termination procedure to a participant in the finality settlement system, the relevant court or administrative body shall immediately notify the Ministry of Finance, which shall notify the other Member States, the European System Risk Board and the European Securities and Markets Authority.

(4) Imposing recovery measures or opening a termination procedure shall not have counter action in relation to the rights and obligations of the participants and shall not lead to recalculation of receivables and obligations of the participants, comprising from or related to their participation in the finality settlement system before the moment of imposing the measures or opening the procedure under Para. 2. This rule shall also apply in relation to the rights and obligations of a participant in an operative compatible system or a system operator of an operative compatible system, who is not a participant.

(5) In case of imposing recovery measures or opening of termination procedure to a participant in a finality settlement system, the rights and obligations, comprising from or in relation to his participation shall be determined by the law, which provides this system.

Execution of orders for transfer and netting in a finality settlement system

Art. 132. (1) The orders for transfer and netting cause a legal action and have obligatory force to third persons, even in a case of recovery measures or termination procedures to a participant in a finality settlement system, under the conditions, that the order or transfer are introduced in the system before the moment of imposing recovery measures or opening of termination procedure under Art. 131, Para. 2. This rule shall apply also to recovery measures or termination procedure against a participant in a finality settlement system or in operatively compatible system or recovery measure or termination procedure against the system operator of an operative compatible system who is not a participant.

(2) Where the orders for transfer are introduced in a finality settlement system after the moment of imposing recovery measures or opening of termination procedure and are fulfilled in the frames of the working day, they cause legal action and have obligatory force for third persons only if the system operator may prove, that at the moment, in which the orders for transfer have become irrevocable, he has not known, or has not been obliged to know about the opening of this procedure.

(3) The moment of introduction of the order for transfer in the finality settlement system shall be defined by the rules of the system.

(4) With operatively compatible systems, each of the systems shall define in its own rules the moment of introducing in the system, so that should guaranty, that the rules of the relevant operatively compatible systems are coordinated in this respect. The rules of the system about the moment of introduction shall not be affected by the rules of the other systems, with which it is operatively compatible, unless in the rules of all systems, of which the operatively compatible mechanism consists, has not been explicitly provided otherwise.

(5) In imposing recovery measures or opening a termination procedure to a participant or system operator of operatively compatible system, the available money funds or securities in a settlement account of a participant in a finality settlement system, may be used for execution of his obligations in the system or in operatively compatible system during the working day of imposing recovery measures or opening a termination procedure.

(6) The system rules may provide using credit facilities by the participant against provision of available and existing guaranty for covering the obligations of this participant in the system or in operatively compatible system.

(7) The working day in the meaning of this Art. shall cover the settlement during the day, as well as during the night and shall include all the events, occurred during the working cycle of the finality settlement system.

(8) The provisions of the legislation in force, related to declaring the nullity or severability of transactions and payments, made before the moment of imposing recovery measures or opening termination procedures, shall not in netting and shall not lead to cancelling the netting.

Irrevocability of orders for transfer

Art. 133. (1) Participant in a finality settlement system, or a third person shall not cancel an order for transfer after the defined moment in the rules of the system.

(2) With operatively compatible systems, each of the systems shall define in its own rules the moment of irrevocability, so that it guarantees – as far as possible – that the rules of all operatively compatible systems are coordinated in this respect. The rules of the system about the moment of irrevocability shall not be affected by the rules of other systems, with which it is operatively compatible, unless the rules of all systems, of which the operatively compatible mechanism consists, explicitly provide otherwise.

Protection of guarantees

Art. 134. (1) The rights of a system operator or participant in a finality settlement system over their provision in relation to a system or with operatively compatible system guaranty, as well as the rights of the central banks of the Member States or of the European Central Bank over their provided guaranty shall not be affected by recovery measures, or termination procedure to the participant, system operator of operatively compatible system, who is not a participant, counteragent of a central bank of a Member State or of the European Central Bank provided the guaranty, as well as to any other third person, who provided the guaranty. The guaranty may be used for satisfying these rules.

(2) Where in the frames of operatively compatible system, a system operator has provided guaranty to another system operator, the rights to the system operator, having provided the guaranty over the provided guaranty shall not be affected by recovery measures or termination procedures to the system operator, to whom the guaranty has been provided.

(3) Where securities, including rights on securities have been provided as guaranty to a participant, system operator or a central bank in a Member State, or to the European Central Bank under Para. 1 and 2 and their right or the right of a person, indicated by them – intermediary, or a third person, acting of their behalf in relation to the securities, has been legally entered in a register, accounting system or central depository in a Member State, the comprising from this, the legal relations shall be settled by the legislation

of the state, in which the guaranty has been registered.

(4) A guaranty is any realized asset, including financial guaranty in the meaning of Art. 4 of the Financial Collateral Arrangements Act, provided as a pledge, including a pledge of cash receivable, a transaction with an agreement for repo-buying, or another similar agreement, signed in view to guaranty of rights and obligations, related to a finality settlement system, or provided to a central bank of a Member State or to the European Central Bank.

Section II.

Licensing a payment system operator with finality of settlement

Application for issuance of a license

Art. 135. (1) A company, which requests to receive a license for operator of a payment system with finality of settlement, where the Bulgarian legislation provides the agreement for the system, shall submit to BNB a written application for issuance of a license.

(2) The documents, needed for issuance of a license under Para. 1 shall be determined by a BNB ordinance.

(3) With submission of an application for issuance of a license, the applicant shall produce to BNB a written declaration that the information, sent with the application and the attached documents are updated, complete and true.

(4) Persons, who have not received a license under Art. 138 shall not perform activity as operator of a payment system where the Bulgarian legislation provides the agreement for this system.

Conditions for issuance of a license

Art. 136. (1) For issuance of a license under Art. 135, Para. 1 must be executed at the same time the following conditions to the applicant:

1. he should be registered or in a process of establishment as a shareholding company;
2. to have deposited capital of at least BGN 5 million, of which at least 50% should be deposited as a cash deposit;
3. the origin of the deposited in the company capital or the funds, with which shares are acquired in their transfer, should be transparent and legal;
4. the entered central office and management address in the trade register in the Registry Agency should coincide with the place, where the real management of the applicant is performed;
5. he should apply reliable rules of management of the activity of operation of a payment system with finality of the settlement, including in relation to the requirements, indicated in Art. 141, which shall include:
 - a) a clear organizations structure;
 - b) clearly defined, transparent and consecutive rules of responsibility;
 - c) effective procedures for establishment, management, control and reporting of the risks, to which the payment system is exposed, or may be exposed;
 - d) suitable mechanisms for internal control, including reliable and effective administrative and accounting procedures;
6. he should provide technical, organizational and functional possibilities for performing the system activities, including mechanisms and security rules, also for risk management, complying to the scope of the payment system;
7. he should present a strategy and business plan for his activity in relation to operation of the payment finality settlement system, which should be duly financially secured and based on realistic economic prognoses;
8. the management and representing the applicant and the members of his bodies for management and supervision, including as representatives of legal persons, shall be persons, who hold the needed qualification, professional experience and reliability and adaptability, whose requirements shall be

established by a BNB ordinance;

9. the persons, who directly or indirectly hold a qualified share participation in the meaning of Art. 4, Para. 1, p. 36 of Regulation (EU) N 575/2013 in the applicant's capital, have proved their reliability in view of the need for guaranteed stable and reasonable management of the operator of the payment finality settlement system;

10. it has not been established, that available close relations in the meaning of Art. 4, Para. 1, p. 36 of Regulation (EU) N 575/2013 between the applicant and other persons may hinder the effective exercising of supervision;

11. he should guarantee execution of the settlement of the orders, accepted by the payment system;

12. the payment finality settlement system, the participants in it, as well as the agreement and the rules for its functioning should meet the requirements of this act and the legislative instruments on its implementation;

13. through the activity of the payment system, the compatibility and unity of functioning of the payment systems should not be threatened, as well as the stability and security of the financial system of the country.

(2) An operator of a payment finality settlement system, who intends to perform another activity, apart from operating the payment system, for which it has been licensed, shall notify in writing the BNB about this fact, before starting the relevant activity, by providing information about the relevant activity and related services and the way of their performing.

(3) Where the activity under Para. 2 is provision of technical, informational and communication services, assisting provision of payment services by payment service provider, the operator shall realize this activity while observing the following conditions:

1. he shall apply stable and exhaustive internal legal framework for management of the risks, related to performing the activity;

2. he shall provide permanent reliable and stable maintenance of business processes, related to the activity.

