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14.01.2019

Law on Payment Services and Electronic Money, no. 114 of 18 May 2012

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on Payment Services and Electronic Money
no. 114 of 18.05.2012

Published: in the Official Monitor of the Republic of Moldova no.193-197/661 of 14.09.2012

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This Law transposes Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market, amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing the Directive 97/5/EC, published in the Official Journal of the European Union L 319 of December 5, 2007, and the Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on 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, published in the Official Journal of the European Union L 267 of October 10, 2009.

Chapter I

GENERAL PROVISIONS

Article 1. Subject and purpose of the Law

- (1) This Law regulates the activity of payment service providers and electronic money issuers, the conditions and licensing procedure, transparency regime of payment service provision conditions, electronic money issuance and redemption conditions, rights and obligations of payment service providers, electronic money issuers in connection with the provision of services under a professional title, rights and obligations of payment service users, prudential supervision of payment service providers and electronic money issuers.
- (2) This Law aims to establish a uniform legal framework for promoting an efficient and competitive activity in the market of payment service provision, electronic money issuance and redemption and to protect the rights and interests of payment service users and electronic money holders.

Article 2. Scope of the Law

- (1) This Law shall apply to payment service providers for the payment service provision and to electronic money issuers for electronic money issuance.
- (2) This Law shall apply to none of the following:
- 1) payment transactions made exclusively in cash directly from the payer to the payee, without any intermediary intervention;
 - 2) payment transactions made from the payer to the payee through a commercial representative or commercial agent authorized by an agreement between the commercial representative or commercial agent and the payer and / or the payee, to negotiate or to make sales or purchases of goods or services in the following situations:
 - (a) solely on behalf of the payer or the payee, regardless of whether they are in the possession of clients' funds or not;
 - b) if the authorized commercial representative or commercial agent acts in the name and on the payer's responsibility, as well as on behalf and on the responsibility of the payee, if they do not get into the possession of clients' funds or do not control them at any time;
 - 3) physical transport of banknotes and coins, under the professional title, including their collection, processing and delivery;
 - 4) payment transactions consisting of the non-professional cash collection and delivery within the framework of charitable or non-profit activity.
 - 5) services where cash is provided by the payee to the payer as part of a payment transaction following an explicit request by the payment service user just before the execution of payment transaction through a payment for the purchase of goods or services;
 - 6) money exchange transactions of cash-to-cash type, where the funds are not held on a payment account;
 - 7) payment transactions based on any of the following documents, through which the payment service provider is required to place funds at the disposal of the payee:
 - a) paper cheques in accordance with the Geneva Convention of 19 March 1931 providing a uniform law for cheques;
 - b) paper cheques similar to those referred to in letter a) and governed by the laws of the states which are not party to the Geneva Convention referred to in letter a);
 - c) paper-based drafts in accordance with the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;
 - d) paper-based drafts similar to those referred to in letter c) and governed by the laws of the states which are not party to the Convention referred to in letter c);
 - e) paper-based vouchers;
 - f) paper-based traveller's cheques;
 - g) paper-based postal money orders as defined by the Universal Postal Union;
 - 8) payment transactions carried out within a payment system or securities settlement system between settlement agents (banks or central depositories), between central counterparties, clearing houses (systems) and/or the National Bank of Moldova and other participants of the system, on the one hand, and payment service providers, on the other hand;
 - 9) payment transactions related to securities and assets servicing, including dividends, income or other distributions, or redemption or sale, carried out by persons referred to in item (8) or by investment firms, banks, collective investment undertakings or portfolio management companies providing investment services or any other entities allowed to have the custody of financial instruments;
 - 10) services provided by technical service providers, which support the provision of payment services,

without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and privacy protection services, data and entity authentication, information technology (IT) and communication network provision, provision and maintenance of terminals and devices used for payment services;

11) services based on instruments/ devices including monetary values stored on pre-defined prepaid instruments that can be used to purchase goods or services only in the premises used by issuer or under a commercial agreement with the issuer either within a limited network of service providers, regardless of their geographical location, or for a limited range of goods or services;

12) payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, (electronic newspapers, music, waiting tones, etc.) where the operator may bring an intrinsic value to these goods and services in the form of access, distribution and search, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services;

13) payment transactions carried out between payment service providers, including their agents or branches on their behalf;

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

15) services of withdrawal of cash by means of automated teller machines, offered by providers, acting on behalf of one or more card issuers, which are not a party to the framework contract with the customer withdrawing money from a payment account, on condition that these providers do not conduct other payment services as listed in the Article 4 (1).