(4) Where the operator performs also other trade activity, BNB shall have the right to require separation in a single company the activity of operation of the payment finality settlement system, if BNB considers, that the other activity affects or may affect the financial stability of the operator or the possibility of BNB, as a supervision body to monitor for the execution of the requirements of this act.

Consideration of an application for issuance of a license

Art. 137. (1) Within the term of up to 6 months from receiving an application under Art. 135, Para. 1, BNB shall perform a compliance study of the produced documents with the conditions of issuance a license and for possibilities of the applicant to fulfil the requirements for performing the activity, for which he wished to be licensed, and shall take decision for issuance of a license or refusal for that. Where needed, BNB may consult with other competent bodies.

(2) Where in performing the study under Para. 1, BNB finds, that the application is incomplete, BNB may require from the applicant to produce in term, not longer than 3 months the needed documents and information.

(3) Within the term of up to 6 months from receiving the documents and information under Par. 2, BNB shall take decision for issuance of license or refuses it.

Issuance of license

Art. 138. (1) The BNB shall issue a license for operator of a payment finality settlement system, where the applicant has produced all the required data and documents in compliance with the requirements of this act and the legislative instruments on its implementation and if upon BNB consideration, the applicant meets the conditions for issuance of a license.

(2) The license under Para. 1 shall be provided for operation of a concrete payment finality settlement system for unlimited term and shall not be transferred to another person, as well as be a subject to

succession.

(3) The Registry Agency shall enter in the subject of activity operation of a payment finality settlement system, where the applicant produce the issued by BNB license.

(4) The operator of a payment finality settlement system shall be obliged to meet the conditions of Art. 136 during the whole period of action of the issued license.

Register of the operators of payment systems

Art. 139. (1) The BNB shall keep a register of operators of payment finality settlement systems.

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

1. the number of the issued license by BNB;

2. the name and UIC of the operator;

3. the name and type of operated system;

4. withdrawal, termination of the action of the issued license or termination of the activity as operator of the system.

(3) The operators of payment finality settlement systems shall not begin activity before their entry in the register.

(4) The register shall be publicly accessible in electronic way and shall be regularly updated.

Starting an activity. Changes after issuance of license

Art. 140. (1) Persons, having received license for operator of payment finality settlement systems may start the activity, after producing to BNB documents and information, which certify that they have the needed information, technical, organizational and functional readiness for starting the activity, for which they have been licensed.

(2) After executing the conditions under Para. 1, BNB shall enter in the register under Art. 139 the person, received license, and the date on which he will start performing the activity.

(3) To the auditors of an operator of a payment system under Para. 1, Art. 25 and 26 shall apply.

(4) After receiving a license, the operator of payment finality settlement system shall immediately notify BNB about every change in the information and documents. Produced in relation to issuance of the license.

Performing the activity

Art. 141. (1) At any time of performing the activity, the operator of payment finality settlement system shall execute the following requirements in relation to every operated by him payment finality settlement system:

1. the rules procedures and contractual relations in the system shall be coordinated with the requirements of the applicable law to the performed activity;

2. the rules of system management should provide clearly defined hierarchical connections in relation to the roles and responsibilities of the managing supervision bodies of the operator;

3. he should apply a stable framework for risk management, to which it is exposed, or may be exposed the payment system;

4. the rules and procedures of the system should provide performing finality settlements not later than the end of the envisaged date of settlement;

5. the rules and procedures of the system should provide possibility the system operator to continue to execute his obligations in case of failure of execution on behalf of a participant;

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

7. he should apply mechanisms for effective and efficient performing of the activity, including about selection of way of clearing and settlement, the operative structure, the scope of services and the used technologies;

8. he should apply internationally recognized procedures and standards for communication in view to provision of efficient payment, clearing and settlement;

9. the rules for informing the participants in the system about the structure and functioning of a system, as well as the rights and obligations of the operator and of the participants in the system should allow the participants to be able to estimate the risks, to which they are exposed with their participation in the system.

(2) With defined by its conditions, BNB may open accounts of the operators of payment finality settlement systems under Art. 4, Para. 2 of the Act on Restriction of Cash Payments for servicing the operations of the budget organizations on collection of revenues and other incomes through card payments.

(3) BNB shall issue an ordinance on the implementation of Art. 136 and of this Art..

Refusal of issuing a license

Art. 142. The BNB shall refuse issuance of license for operator of payment finality settlement system, where:

1. it estimates that the applicant fails to meet some of the requirements of Art. 136;
2. the applicant has not produce the needed information and documents or they contain incomplete, contradicting or untrue information.

Withdrawal of license

Art. 143. (1) The BNB may withdraw the issued license of a payment finality settlement system, where:

1. the payment finality settlement system fails to start activity within 6 – month term from the date of issuance of the license;
2. the activity of the payment finality settlement system has been terminated for a term, longer than 6 months;
3. in the activity of the payment finality settlement system serious violations have been found;
4. the license has been issued on the basis of untrue information and documents;
5. the payment finality settlement system has stopped to meet the conditions for issuance of the license;
6. upon estimation of BNB, the payment finality settlement system would threaten the security of the executed through its payment operations, processing, clearing or settlement of the payment operations.

(2) BNB shall undertake measures for communication of the decision for withdrawal of the license in an appropriate way before the public.

(3) Within the term of up to 7 days after decision taking for withdrawal of a license to an operator of a payment finality settlement system, BNB shall extend a request to the Registry Agency for deletion of this activity from the subject of activity of the relevant trader in the trade register.

(4) Within the term of one month from withdrawal or cancellation under Art. 144 of the license, the operator of the payment finality settlement system shall provide to BNB reports under Art. 155. The reports shall contain information about the activity of the operator of the payment finality settlement system from the end of the last reported period till the withdrawal, or to cancellation of the issued license.

Termination of activity

Art. 144. (1) The operator of a payment finality settlement system shall notify BNB at least 2 months in advance about forthcoming decision taking for termination of his activity on operation of a payment finality settlement system.

(2) With the notification under Para. 1, the operator, who wishes to terminate his activity on operation of a payment finality settlement system shall certify before BNB, that he has created the needed organization and plan for termination of the activity of the operated by him payment system, without threatening the financial stability of the participants in it and has provided the complete and timely finalization of the obligations on the performed operations through the payment system.

(3) The plan for termination of the activity under Para. 2 shall contain at least information about the terms and conditions for termination of accepting orders for transfer, the terms and conditions for

termination of relations with the participants and interrelation with other payment systems. The operator of the payment finality settlement system shall coordinate with BNB the plan for termination of the activity.

(4) With the consent, by BNB for termination of the activity, the license of the operator of the payment finality settlement system shall be cancelled, where Art. 143, Para. 2 – 4 shall apply correspondingly.

Section III.

Payment system for gross settlement in real time

Payment system for gross settlement in real time (RINGS)

Art. 145. (1) The BNB shall build up and operate a payment system for gross settlement in real time, called RINGS (Real-time Interbank Gross Settlement System).

(2) RINGS shall be a system with finality of settlement, which performed transfer of money funds between the settlement accounts of the participants in it finally, individually (transaction after transaction) and in real time after receiving from the system the order for transfer.

(3) The settlement in RINGS shall be performed in BGN.

(4) The rules and procedures for functioning of RINGS and the requirements for participation in it shall be defined by BNB.

(5) BNB shall issue an ordinance on the implementation of this Section.

Participants in RINGS

Art. 146. (1) Participants in RINGS shall be:

1. the BNB;

2. licensed by BNB banks and bank branches, performing activity on the territory of the country.

(2) Participants in RINGS may be banks from Member States, performing activity on the territory of the Republic of Bulgaria through a branch.

(3) The participation in RINGS shall be realized through an individual code.

(4) The participants RINGS shall be obliged to meet the requirements for participation in the system.

(5) Where BNB finds, that participant in RINGS has seized to meet the requirements for participation in the system, or fails to execute his obligations, BNB may restrict his participation or to exclude him from the payment system.

Settlement agent in RINGS

Art. 147. (1) Settlement agent in RINGS shall be BNB.

(2) The BNB shall keep accounts for settlement for the participants in RINGS.

(3) The BNB shall perform settlement of orders for transfer in the settlement accounts in compliance with their consecutiveness and under the condition that the relevant participant has sufficient funds in his settlement account.

(4) The participants in RINGS shall provide availability of sufficient funds in their settlement accounts for executing the settlement of the orders for transfer.

(5) In case of insufficient funds in the settlement account, BNB may provide credit to a participant, which shall be subject to returning in the same or latest during the working day, following the day, on which it has been provided. Provision of credit by BNB shall be performed according to the requirements of the Bulgarian National Bank Act.

Payments, performed obligatorily through RINGS

Art. 148. Through RINGS shall be obligatorily performed the following payments:

1. all the payments, in which the first initiator and the final receiver have settlement accounts in BNB;

2. payments, initiated by payment finality settlement system of securities, whose settlement agent is

BNB;

3. payments of clients of banks for sums, equal or above BGN 100 000.

Sending orders for transfer and information about them

Art. 149. (1) The participants in RINGS shall send to BNB orders for transfer through credit transfer.

(2) Payment systems and settlement systems of securities, to which BNB is settlement agent, may have access to RINGS for performing payments.

(3) BNB shall send information to the relevant participants in RINGS about the processed by the system orders for transfer.

(4) BNB shall not perform settlement to transfer orders, which do not meet the established by it requirements.

Terms for submission and accepting transfer orders

Art. 150. (1) Participants in RINGS may send to BNB transfer orders in compliance with the schedule for the system operation.

(2) The system for gross settlement in real time shall not perform settlement with a date, other than the one, indicated date of settlement in the transfer order.

Restrictions in executing the transfer orders

Art. 151. (1) Where by the moment of finalization of the working time of RINGS, a participant in it possesses sufficient funds in his settlement account, BNB shall refuse execution of the transfer orders of this participant, without performing settlement on them. The information for these orders shall be kept in RINGS.

(2) In the cases of refusal of execution of transfer order, the participant shall be obliged at the beginning of the following working day to send with a current date to the relevant payment systems under Art. 149, Para. 2 or to RINGS the same order with the same registration number.

Guaranty mechanisms

Art. 152. (1) For performing settlement, BNB may create mechanisms for provision of sufficient availability in the settlement accounts, including through reserving liquidity and setting requirement for obligatory minimal availability in every account.

(2) BNB may require from a system operator and from the participants in a payment system or in a settlement system of securities, which performs net settlement at a certain moment in RINGS, to create guaranty mechanisms for the settlement of payments of the participants in the relevant system.

Section IV.

Trans-European automated system for gross settlement of express transfers in real time

Operator of a system component

Art. 153. (1) The BNB may be operator of a system component to the settlement system in EURO "Trans-European automated system for gross settlement of express transfers in real time" (TARGET 2).

(2) The participation in the system under Para. 1 shall be performed according to the system rules, adopted by the European Central Bank.

(3) Operator of an ancillary system under the rules of Para 2, may use an account in TARGET 2 in view to provision of settlement of transfer orders from operatively compatible system, with which the operator has agreement. On the funds of such an account, no attachment may be required and compulsory execution performed for obligations of the operator.

(4) With opening an insolvency procedure for the operator of Para. 3, the received funds in the account shall not be included in the insolvency mass but they shall be ordered for execution by the syndic in proportion to the funds obtained.

Chapter nine.

PAYMENT SUPERVISION

Section I.

Realization of the payment supervision

General provisions

Art. 154. (1) The payment supervision shall be performed by BNB.

(2) Objects to payment supervision shall be:

1. the payment institutions, licensed by BNB;
2. service providers on provision of information about an account, registered by BNB;
3. operators of payment systems, who have been issued a license under Art. 138 and the participants in them, licensed by BNB;
4. companies for electronic money, licensed by BNB;
5. banks, licensed by BNB and bank branches with central office in a third state, received license by BNB to perform activity in the Republic of Bulgaria through a branch – about the activity of provision payment services and issuance of electronic money;
6. the payment card schemes – where their central office is in the Republic of Bulgaria.

(3) For issuance licenses, entry in the register under Art. 19 and issuance of authorizations, which comprise from exercising the payment supervision, the persons – subject to payment supervision shall pay to BNB fees in a procedure and amounts, defined by the BNB governing board.

(4) The BNB and the officials, authorized by it shall not bear responsibility for harms while exercising their functions on payment supervision, unless they have acted intentionally.

(5) While exercising payment supervision, the authorized by BNB officials shall be obliged not to admit occurrence of conflict of interests, in which their supervision obligations come in contradiction with their own interests.

Collecting information for the needs of the payment supervision

Art. 155. Persons – subject to payment supervision, shall produce to BNB for the needs of the payment supervision and for statistical purposes information and reports for their activity in a procedure, contents and periods, defined by a BNB ordinance.

BNB powers

Art. 156. (1) In relation to realization of the payment supervision, BNB shall have the right to:

1. a free access through authorized officials in the office premises of the persons – subject to payment supervision, including to the accounting and operative accountancy.
2. require documents and information, needed for monitoring of the observation of the requirements of this act;
3. use external independent experts;
4. perform through authorized officials checks on site of the persons – subject to payment supervision, as well as of their representatives, branches and sub-contractors;
5. attend through authorized officials at meetings of management and control bodies of the persons – subject to payment supervision, who may express opinions and recommendations, which may be stated in the meeting records.

(2) BNB may exercise its powers under Para. 1 also in relation to persons, for whom there is suspicion, that perform activity as a payment institution, company for electronic money or service provider of provision of information without issued license or registration.

(3) The BNB may exercise the powers under Para. 1 also in relation to a bank, received authorization for executing bank activity by the competent bodies of a Member State, performing activity

through a branch in the Republic of Bulgaria, where Art. 87 of the Credit Institutions Act shall apply correspondingly.

Assistance while exercising payment supervision

Art. 157. (1) The persons, subject to payment supervision, as well as the branches, representatives and sub-contractors of payment institution and companies for electronic money shall be obliged to provide the needed documents, information and assistance, required in view to performing the payment supervision, as well as to restrain from actions, which could stop its conducting.

(2) For the needs of the payment supervision, exercised by BNB, the bodies and institutions, performing public-legal functions, shall be obliged to give assistance and to provide to BNB the whole required information, which they have.

(3) For the needs of the payment supervision, BNB may require, if needed, information and documents also from other natural and legal persons.

Obligation for confidentiality in exercising the payment supervision

Art. 158. (1) The members of the BNB Governing board, the officials, experts and other persons, working at BNB shall be obliged to keep professional secret, including after termination of their relations with BNB.

(2) Professional secret shall be the information, which BNB receives or creates for the purposes of the payment supervision, or in connection with it. The professional secret shall not be official secret in the meaning of the Protection of Classified Information Act.

(3) Not professional secret shall be the information, which is subject to publication or communication under a normative act.

(4) Persons, under Para. 1 may use the information, representing professional secret, only for the purposes and in execution of their official duties. This information shall be disseminated or provided to other persons or bodies apart from those, indicated in Art. 159.

(5) Restrictions under Para. 4 shall not apply, if the information is provided in a summarized type, so that the persons, to whom it refers, cannot be identified.

(6) The information, received by a person, obliged to provide it under this act, may be provided in return upon request by him.

Provision of information – professional secret

Art. 159. (1) Persons under Art. 158, Para. 1 may provide information, representing professional secret to the following bodies in relation to execution of their functions or duties:

1. the judiciary bodies – in the cases of formed criminal proceedings;

2. the court:

a) in cases of appeal of an administrative act of BNB, issued under this act;

b) in relation to a court case, concerning performed supervision actions;

c) in cases of formed liquidation or insolvency proceedings of a payment institution or company for electronic money with the exception if the information, which refers third persons, who want to acquire a part or the whole undertaking of the payment institution, or company for electronic money in the frames of the plan for its recovery;

3. the bodies of financial supervision in the Republic of Bulgaria and of National Security State Agency – in cases and procedure, defined by joint instructions or agreements;

4. the syndics or liquidators of a payment institution or company for electronic money, as well as of the bodies, who under the law realize control over a payment institution or company for electronic money in liquidation or insolvency proceedings;

5. the auditors of financial reports of a payment institution or a company for electronic money, as well as of persons, who under the law realize control over the auditors of a payment institution, or a company for electronic money;

6. the bodies of Member States, indicated in Art. 160;

7. the bodies of Member States, who participate in liquidation or insolvency procedures of a payment institution or a company for electronic money or in other similar procedures, as well as of bodies of Member States, who are responsible for the control over a payment institution or company for electronic money in a liquidation, insolvency proceedings, or in other similar proceedings;

8. bodies of other Member States, who are responsible for the provided by the law audits of the reports of payment institutions or companies for electronic money, as well as of the bodies, who under the law realize control over auditors of payment institutions or companies for electronic money.