16) payment processing operations through the electronic management systems (platforms) made to the transport operator by the taxi service user in order to pay the cost of the journey made.

(3) In exercising the attributions of the National Bank provided by this law, the provisions of the Law on regulation of entrepreneurial activity authorization no. 160 of July 22, 2011 shall not apply.

[Art.2 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

[Art.2 completed by the Law no.190 of 27.07.2018, in force 24.09.2018]

Article 3. Definitions

For the purposes of this Law, the following definitions shall apply:

agent means natural or legal person that provides payment services on behalf of and on the account of a payment institution (payment agent), a natural or legal person that distributes or redeems electronic money on behalf of and on the account of an electronic money institution (agent of the electronic money institution);

administrator means a member of the board, of the executive body, of the auditing committee of the payment institution/ electronic money institution, the director of a branch or of an agent, as well as the person whose function under the internal structure of that institution includes fulfilling the duty of representing, independently or with others, the institution when signing legal documents which are directly related to the basic activity of the institution;

authentication means a procedure which allows the payment service provider to verify the use of a specific payment instrument, including its personalized security features;

payee means a person who is the recipient of funds which have been the subject of a payment transaction;

regulated capital - an indicator setting the minimum amount of the equity capital that the payment company / electronic money issuer / postal service provider shall maintain during its activity in accordance with this Law and with the normative acts of the National Bank issued to execute it;

unique identifier means a combination of letters, numbers or symbols specified to the payment service user by the payment service provider (IBAN code, BIC code, card number, etc.) and to be provided by the payment service user to identify unambiguously the other payment service user and/or his payment account for a payment transaction;

consumer means a natural person who, under payment service contracts, is acting for purposes other than those related to the entrepreneurial or professional activity;

payment account means an account held in the name of one or more payment service users which is used for

the execution of payment transactions;

framework contract means a payment service contract which governs the execution of individual and successive payment transactions and which may contain the obligation and conditions for setting up and use of a payment account or a specific payment instrument;

control means one of the following situations where a person:

a) holds more than half of the voting rights in a legal person (subsidiary of a parent undertaking);
b) has the right to appoint or dismiss more than half of the members of the administrative, executive or control body of a legal person (subsidiary of a parent undertaking);
c) is entitled to exercise a dominant influence on a legal person (subsidiary of a parent undertaking), whether it is or not a shareholder / associate or member thereof under the contract concluded with that legal person (subsidiary of a parent undertaking) or under certain provisions of its articles of incorporation or charter, where the law applicable to a legal person (subsidiary of a parent undertaking) permits it to be subject to such contracts or provisions;

d) is a shareholder / associate of a legal person (subsidiary of a parent undertaking) and more than half of the members of the administrative, executive or control body of that legal person (subsidiary of a parent undertaking) that were in the respective functions in the previous financial year and up to date of drawing up the annual consolidated accounts, have been appointed only as a result of exercising its voting right. This provision does not apply where another legal person has the rights to the subsidiary of a parent undertaking as provided for in letter a), b) or c);

e) is a shareholder / associate of a legal person (subsidiary of a parent undertaking) that controls alone, under an agreement signed with other shareholders/associates of that legal person (subsidiary of a parent undertaking), more than half of the voting rights in that legal person (subsidiary of a parent undertaking);

f) may otherwise, in the opinion of the competent authority, fulfill or is actually fulfilling the dominant influence on making decisions related to the activity of a legal person (subsidiary of a parent undertaking);

reference exchange rate means the exchange rate which is used as the basis to calculate any currency exchange and which is made available by the payment service provider or comes from a publicly available source (the official rate of the Moldovan Leu or the exchange rate of a bank as long as it comes from a publicly available source);