(2) The bodies under Par. 1 shall be obliged to use the received information only for the purposes, for which it has been provided and not to disseminate and provide it to third persons, unless while executing an obligation, provided by the law.

(3) The bodies under Para. 1, p. 3 - 8 may receive information from BNB, if they are bound by obligation for observing professional secret, analogical to the established in this act.

(4) The provisions of Art. 158 and of Para. 1 - 3 shall apply correspondingly also to the information, received by BNB while realizing payment supervision over persons, - objects to payment supervision, which are not payment institutions.

Supervision cooperation

Art. 160. (1) While exercising their supervision functions, BNB shall cooperate with the relevant competent supervision bodies over payment institutions and companies for electronic money of the Member States and if needed – with the European Central Bank and the national central banks, with competent supervision bodies over the other providers of payment services, as well as with the relevant competent supervision bodies over payment systems and settlement systems of securities, as well as with EBA.

(2) BNB shall have the right to exchange information, needed for the payment supervision, with the bodies under Para. 1, as well as with other bodies of the Member States, responsible for observation of the legislation in the area of protection of personal data and of prevention of using the financial system for the purposes of money laundering and financing terrorism.

(3) The exchange of supervision information shall be performed while observing the requirements of the professional secret, including by guaranteeing protection of personal data and of the trade secret.

(4) For the purposes of realization of the supervision under Chapter Six, BNB shall timely exchange information with the relevant competent bodies of the other Member States and shall cooperate in relation to performing supervision activities or investigation.

(5) Where it exchanges information with other competent bodies on issued, related to realization of the supervision under Chapter Six, while transferring information, BNB may indicate, that this information will be disclosed only with its explicit consent and will be exchanged only for the purposed for which BNB has given its consent.

Provision of information, received by competent bodies of Member States

Art. 161. (1) The provision of Art. 158 shall also apply to the information, received by BNB from the competent supervision bodies of Member States.

(2) The information, received by BNB from the competent supervision bodies of other Member States, may be provided under this act to the bodies under Art. 159 or to other persons and bodies, if there is an explicit written consent of the competent supervision body of the Member State, from which the information is received and while observing the conditions, in which this consent has been given.

(3) BNB may provide the received under Art. 160, Para. 4 information to the relevant competent bodies, and to other bodies, natural or legal persons – only with the explicit consent of the competent bodies, who have disclosed it and only for the purposes for which these bodies have given their consent to be disclosed, unless in duly grounded circumstances, where in this case BNB shall immediately notify the competent body, who has provided the information.

Refusal for assistance in supervision cooperation

Art. 162. (1) On issued, related to realization of the supervision under Chapter Six, BNB may refuse to assist in received request for cooperation for performing an investigation or supervision activity, or exchange of information, only where:

1. such investigation, check on site, supervision activity or exchange of information may affect in an unfavorable way the sovereignty, the national security or the public order of the Republic of Bulgaria;
2. a judicial proceeding has already begun in relation to those persons and for the same actions before the competent judicial bodies of the Republic of Bulgaria;
3. there is an enforced judicial ruling in relation to the same persons and for the same actions in the Republic of Bulgaria;

(2) In case of refusal under Para. 1, BNB shall notify in a suitable way the competent body, having sent the request, by providing him possibly most detailed information.

Settling disputes between competent bodies of different Member States

Art. 163. (1) Where upon request for exchange of information under Art. 160, Para. 4, a refusal has been received, or no actions have been undertaken in a reasonable term, BNB may refer the issue to the EBA, by requesting the assistance of EBA, under Art. 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 331/12 of 15 December 2010).

(2) The BNB may request the assistance of EBA under Art. 19 of Regulation (EU) № 1093/2010 for settling disputed with competent bodies of other Member States on issued, related to implementation of Art. 26, 28 - 31 of Directive 2015/2366.

Section II.

Supervision over payment system operators

General provisions

Art. 164. The BNB shall exercise supervision for observation of the requirements of this act and of legislation acts on its implementation to the payment system operators who have been issued a license under Art. 138 and the participants in them, licensed by BNB.

Supervision measures to a payment system operator and participants in it

Art. 165. (1) In case that BNB finds violations in the activity of a payment system operator, who has been issued a license under Art. 138, or a participant in it, licensed by BNB depending on the nature and severity of the found violations, it may:

1. send a written warning and/or give obligatory instructions to an operator and/or participant in the payment system;
2. oblige operator and/or participant in the payment system to terminate and remove the violations in a preliminary defined term;
3. order to the payment system operator to exclude a certain participant form the payment system, if the participant fails to observe the requirements and rules of the system, provided by this act;
4. order to the participants and operator of a payment system some changes in their rules, including changes in the system rules;
5. obliged the payment system operator to perform at his expense extraordinary internal or external audit;
6. impose to the payment system operator a temporary or permanent prohibition for performing activity of the payment system;
7. withdraw the license of the payment system operator, subject to licensing.

(2) The measures under Para. 1, p. 1 may be applied also to the members of the management and

supervision bodies of the payment system operator or of the participant, as well as to persons, who realize control in the meaning of Art. 4, Para. 1, p. 37 of Regulation (EU) N 575/2013 over operator or participant in a payment system.

Supervision measures to a payment system operator in relation to his performed activity under Art. 136, Para. 3

Art. 166. The measures under Art. 165, Para. 1, p. 1, 2 and 4 - 6 may apply to payment system operator with finality of settlement also in relation to the activity, performed by him, where this activity is provision of technical, information and communication services, assisting provision of payment services, in case that BNB finds violations in this activity.

Section III.

Supervision over payment service providers and issuers of electronic money

General provisions

Art. 167. (1) The BNB shall exercise supervision for observation of the requirements of this act , the legislative acts on its implementation to payment service providers and issuers of electronic money with central office in the Republic of Bulgaria including in relation to their activity through branches and representatives.

(2) Where officially, or on the basis of a complaint by a user of payment services, or holder of electronic money or of another interested person, including association of users, BNB finds, that payment service provider, issuer of electronic money or another person have committed violation of this act, the legislative acts on its implementation, of Regulation (EU) 2015/847, Regulation (EC) N 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, L266/11 of 9 October 2009), called hereinafter "Regulation (EC) N 924/2009", of Regulation (EO) N 260/2012, as well as of Regulation (EU) 2015/751 or of the delegated regulation, and the regulations for implementation of Directive (EU) 2015/2366 and Directive 2014/92/EU, BNB shall have the right to apply suitable supervision measures and/or impose property sanctions in view to termination of the violation.

(3) With submission of a complaint by a user of payment services or holder of electronic money or of another interested person, BNB with its response shall inform the sender of the complaint about the possibility to refer the dispute for consideration by the Conciliation Commission for payment disputes. The response of BNB shall not be individual administrative act.

Additional requirements in exercising supervision over payment institutions and companies for electronic money

Art. 168. The BNB supervision powers to the payment institution and companies for electronic money shall be realized in compliance with the risks, to which they are exposed or may be exposed in relation to their activity, as well as for maintenance of adequate to the risks owns capital.

Supervision measures to payment service providers and issuers of electronic money

Art. 169. (1) In case that BNB establishes violations in the activity of a payment service provider or issuer of electronic money under Art. 167, Para. 1, depending on the nature and severity of the found violations, it may:

1. extend a written warning and/or give compulsory instructions to the payment service provider or issuer of electronic money;
2. to oblige the payment service provider or issuer of electronic money to terminate and/or remove the violation in a preliminary determined term;
3. require making changes in the internal rules and procedures of the payment service provider or the issuer of electronic money;
4. prohibit performing an activity on provision of some or all payment services or performing an

activity on issuance electronic money, until the found violations are removed.

(2) BNB may also apply the measures under Para. 1 in the cases under Art. 33, Para. 9 and 10.

Additional supervision measures to payment institutions and companies for electronic money

Art. 170. (1) Apart from the measures under Art. 169, in case that BNB finds violations in the activity of a payment institution or company for electronic money, it may:

1. oblige the payment institution or the electronic money company to perform at their expense an extraordinary audit by another audit company, which meets the requirements of Art. 25, Para. 1;
2. impose to the payment institution or the electronic money company more strict supervision requirements than those, established for them in their normal functioning;
3. restrict the activity of the payment institution or the electronic money company, by prohibiting them to perform certain transactions, activities or operations;
4. restrict the volume of a certain type of activities, performed by the payment institution or the electronic money company, or require increasing of own capital;
5. withdraw the license of the payment institution or the electronic money company.

(2) BNB may apply the measures under Para. 1, p. 2 – 4 and in the cases of Art. 33, Para. 9 and 10.

(3) In case that BNB finds violations in the activity of a service provider of provision information about an account, it may apply the measures under Para. 1, p. 1 03 ir delete the service provider of provision of information about an account from the register under Art. 19.

Measures under other normative acts

Art. 171. (1) The application of supervision measures under Art. 169 and 170 shall not concern the possibility for application of measures under other normative acts.

(2) Upon consideration of BNB, the application of supervision measures may be made public.

Section IV.

Supervision over payment card schemes

Supervision measures to payment card schemes

Art. 172. (1) The BNB shall exercise supervision for observation of the requirements of Regulation (EU) 2015/751 to the payment card schemes, where their central office is in the Republic of Bulgaria.

(2) In case that BNB finds violations in the activity of a payment card scheme under Para. 1, depending on the nature and severity of the found violations it may:

1. extend written warning and/or give obligatory instructions to the payment card scheme;
2. oblige the payment card scheme to terminate and remove violations in a preliminary determined term;
3. require performing changes in the internal rules and procedures of the payment card scheme;
4. to prohibit performing an activity, until the found violations are removed.

Section V.

Violations

Types of violations

Art. 173. As violations in the meaning of Art. 165, Para. 1, Art. 166, Art. 169, Para. 1, Art. 170, Para. 1 and Art. 172, Para . 2 shall be considered:

1. violation or circumventing this act, another normative act, issued on its implementation, or the regulation under Art. 167, Para. 2;
2. failure to fulfill instructions and orders of BNB;
3. hindering exercising payment supervision and checks on site;
4. failure to provide information and documents, requested by BNB;
5. failure to give assistance, where it has been requested from the checked person;

6. failure to observe the conditions for issuance of the license, where the person – subject to payment supervision, is subject to licensing under this act;
7. threatening or affecting the security of the financial stability of a payment system;
8. threatening or affecting security of the financial stability of a financial institution or electronic money company, including because of performing by them another trade activity, not related to provision of payment services, or to issuance of electronic money;
9. performing transactions or operations, which are money laundering or financing terrorism or are in violation of the Measures against Money Laundering Act, Measures against Financing Terrorism Act and of the instruments on their implementation.

Chapter ten.
ALTERNATIVE RESOLUTION OF DISPUTES

Section I.
Internal procedures

Complaints

Art. 174. (1) Every payment service provider in the frames of their internal rules shall conduct a procedure for submission of complaints, resolution of disputes and defining compensations in relation to provision of payment services.

(2) The procedure under Para. 1 shall be realized in the Bulgarian language or in another language if this has been agreed between the payment service provider and the user of payment services.

(3) The payment service provider shall be obliged to pronounce on every received complaint in writing on paper media or – if agreed between the payment service provider and the user of payment services – in another long- term media and notify the user of payment services about its decision in the term of 15 working days from receiving the complaint.

(4) Upon exception, where the payment service provider cannot pronounce within the term of Para. 3, because of reasons, not depending on him, he shall be obliged to send to the user of payment services a response, in which he should clearly indicate the reasons for the delay, as well as the term, in which the user of payment services will receive his decision on the complaint. In any case, the term for receiving decision shall not be longer than 35 working days form receiving the complaint.

(5) Where the payment service provider fails to pronounce in the terms, provided by Para. 3 and 4, as well as where the decision does not satisfy the user of payment services, the dispute may be referred for examination by the Conciliation Commission for payment disputes. The payment service provider shall inform the user of payment services about this possibility.

(6) The payment service provider shall provide in a clear exhaustive and accessible way, including in its branches, on its internet site – if any – as well as in the contract, signed with the user of payment services, the information under Para. 5, while indicating where additional information may be found for the Conciliation Commission for payment disputes and conditions for how to refer to it.

(7) Para. 1- 6 shall also apply to the issuers of electronic money.

Section II.
Conciliation Commission for payment disputes

Statute

Art. 175. (1) The Conciliate commission for payment disputes under the Consumer Protection Commission shall be a body for alternative resolution of national and transborder disputes between payment service providers and users of payment services, as well as between issuers of electronic money and their clients in relation to application of this act, the legislative instruments on its implementation of Regulation (EC) N 924/2009, of Regulation (EU) N 260/2012 and of Regulation (EU) 2015/751.

(2) The Conciliation commission for payment disputes, called hereinafter "the commission" shall examine national and transborder disputes between the persons under Para. 1, comprising from contracts for provision of payment services from a distance in the meaning of the Distance Marketing of Financial Services Act. While examining transborder disputes, received through the platform for online resolution of disputes, the commission shall observe 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 to it no compulsory instructions may be extended on implementation of its activity.

Composition of the Conciliation commission for payment disputes

Art. 176. (1) The Conciliation commission for payment disputes shall consist of a chairperson and deputy chairperson, determined by the BNB Governor and members – persons, indicated in lists, confirmed by a representative organization of the banks and by the Consumer Protection Commission. In each list must be included at least 3 persons with the needed qualification. They may not be discharged without reasonable grounds.

(2) The conciliation proceedings shall be examined in a panel of 3 members, which shall include the chairperson, the deputy chairperson of the commission and one member each of the relevant lists. The commission members shall be determined by the chairperson on a rotation principle for every conciliation proceeding.

(3) In case of impossibility of some of the members to participate in a certain conciliation proceeding, the chairperson, or the deputy chairperson of the commission shall determine another member among the persons, included in the relevant list.

(4) The commission members, the chairperson and the deputy chairperson shall be obliged to be objective and impartial while executing their duties. They shall not have the right to disclose the trade, official, bank and professional secret or other information, become known to them during, or in relation to executing their duties.

(5) Annually, by one month after expiry of the calendar year, the commission chairperson shall draw up an annual report on the activity, which shall be presented to the BNB, to the Consumer Protection Commission and to the organizations, having confirmed the lists under Para. 1. With drawing up the annual report, the requirements of Art. 181g of the Consumer Protection Act shall be observed. The annual report shall be published on the website of the Conciliation commission of payment disputes.

Principles of the conciliation proceeding

Art. 177. (1) While resolving disputes, the commission shall observe the principles of voluntariness, expertise, independence, impartiality, transparency, efficiency, fairness, freedom and lawfulness, laid down in Chapter Nine, Section II of the Consumer Protection Act and the requirements for protection of personal data, under the Personal Data Protection Act.

(2) The proceeding before the commission shall not be compulsory precondition for making a claim in the court.

Conciliation proceeding

Art. 178. (1) The conciliation proceeding shall begin with submission of an application to the commission. The application shall be submitted in writing, as well as via e-mail or online through the website of the Consumer Protection Commission.

(2) The requirements to the application under Para. 1. The conditions and procedure for formation and termination of the conciliation proceeding and for examination and resolution of disputes of the commission competence, as well as the maximum money threshold of the disputes, shall be determined by Rules, confirmed by the BNB Governor. The Rules shall be published in the State Gazette.

(3) The Conciliation commission for payment disputes, upon request shall provide to the parties on a permanent media information about the procedure for conducting the conciliation proceeding.

Conciliation proposal

Art. 179. (1) After performing the needed actions on clarifying the dispute, the commission shall draw up and adopt a written conciliation proposal for its resolution.

(2) Accepting the proposal by both parties shall have the force of an agreement between them.

(3) Where the parties on the dispute have signed an agreement, but some of them does not execute its obligations on it, the other party may refer the court for examination of the dispute – subject to the agreement.

Costs for the proceeding

Art. 180. (1) The parties shall not pay fee for examination of the dispute by the commission. The costs, made by the parties shall be at their own expense.

(2) The costs for remunerations of the commission members shall be taken by the organizations, which have determined them. The Consumer Protection Commission shall provide staff and suitable conditions for work of the Conciliation commission for payment disputes.