value date means a reference time used by a payment service provider to debit or credit the funds from/to a payment account if no interest is calculated for the payment account, a reference date for the calculation of interest on the funds debited from or credited to a payment account; and for remittances – the date on which the funds are made available to the payee;

sensitive payment data - means data, including personalised security credentials which can be used to carry out fraud;

direct debit means a payment service (payment instrument) for debiting a payer's payment account, where a payment transaction is initiated by the payee on the basis of the payer's consent given to the payee, to the payee's payment service provider or to the payer's own payment service provider;

subsidiary - defined according to the Law on banks' activity no. 202/2017;

funds means banknotes and coins, means on the account and electronic money;

group means a group of undertakings, which consists of a parent undertaking and its subsidiaries, as well as legal persons in which the parent undertaking or its subsidiaries have a holding, as well as:

a) undertakings which are led together based on a contract between one of the undertakings or on the basis of a clause of the articles of association or of the charter of each undertaking; or

b) undertakings where the administrative, executive or control bodies are formed to the greatest extent of the same persons, which are operating during the financial exercise and by the date when the consolidated annual statements are drawn up;

payment instrument means personalized device(s) (payment card, mobile telephone etc.) and/or any set of procedures (technical – PIN, TAN codes, other type of codes, login/password etc. or functional – credit transfer, direct debit) agreed between the payment service user and the payment service provider and used by the payment service user to initiate a payment order;

close links means a situation where two or more entities:

a) are linked by relations of holding, i.e. holding directly or through control at least 20% of the voting rights or of the capital of an undertaking or a legal person;

b) are linked by relations of control; or

c) are permanently linked to the same third entity through a relationship of control;

means of distance communication refers to means which may be used for the conclusion of a payment services contract, without the simultaneous physical presence of the payment service provider and the payment service user;

electronic money means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds (other than electronic money) for the purpose of making payment transactions and which is accepted by a person other than the electronic money issuer;

payment system operator (administrator) means the legal person or persons, legally bound for the functioning of the payment system;

payment transaction means an act, initiated by the payer or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee;

individual payment transaction means any other payment transaction other than the single one and which comes within the scope of a framework contract;

single payment transaction means the payment transaction executed outside of a framework contract or which execution falls out of the scope of a framework contract;

payment order means any request by a payer or payee to his payment service provider for the execution of a payment transaction;

holding means the right of ownership in the capital or the voting right in an undertaking or legal person;

qualified holding means direct or indirect holding in an undertaking or a legal person, which represents at least 10% of its capital or its voting rights or which makes it possible to exercise a significant influence on the management of respective undertaking or legal person;

person means natural or legal person, association or a group of persons acting in concert, registered so or not;

persons acting in concert - persons who are in the situation when each of them decides to exercise their rights linked to the holdings acquired or which they intend to acquire under an explicit or implicit agreement made between such persons. The criteria for determining the activity in concert for the purposes of this Law, shall be established in the regulations of the National Bank of Moldova;

payer means a person who is a payment account holder and who authorizes a payment order (initiates or allows the execution of a payment order) from that payment account, or a person who gives a payment order where there is no payment account;

reference interest rate means the interest rate which is used as the basis for calculating any interest to be applied and which comes from a publicly available source which can be verified by the both parties to a payment service contract;

money remittance means a payment service where funds are received from a payer, without creating a payment account in the name of the payer or the payee, for the sole purpose of transferring a corresponding amount to a payee or to another payment service provider acting on behalf of the payee, and/or where such funds are received on behalf of and made available to the payee;

good reputation means the information in whole about a person which confirms the professionalism, good faith, integrity and possession of other qualities which give assurance that the that person, as a shareholder /associate or an administrator, will act in accordance with the law and will not compromise the safety and credibility of the payment institution/electronic money institution. Requirements of good reputation, knowledge and experience are established in the regulations of the National Bank of Moldova;

payment system means a funds transfer system which functions on the basis of common arrangements (rules, procedures, contracts, etc.) that are formal and standardized for the processing, clearing and/or settlement of payment transactions;

information system - information management system within a payment services provider, along with the associated organizational resources, such as information resources, human resources, organizational structures;

payment institution means a commercial company, other than a bank, a postal operator or an electronic money institution, which holds the license under this Law to provide payment services;