Cooperation

Art. 181. In cases of transborder disputes, the commission shall cooperate with the relevant bodies for alternative resolution of disputes in the Member States, by exchanging information and opinions with them.

Unsettled issues

Art. 182. For unsettled issues for the commission activity as a body for alternative resolution of disputes, the provision of Chapter Nine, Section II of the Consumer Protection Act shall apply.

Chapter eleven. BENCHMARKS

Competent body

Art. 183. (1) The BNB shall be the competent body in the meaning of Art. 40, Para. 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 171/1 of 29 June 2016), called hereinafter "Regulation (EU) 2016/1011", on implementation of the obligations in relation to benchmarks for interest rates by administrators and supervised entities under Art. 3, Para. 1, p. 17, letters "a", "h" and "i" of Regulation (EU) 2016/1011, whose central office in the Republic of Bulgaria.

(2) While implementing the obligations under Para. 1 the BNB Deputy-Governor, managing Banking Department or an official, authorized by him shall exercise the powers under Art. 41, Para. 1, letters "a" - "d" of Regulation (EU) 2016/1011, and the Governing board of BNB – the powers under Art. 41, Para. 1, letters "e" - "j".

(3) In case of found violations, indicated in Art. 42, Para. 1 of Regulation (EU) 2016/1011, the BNB Governing board may apply the measures under Art. 42, Para. 2, letters "a" - "e" of Regulation (EU) 2016/1011.

Chapter twelve. ISSUING AND APPEALING ADMINISTRATIVE ACTS

Issuing and appealing administrative acts

Art. 184. (1) The individual administrative acts under this act shall be issued by the Governing boards of BNB upon proposal of the Deputy governor, managing Banking Department with exception of the individual administrative acts under Art. 29 and 43, Para. 3, which shall be issued by the Deputy Governor, managing the Banking Department.

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

(3) The administrative acts may be appealed before the Supreme Administrative Court on their lawfulness under the Administrative -procedure Code. The court shall not stop execution of the act by the final ruling on the complaint.

(4) In the judicial proceedings under Para. 3, where performing of judicial -accounting or judicial economic expertise is needed, the court shall appoint experts form the list of Art. 151, Para. 3 of the Credit Institutions Act.

(5) The individual administrative acts under this act shall be communicated to their addressees through delivering against a signature, or via e-mail or fax, if the party has indicated such – or through delivery of recommended letter with a return receipt. Delivering with recommended letter with a return receipts shall be performed at the permanent address of the person, if he is natural person, or to his central office and management address if it is a legal person.

(6) Where the administrative act is not delivered in one of the indicated ways in Para. 5, it shall be considered as delivered with its placement at a publicly accessible place in the BNB building. The latter circumstance shall be certified with a protocol drawn up by officials, determined by an order of the Deputy governor, managing Banking Department.

(7) While applying supervision measures under Art. 26 and 34 of the Administrative-procedure Code shall not apply.

Chapter thirteen.

ADMINISTRATIVE-PENAL PROVISIONS

Fines and property sanctions

Art. 185. (1) Whoever commits, or admits committing a violation of this act, of the legislative acts on its implementation, as well as of the delegated regulations and regulation for implementation of Directive (EU) 2015/2366 and Directive 2014/92/EU, if the commitment is not a crime, shall be punished by a fine in the amount of BGN 1000 to 5000, and in a repeated violation – from BGN 5000 to 10 000. If the violator is a legal person, a property sanction shall be imposed in the amount of BGN 5000 to 10 000, and in a repeated violation – BGN 10 000 to 20 000.

(2) An operator of a payment system, who commits or admits commission violation of this act and the legislative acts on its implementation, shall be imposed by a property sanction in the amount of BGN 10 000 to 30000, and in a repeated violation – from BGN 30 000 to 50 000.

(3) A payment service provider, subject to supervision under Art. 167, Para. 1, who commits or admits committing a violation of this act, of the legislative acts on its implementation, as well as the delegated regulations and regulations on implementation of Directive (EU) 2015/2366 and Directive 2014/92/EU, shall be imposed by a property sanction in the amount of BGN 5000 to 20 000 and in a repeated violation – from BGN 20 000 to 50 000.

(4) A participant in a payment system, who commits or admits committing a violation of this act and of the legislative acts on its implementation shall be imposed by a property sanction in the amount of BGN 5000 to 20 000, and in a repeated violation – from BGN 20 000 to 50 000.

(5) A payment system operator, payment service provider or participant in a payment system, who fails to execute a supervision measure, applied by BNB, shall be imposed by a property sanction in the amount of BGN 10 000 to 20 000, and in a repeated violation, form BGN 20 000 to 100 000.

(6) Whoever commits a violation under Art. 3, Para. 2 or Art. 34, Para. 3, if the commitment is not a crime, shall be punished by a fine of BGN 5000 to 20 000, and in a repeated violation – form BGN 20 000 to 40 000. If the violator is a legal person, shall be punished by a property sanction in the amount of BGN 20

000 to 40 000, and in a repeated violation – from BGN 40 000 to 80 000.

(7) Whoever commits violation of Art. 135, Para. 4, if the commitment is not a crime, shall be punished by a fine of BGN 20 000 to 50 000, and in a repeated violation – from BGN 50 000 to 100 000. If the violator is a legal person, a property sanction shall be imposed in the amount of BGN 50 000 to 100 000, and in a repeated violation – from BGN 100 000 to 200 000.

Fines and property sanctions in case of violation of Regulation (EU) 2015/847, of Regulation (EC) N 924/2009, of Regulation (EU) N 260/2012 and of Regulation (EU) 2015/751

Art. 186. (1) Whoever commits violation of Regulation (EU) 2015/847, of Regulation (EC) N 924/2009, of Regulation (EU) N 260/2012 and of Regulation (EU) 2015/751 shall be punished by a fine of BGN 1000 to 3000, and in a repeated violation – from BGN 3000 to 5000. If the violator is a legal person, shall be punished by a property sanction in the amount of BGN 5000 to 10 000, and in a repeated violation – from BGN 10 000 to 20 000.

(2) Where the violator is a payment service provider or of a payment card scheme shall be imposed by a property sanction in the amount of BGN 10 000 to 40 000 and in a repeated violation – from BGN 40 000 to 80 000.

Fines and property sanctions in violation of Regulation (EU) 2016/1011

Art. 187. (1) Whoever commits a violation of Art. 4 - 10, Art. 11, Para. 1, letters "a", "b", "c" and "e", Art. 11, Para. 2 and 3, Art. 12 - 16, 21, Art. 23 - 29 and 34 of Regulation (EU) 2016/1011 in relation to benchmarks for interest rates, shall be punished by a fine from BGN 2500 to 1 000 000. Where the violator is a legal person or a sole trader, shall be imposed by a property sanction in the amount of BGN 20 000 to the larger sum between 10% or the total annual turnover according to the last financial statement, approved by its managing body, or BGN 2 000 000.

(2) Anyone, who commits violation of Art. 11, Para. 1, letter "d" or Art. 11, Para. 4 of Regulation (EU) 2016/1011 in relation to benchmarks for interest rates, shall be punished by a fine of BGN 1500 to 200 000. Where the violator is a legal person or a sole trader shall be imposed by a property sanction in the amount of BGN 10 000 to the larger sum between 2% of the total annual turnover according to the last annual financial statement, approved by its managing body, or BGN 500 000.

(3) Where the value of the realized profit or avoided loss as a result of the violation under Para. 1 and 2, may be defined, the violator shall be imposed by a fine, or property sanction, in the amount of the minimal amount under Para. 1, or Para. 2 to the triple amount of the realized profit as a result of the violation or the avoided loss as a result of the violation.

(4) For the purposes of Para. 1 and 2, where the legal person is a parent undertaking or a subsidiary of a parent undertaking, which must draw up consolidated financial statements in compliance with Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 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 182/19 of 29 June 2013), for a relevant total annual turnover shall be accepted the annual turnover or the type of income in compliance with the Directive 86/635/EEC of the Council of 8 December on the annual accounting reports and consolidated accounting reports of banks and other financial institutions – for the banks and Directive 91/674/EEC of the Council of 19 December 1991, on the annual accounting reports and consolidated accounting reports of the insurance undertakings, - for the insurance companies, according to the last available consolidated reports, which are approved by the managing body of the end parent undertaking, or if the person is an association – 10% of the total turnover of its members.