electronic money institution means a commercial company, other than a bank, which holds the license under this Law to issue electronic money;

branch means a separate subdivision of the payment institution or a place of business other than its head office, which is legally dependent on the payment institution and which carries out directly, all or some of payment institution activities;

durable medium means any instrument (paper, CD-ROMs, DVDs, personal computers' hard disks, websites, etc.) which enables the payment service user to store information addressed personally to him, in a way accessible for future reference for a period of time adequate to the purposes of the given information and which allows the unchanged reproduction of the information stored;

cash payment terminal (cash-in terminal) means an automated device for receiving cash from the payer (natural person), which operates autonomously without the physical presence (participation) of the natural person authorized by the payment service provider;

credit transfer – means a payment service for crediting a payee's payment account with a payment transaction or a series of payment transactions from a payer's payment account by the payment service provider which holds the payer's payment account, based on an instruction given by the payer;

payment service user means a person making use of a payment service in the capacity of either payer or payee, or both or a person which is an electronic money holder;

business day means a day on which the payment service provider of the payer or payee involved in the execution of a payment transaction is open for business as required for the execution of a payment transaction.

[Art.3 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Chapter II

PAYMENT SERVICES AND PAYMENT SERVICE PROVIDERS

Article 4. Payment services

(1) Payment services shall mean any of the following activities:

1) Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account.

2) Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account.

3) Execution of payment transactions, including transfers of funds on a payment account, with the user's payment service provider or with another payment service provider:

a) execution of direct debits, including one-off direct debits;

b) execution of payment transactions through a payment card or a similar device;

c) execution of credit transfers, including standing orders;

4) Execution of payment transactions where the funds are covered by a credit line for a payment service user:

a) execution of direct debits, including one-off direct debits;

b) execution of payment transactions through a payment card or a similar device;

c) execution of credit transfers, including standing orders;

5) Issuing and/or acquiring of payment cards and of other payment instruments;

6) Money remittance;

7) Execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device, including through cash payment terminals (cash-in terminals), and the payment is made to the telecommunication, IT system or network operator, acting only as an intermediary between the payment service user and the supplier of the goods and services.

(2) The payment service provision and other additional activities as defined in Article 25 (1) letter a) and b) represent financial market activities.

Article 5. Payment service providers

(1) This Law distinguishes the following categories of payment services providers:

a) banks and subsidiaries of banks in other states, operating in accordance with the Law on financial institutions, the Law on banking activity no. 202 of 6 October 2017;

b) payment institutions;

c) electronic money institutions;

d) postal operators operating under the Law on postal communications no.36 of March 17, 2016;

e) The National Bank of Moldova (hereinafter referred to as „the National Bank”) where it does not act as a

monetary policy authority or as another public authority;

f) The State Treasury under the Ministry of Finance (hereinafter referred to as „the State Treasury”).

(2) The payment service providers shall not control the transaction legality, reality and opportunity of the payment service provision or electronic money issuance, unless otherwise specified in the anti-money laundering and anti-terrorist financing law, as well as in the foreign exchange legislation.

[Art.5 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 6. Prohibition on provision of payment services by other persons

Entities which are not payment service providers, as defined in Article 5, are prohibited to provide payment services specified in Article 4 paragraph (1).

Article 7. Payment services allowed to payment service providers

(1) Banks and the National Bank shall provide payment services stipulated in Article 4 paragraph (1).

(2) Electronic money issuers (others than those referred to in paragraph (1) of this Article) shall provide the payment services stipulated in Article 4 paragraph (1).

(3) The State Treasury shall be entitled to provide the payment services stipulated in Article 4 paragraph (1) items 1) to 3).

(4) The payment institutions are entitled to provide the payment services stipulated in Article 4 paragraph (1).

(5) The postal operators are entitled to provide the payment services stipulated in Article 4 paragraph (1). Postal operators shall not accept (attract) deposits or other repayable funds in the meaning of the Law on banks' activity no. 202 of 06 October 2017. Any funds received by the postal operators from the payment service users for the provision of payment services do not represent a deposit or other repayable funds under the Law on banks' activity no. 202 of 06 October 2017, nor electronic money under this Law.

(6) If the postal operator provides or intends to provide payment services in accordance with paragraph (5) of this Article, the provisions of Chapter III of this Law, except for the establishment requirements provided for in Article 9 par. (1), shall also apply to the postal operator accordingly.

[Art.7 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 8. Currency of payment services

(1) On the territory of the Republic of Moldova payment services shall be provided in national currency, except for the case provided in paragraph (2).

(2) The payment services can be provided in foreign currency by payment service providers by complying with the Law on foreign exchange regulation and this Law.

(3) The electronic money shall be issued, distributed and redeemed on the territory of the Republic of Moldova only in Moldovan Lei at the nominal value of the funds received.

(4) Electronic money shall be issued and used on the territory of the Republic of Moldova as an equivalent of the Moldovan Leu. The electronic money shall not be issued and used on the territory of the Republic of Moldova as an equivalent of foreign currencies or other variable values.

[Art.8 completed by the Law no.208 of 12.10.2018, in force 23.12.2018]

Chapter III

ESTABLISHMENT, LICENSING AND ACTIVITY OF PAYMENT INSTITUTIONS

Section 1

Establishment and licensing of the payment institution

Article 9. Establishment of the payment institution

(1) A payment institution may be legally established as a joint stock company or a limited liability company and shall be bound by the legislation governing the activity of commercial institutions, unless otherwise specified in this Law.

(2) Founders and shareholders/associates of a payment institution may also be the natural persons and/or

legal persons residing or not residing in the Republic Moldova. Founder or shareholder/associate of the payment institution may not be either a legal person under liquidation or insolvency or a person bound by a legal constraint to establish a commercial institution.

Article 10. License obligation

(1) The person who intends to provide payment services as a payment institution is required to obtain a license to conduct the business before it starts to provide payment services.

(2) The payment institution is entitled to provide only the payment services specified in the license it has been issued.

(3) The payment institution has the right to start providing a new payment service, only after obtaining the activity license, within the terms and conditions established in art. 14-20 and the normative acts of the National Bank.

[Art.10 completed by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 11. The authority competent to issue licenses

The National Bank has the exclusive right to issue and withdraw licenses of the payment institutions.

Article 12. Equity capital

(1) The payment institutions shall hold, at the time of submitting the application for license issuance, equity capital in the amount of:

a) not less than MDL 350 000, where the payment institution provides only the payment service provided for in Article 4 paragraph (1) item 6);

b) not less than MDL 900 000, where the payment institution provides only the payment service provided for in Article 4 paragraph (1) item 7);

c) not less than MDL 2 200 000, where the payment institution provides the payment services provided for in Article 4 paragraph (1) items 1) - 5) or any services permitted to the payment institution according to Article 7 paragraph (4).

(2) The equity capital shall include one or more of the following elements:

a) subscribed and paid-up share capital, except for cumulative preferential shares in the case of joint-stock companies;

b) legal and statutory reserves, and other reserves;

c) profits of previous financial years, remained after the distribution according to the decision of competent bodies.

(3) Contributions to share capital / shares shall be deposited / paid in whole in cash both upon its formation and increase.

(4) Means obtained by potential shareholders /associates of payment institution from loans (bank credits) or from other means acquired, including from advance payments of payment service users and third parties may not serve as a source to form or increase a payment institution's share capital.

(5) The legal person is entitled to pay the shares / to make contributions to the capital of payment institution in cash, within the limits of its ownership equity (net assets), which may not be less than its share capital.

[Art.12 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 13. Regulatory capital

(1) The regulatory capital of a payment institution, at any time of activity shall not fall below the amount required under paragraph (2) of this Article, as well as Article 12, being taken into account the larger amount.

(1¹) It is forbidden to use multiple eligible items used to calculate the regulated capital of a payment company if it belongs to a group of which another payment institution, bank or financial sector entity belongs to. This paragraph also applies in case when a payment institution carries out additional activities other than the provision of payment services.