Issuance and appeal of penal decrees

Art. 188. (1) The acts for finding violations under Art. 185 – 187 shall be drawn up by persons, authorized by the Deputy governor of BNB, managing Banking Department, and the penal decrees shall be

issued by the Deputy governor, or by a person, authorized by him.

(2) Drawing up acts, issuance, appeal and implementation of penal decrees shall be performed under the Administrative Violations and Punishments Act.

(3) The BNB may communicate every enforced penal decree, by which punishment or a property sanction is imposed, as far as this communication would not expose the financial markets to a serious danger, or would cause disproportionate damage to the affected parties. For violations of Regulation (EU) 2016/1011, Art. 45 of Regulation (EU) 2016/1011 shall apply.

Additional provisions

§ 1. In the meaning of this act:

1. "Value date" is a referent data, used by a payment service provider for calculation of interests on the funds, with which a payment account is debited or credited. Where no payment has been agreed upon, the value date is the date on which the payment service provider is required to debit or credit the payment account.

2. "Group" is a group of undertakings, consisting of the parent undertaking and all its subsidiaries.

3. "Direct debit" is a national or cross-border payment service for debiting a payment account of the payer when the payment transaction is initiated by the payee on the basis of the consent of the payer of the payee to the payee's payment service provider or payer's payment service provider.

4. "Payment operation, remotely initiated" is a payment transaction initiated over the Internet or via a device that can be used for a remote connection

5. "Payment service provider, servicing an account" is a payment service provider, offering and maintaining a payment account of the payer.

6. "Provider of services upon initiation of payment" is a payment service provider, providing the services under Art. 4, p. 7.

7. "Service provider on provision of information about an account" is a payment service provider, providing services under Art. 4, p. 8.

8. "Long-term media" means any instrument that allows the payment service user to store information addressed to it in a way accessible for subsequent inquiries for a period sufficient for the purposes for which the information is provided and which allows the unchanged reproduction of the stored information. Long-term media is considered to be printouts of devices for printing account statements, diskettes, CD-ROMs, DVDs, computer hard disks where electronic messages can be stored, websites that are accessible for follow-up, for a sufficient period of time for purposes of information and allowing unchanged reproduction of stored information and others.

9. "Member State" is a EU Member State, or other state, which belongs to the EEAA.

10. "Member State of origin" is the Member State where the payment service provider has its head office and where the payment service provider does not have its registered office under its national law, the Member State in which its head office is situated.

11. "Subsidiary" is a legal person controlled by another legal person (parent). Legal persons that are subsidiaries of the subsidiary are also considered subsidiaries of the parent.

12. "Electronic communication network" is a notion in the meaning of § 1, p. 15 of the Additional Provisions of the Electronic Communications Act.

13. "Electronic communication service" is a notion in the meaning of § 1, p. 17 of the Additional Provisions of the Electronic Communication Act.

14. "Issuing payment instruments" is a payment service provided by a payment service provider that has entered into an agreement with the payer to provide a payment instrument for the initiation of payment transactions and for their processing.

15. "Institution" is a participant in a settlement finality system and responsible for executing the financial obligations arising from transfer orders within the system:

a) bank within the meaning of Art. 2, para. 5 of the Credit Institutions Act, a credit institution

within the meaning of Art. (4) 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 Art. 2 of the Directive;

b) investment intermediary under the Markets in Financial Instruments Act and Art. 4 (1), p. (1) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, with the exception of the institutions listed in Art. 2 (1) of the Directive.

16. "Clearing house" is the entity responsible for calculating the net positions of the institutions, a possible central counterparty and /or a possible settlement agent.

17. "Branch of a payment institution" is a place of business which is a legally non-unitary part of a payment institution, through which all or some of the activities of the payment institution are directly carried out. In order to carry out activity as a payment institution on the territory of the Republic of Bulgaria through a branch, a payment institution licensed in a Member State creates a branch irrespective of the number of venues.

18. "Credit interest rate" is an interest rate paid to the consumer in connection with the holding of funds on a payment account

19. "Credit transfer" is a national or cross-border payment service for crediting a payee's payment account through one or more payment transactions on the payment account of the payer by the payment service provider who runs the payee's payment account on the basis of a payment order from the payer.

20. "Available payment transfer" means a payment service where the funds are provided by the payer without the opening of payment accounts in the name of the payer or the payee for the sole purpose of transferring the corresponding amount to the payee or other payment service provider acting on behalf of the payee; / or when these funds are received on behalf of the recipient and are at his / her disposal.

21. "Order for payment transfers" is an order of the payer to the payment service provider who leads the payer's payment account to carry out credit transfers at regular intervals or at predetermined dates

22. "Order for transfer" means any order by a participant in a settlement finality system to make available to the recipient a sum of money by subscribing to the accounts of a credit institution, central bank, central counterparty or settlement agent or any other order leading to the assumption or execution of a payment obligation according to system rules.

23. "Order for transfer" is any instruction of a participant in a settlement finality system to transfer the right of ownership or interest to a security or securities through a record or otherwise.

24. "Invalid unique identifier" is an identifier, which does not meet the standard requirements – if any.

25. "Netting" is a conversion of all claims and obligations arising from transfer orders that participant or participants issue or receive from one or more other participants so that only one net claim may be claimed or a net liability owed.

26. "Overdraft" is an explicitly agreed credit whereby a payment service provider provides the consumer with the opportunity to use funds in excess of his payment account.

27. "Operative compatible systems" are two or more finite settlement systems whose system operators have entered into an agreement between them that provides for the execution of transfer orders between different systems.

28. "Operator of a payment system" is a system vendor who is legally responsible for the functioning of a payment system.

29. "Personalized security funds" are personalized features provided by the payment service provider of a payment service user for the purpose of identifying and / or authenticating.

30. "Payment instrument" is a personalized device and / or set of procedures agreed between the payment service user and the payment service provider and used by the payment service user for the purpose of submitting a payment order.

31. "Payment operation" is the action taken by the payer or the payee to import, transfer or withdraw funds, regardless of the basic relationship between the payer and the payee.

32. "Payment account" is an account held in the name of one or more payment service users used for the execution of payment transactions.

33. "Payment order" is any order from the payer or the payee to the payment service provider ordering the execution of a payment transaction.

34. "Payer" is a natural or legal person who is the holder of a payment account and orders execution of a payment order on this account and, in the absence of a payment account, a natural or legal person who gives a payment order.

35. "Payment card scheme" is a notion in the meaning of Art. 2, p. 16 of Regulation (EU) 2015/751.

36. "Payment measure" is any name, expression, sign, symbol, physical or digital, or a combination of them, which indicates on which payment card the payment transactions associated with a card are made.

37. "Repeated" is the offense committed within one year of the entry into force of the penalty decree imposing a penalty for the same type of violation.

38. "User of payment services" is a natural or legal person who uses a payment service as a payer or a payee or in both of its qualities

39. "Receiver" is a natural or legal person designated as the ultimate recipient of funds that are subject to a payment transaction.

40. "User" is a natural person - a payment service user who, in the case of contracts for the provision of payment services, carries out an activity other than his commercial or professional activity.

41. "Residing legally in the EU" is a natural person who has the right to reside in a Member State by an act of the European Union or national law, including users without a permanent address, asylum seekers under the Convention on the Status of Refugees, done at Geneva on 28 July 1951, and the Protocol on the Status of Refugees of 1967 (ratified by law - promulgated, State Gazette No. 36/1992, supplemented, SG No. 30/1993) (State Gazette No. 88 of 1993) and other applicable international treaties.

42. "Parent undertaking" is a legal person that exercises control over one or more companies (subsidiaries).

43. "Transfer of a payment account" or "transfer service" is the transfer, at the request of the consumer from one payment service provider to another, of information about all or some orders for periodic transfers, periodic direct debits and periodic incoming credit transfers made to a payment account and / or transfer of the positive balance, if any, from one payment account to another payment account with or without closing the previous payment account.

44. "transferring payment service provider" is a payment service provider from which the information required to transfer the information is transferred to the payment account transfer procedure.

45. "Accepting payments with payment instruments" is a payment service provided by a payment service provider that concludes a contract with the payee to accept and process payments with payment instruments that lead to a transfer of funds to the payee.

46. "Accepting payment service provider" is a payment service provider to which the information required for the transfer is submitted in the payment account transfer procedure.

47. "Hosting state" is a Member State other than the home Member State in which the payment service provider has a branch or a representative or provides direct payment services.

48. "Work day" shall be the day on which the payment service provider of the payer or the payee's payment service provider involved in the execution of the payment transaction performs an activity necessary for the execution of the payment transaction.

49. "Registration number" is a previously disclosed set of data or a unique number assigned by the payment service provider that allows a unique identification of the payment transaction.

50. "Reference interest rate" is the interest rate used as the basis for calculating the applicable interest rate and which derives from a publicly available source that can be verified by both parties under a payment service contract.

51. "Reference exchange rate" is the exchange rate used as the basis for calculating currency

exchange provided by the payment service provider or a publicly available source.

52. "Over-the-counter" is a silent overdraft whereby a payment service provider provides the consumer with the opportunity to use funds in excess of his payment account or the agreed overdraft amount.

53. "System operator" entity or entities that are legally responsible for the functioning of a system.

54. "Own capital" is a concept within the meaning of Art. 4 (1) (118) of Regulation (EU) No 575/2013, where at least 75% of Tier 1 capital is in the form of Common Equity Tier 1 under Art. 50 of that Regulation and Tier 2 capital is less than or equal to one third of Tier 1 capital.

55. "Funds" are bank coins, money in an account and electronic money.

56. "Funds for remote communication" are means by which a payment service contract can be concluded without the simultaneous physical presence of the supplier and the payment service user.

57. "Compatible marks" is the inclusion of two or more payment marks or appendices for payment of one payment mark in a single payment instrument.

58. "Fees" are all payments and penalties which the user owes to the payment service provider for or in connection with the provision of services related to a payment account.

59. "Unique identifier" is a combination of letters, numbers or symbols communicated by the payment service provider of the payment service user to be provided by the payment service user when executing a payment transaction in order to be able to identify the other payment service user and / or its payment account.

60. "Services, related to payment account" within the meaning of Chapter Six are all services related to the opening, use and closing of a payment account, including payment services and payment transactions within the meaning of Art. 2, para. 1, item 8, as well as overdraft and overdraft.

61. "Service imitating payment" is a service where payment is initiated at the request of the payment service user in respect of a payment account maintained with another payment service provider.

62. "Service of providing information about an account" is an online service providing aggregated information on one or more payment accounts maintained by the payment service user with one or more other payment service providers.

63. "Establishing identity" is a procedure that allows the payment service provider to verify the identity of the payment service user, including the use of the personalized security of the user.

64. "Securities" within the meaning of Chapter Eight are financial instruments within the meaning of Art. 4 of the Markets in Financial Instruments Act.

65. "Central counter agent" is a person located between institutions in a settlement finality system acting as the exclusive counterparty of those institutions in relation to their payment orders.

66. "Digital contents" are goods or services which are produced and presented in digital form and whose use or consumption is limited to a technical device and which do not involve the use or consumption of physical goods or services.

67. "Sensitive data for payments" are data including custom security tools that can be used to commit fraud. Account holder name and account number do not constitute sensitive data on payments for the activity of payment initiation service providers and account providers.

§ 2. This act shall introduce the 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, 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 of 23 December 2015);

2. Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems and of Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009 amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as

regards linked systems and credit claims (OJ, L 146/37 of 10 June 2009);

3. Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ, L 267/7 of 10 October 2009);

4. 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 257/214 of 28 August 2014).

§ 3. The banks, which are licensed for the activities under Art. 2, para. 2, item 1 of the Credit Institutions Act may perform payment services without additional permission.

Transitional and concluding provisions

§ 4. The Act on Payment Services and Payment Systems (promulgated, State Gazette, issue 23/09, amended, SG No. 24/10, SG No. 101/10, No. 105 of 2011, amended, No. 103 of 2012, No. 57 and 102 of 2015, No. 59, 95 of 2016, No. 97/17 and No. 15 of 2018) shall be repealed.

§ 5. The BNB's secondary legislation on the application of the revoked Payment Services and Payment Systems Act remains in force, as long as it does not contradict this act.

§ 6. (1) Within 6 months of the entry into force of this Act, payment service providers are required to comply with their law and their legal relationships with third parties that arose prior to its entry into force.

(2) Payment service providers may use the methods and procedures for notification specified in Art. 61, para. 1 and Art. 62, para. (1) and (2), upon notification to persons with whom they have already concluded framework contracts, of the changes in these contracts resulting from this Act.

§ 7. (1) The issued licenses of payment institutions and electronic money companies, as well as the issued licenses and authorizations of payment system operators under the abolished Payment Services and Payment Systems Act, shall remain in force.

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

(3) Payment institutions which have been granted a license to provide payment services under Art. 4, item 7 of the repealed Act on Payment Services and Payment Systems, shall reserve their license to provide payment services, which are considered as payment services under Art. 4, item 3 of this Act, if within the term under § 6, para. 1 provide the BNB with information and documents certifying compliance with the requirements of Art. 8, item 3 and Art. 9 of this act.

(4) Within 6 months of the entry into force of this Act, payment system operators shall be required to comply their activity with this Act.

§ 8. (1) Electronic money companies, which have a license to operate as a payment institution, shall notify the BNB within one month from the entry into force of the act which of the two licenses will operate in accordance with the requirements of this act.

(2) Where the company will operate as an electronic money institution and intends to continue to

provide the payment services for which it is licensed as an additional activity under Art. 42, with the notification under par. 1 shall inform the BNB about this.

(3) Where the company will act as a payment institution, within the term under para. 1 shall terminate the issuance of electronic money, ensuring the full and timely fulfillment of its obligations in connection with the activity of issuing electronic money.

(4) In case an electronic money company under para. 1 does not submit a notification within the specified term, the issued license for a payment institution shall be invalidated

(5) In the cases under para. 2 and 3 the issued licenses respectively for a payment institution and for an electronic money company shall be canceled.

(6) The invalidation of a license under para. 4 and 5 shall be made by decision of the BNB Governing Board.

§ 9. (1) Companies providing payment services under Art. 4, item 7 and 8, within three months from the entry into force of the act, shall submit an application to the BNB for the issuance of a license, respectively for registration in the register under Art. 19.

(2) In the cases under Para. 1, Chapter Two, Section I shall apply.

(3) A company which does not submit an application within the term under para. 1 or has been denied a license, respectively for entry in the register under Art. 19, shall not be entitled to act as a payment institution, respectively as a provider of account information services

§ 10. Until the entry into force of the regulatory technical standards adopted by the European Commission under Art. 98 (4) of Directive (EC) 2015/2366 and the expiry of the 18-month period for them to comply with payment service providers serving accounts shall not prevent the use of payment initiation services and the provision of information on the accounts, which they serve.

§ 11. The requirements of this act shall also apply to the administrative proceedings instituted before the BNB in force.

§ 12. Payment settlement systems with settlement finality notified to the European Securities and Markets Authority prior to the entry into force of this Act shall continue to be considered as such systems.

§ 13. Transfer orders or transfer orders entered into a settlement finality system prior to the entry into force of this Act, the settlements to be executed after that date shall continue to be considered as transfer orders or transfer orders within the meaning of § 1 , items 22 and 23 of the Additional Provisions.

§ 28. The act shall enter into force on the day of its promulgation in the State Gazette with the exception of:

1. Art. 47, which comes into force after the European Commission publishes the electronic brochure on consumer rights under Art. 106 (2) of Directive 2015/2366 / EU and Art. 71, para. 2, item 3, Art. 72, para. 3, item 4, para. 4, Item 1, Art. 73, para. 2, item 3, para. 3, item 1 and art. 100, which shall enter into force 18 months after the entry into force of the regulatory technical standards adopted by the European Commission pursuant to Art. 98 (4) of Directive 2015/2366 / EU; until the entry into force of Art. 100, para. 1-6 payment service providers shall comply with the requirements of the European Banking Authority's 19 December 2014 On-Line Payment Security Guidelines;

2. Art. 102, which shall enter into force on 30 April 2018, and Art. 103 to 109, which shall enter into force on 31 October 2018;

3. paragraph 16, point 2, letter "c" of the Transitional and Concluding Provisions concerning para. 8, which shall enter into force on 1 January 2019;

4. paragraph 25 and § 26, p. 1 to 5, of the Transitional and Concluding Provisions which shall enter into force on 1 July 2018.

The act has been adopted by the 44th National Assembly on 22 February 2018 and has been sealed by the official stamp of the National Assembly.