(2) The payment institution shall hold a regulatory capital (RC) which shall be at least equal to the result obtained from the following calculation methods:

$$RC = (a+b+c+d+e) \times k ,$$

where:

a – represents 4.0 % of the slice of PV up to MDL 87.5 million;

b – 2.5 % of the slice of PV above MDL 87.5 million up to MDL 175 million;

c – 1 % of the slice of PV above MDL 175 million up to MDL 1750 million;

d – 0.5 % of the slice of PV above MDL 1750 million up to MDL 4375 million;

e – 0.25 % of the slice of PV above MDL 4375 million.

PV – payment volume which is equal to 1/12 of the total amount of payment transactions executed by the payment institution in the preceding year.

The scaling factor *k* is the following:

a) 0.5 – where the payment institution provides only the payment service provided for in Article 4 paragraph (1) item 6);

b) 0.8 – where the payment institution provides the payment service provided for in Article 4 paragraph (1) item 7);

c) 1 – where the payment institution provides any of the payment services provided for in Article 4 paragraph (1) items 1) – 3), 5) or all services permitted to the payment institution according to Article 7 paragraph (4).

(3) The frequency, form and content of the reports on the amount of the capital shall be set in the normative acts of the National Bank.

(4) The National Bank may, based on an evaluation of the risk-management processes, risk loss data base and internal control mechanisms of the payment institution, require the payment institution to hold an amount of regulatory capital which is up to 20% higher than the amount which would result from the application of the method stipulated in paragraph (2), or permit the payment institution to hold an amount of regulatory capital which is up to 20% lower than the amount which would result from the application of the method stipulated in paragraph (2).

[Art.13 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 14. Application for license issuance

(1) To obtain the license for the provision of payment services, an application shall be submitted to the National Bank by the entity that intends to provide payment services as a payment institution (applicant). The method of declaration, documents and information regarding the applicant presentation is established in the normative acts of the National Bank.

(2) The following documents and information relating to the applicant shall be submitted with the application:

1) a certified copy of applicant's establishment act and / or of its statute;

2) an excerpt from the State Register of legal persons issued no later than one month before the date of application;

3) documents attesting that the payment institution holds equity capital provided for in Article 12. For the institution which is in the course of being established, a bank statement certifying the registration of contributions to the capital on the temporary bank accounts shall be attached;

4) statement on origin of the means from which the contributions for the subscribed shares, respectively holdings, are made or from which they are acquired;

5) a detailed description of applicant's activity and financial reports confirmed by an external auditor for the past three years or during the existence of the institution (if this period is less than three years), except for the payment institution which is in the course of being established;

6) a business plan including at least: a detailed description of all types of services to be provided, risks identified to which the payment institution is or might be exposed (including branches, agents, entities to which the operations are outsourced), a forecast budget calculation for the first three financial years based on realistic calculations, availability of resources to operate;

7) procedures to carry out the activities as payment institution, covering the activities of the applicant, its branches and agents, including:

a) the structure of executive bodies and the line of responsibility;

b) systems and procedures to identify, manage, monitor and report the risks to which it is or might be exposed,

c) internal control mechanisms, including administrative and accounting procedures;

d) internal control arrangements for measures required to comply with obligations in relation to anti-money laundering and anti-terrorist financing law;

- e) business continuity and security measures for payment service delivery, including clear identification of critical operations, continuity plans and a procedure for testing and periodic review of adequacy and effectiveness of the plans concerned;
 - f) the organization and management of information systems, including the method of protecting information and personal data of payment services users, and a description of the process for recording, monitoring, supervising and restricting access to sensitive data regarding payments;
 - g) procedures in place to monitor, handle and follow up a security incident and security related customer complaints, including an incidents reporting mechanism which takes account of the notification obligations of the payment institution laid down in art. 32²;
 - h) a security policy document, including a detailed risk assessment in relation to its payment services and a description of security control and mitigation measures taken to adequately protect payment service users against the risks identified, including fraud and illegal use of sensitive and personal data;
- 8) a description of the institution's organizational structure, including a description of the intended use of agents and branches, outsourcing conditions and arrangements intended, as well as its participation in a national or international payment system;
 - 9) a list of shareholders /associates and shares /holdings held in the applicant's capital, data and documents relating to them, which contain data according to identity /registration documents;
 - 10) the list of persons holding a qualifying holding, data and documents relating to them;
 - 11) the list of entities with whom the applicant has close links, data and documents relating to them;
 - 12) the list of applicant's administrators, data and documents relating to them;
 - 13) the list of subsidiaries or places where the applicant will provide payment services, including the applicant's branches and agents;
 - 14) the list of internal auditors, audit firms or individual auditors.

(3) For the purposes of paragraph (2) item 7) letters a) – c) and item 8), the applicant shall provide a description of its internal audit system and the organizational arrangements it has set up with a view to taking all reasonable measures to protect the interests of its payment service users and to ensure continuity and reliability in the performance of payment services.

(4) When applying for license, the applicant shall assume the responsibility for the provision of up to date, complete and accurate information and documents.

(5) The National Bank may require additional documents and information in order to establish the completeness and veracity of the documents and information submitted according to paragraph (2).

[Art.14 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 15. Decision on license issuance

(1) The license for the activity of the payment institution shall be granted if, after examination of documents and information submitted according to art. 14, it is found that the following requirements are cumulatively met:

- 1) the applicant is a commercial company in the forms referred to in Article 9 and has its head office registered in the Republic of Moldova;
- 2) the applicant holds equity capital as provided in Article 12;
- 3) the origin of means from which the contributions for subscribed shares are made, respectively, participations, or from which they are purchased, is transparent and legal;
- 4) the applicant has robust governance arrangements for its activity of payment service provision, which include:

- a) a clear organizational structure;
- b) well-defined, transparent and consistent distribution of responsibilities,
- c) effective procedures to identify, manage, monitor and report the risks to which it is or might be exposed;
- d) adequate internal control mechanisms, including sound administrative and accounting procedures, procedures for preventing and combating money laundering and terrorism financing;

The structures, procedures and mechanisms provided for in letters a) to d) shall be comprehensive and proportionate to the nature, scale and complexity of the payment services provided.

- 5) the business plan including a forecast budget calculation for the first three financial years, demonstrates that the applicant is able to employ the appropriate systems, resources and procedures required to operate soundly as a payment institution;

- 6) the applicant has adequate and safe measures for protecting the funds of payment service users and of payment instruments used;
- 7) administrators shall have a good reputation and have relevant knowledge and experience to provide payment services as well as relevant to the nature, scale and complexity of the activity.
- 8) the National Bank, taking into account the need to ensure the sound and prudent management of the payment institution, is sure that the persons that hold qualifying holding in the applicant's capital have a good reputation and the required qualities.
- (2) Where close links exist between the payment institution and any other entities, the National Bank shall grant the license only if those links do not prevent the effective fulfillment of its supervisory duty.
- (3) The National Bank shall grant a license only if the legislative and normative acts or administrative acts of a third country governing the activity of one or more persons with which the payment institution has close links, or difficulties involved in the enforcement of those acts, do not prevent the effective exercise of its supervisory duty.
- (4) To make a decision on the application for license issuance, the National Bank has the right to consult the Office for Prevention and Fight against Money Laundering and other relevant public authorities from the country and abroad, period in which the deadline for communication of the decision on the issuance of the license or rejection of the declaration provided in article 18, paragraph (1) shall be suspended.
- (4¹) For the purposes of paragraph (4), the Office for Prevention and Fight against Money Laundering shall provide the National Bank of Moldova at its request with information on persons and entities exposed to the risk of money laundering and terrorist financing.
- (5) The payment institution should meet the conditions laid down in Articles 12 - 15 during the validity period of the license.
- [Art.15 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]*

Article 16. Rejection of application for license

- (1) The National Bank may reject the application for license issuance for conducting the activity as a payment institution if:
- it considers that the applicant does not meet the conditions defined in Article 15;
 - the applicant did not submit the required documents and information or the submitted documents and information contain incomplete, conflicting, inaccurate or insufficient information to determine whether the conditions defined in Article 15 are met.
- (2) In case the application for license issuance has been rejected, the applicant may submit a new application after the elimination of circumstances that served as ground for rejecting the previous application.

Article 16¹. Control of payment institutions' holdings

- (1) The person or persons acting in concert shall not have the right, without prior permission from the National Bank, to acquire, directly or indirectly, a holding in a payment institution or to increase, directly or indirectly, the holding, fact which would have the effect of qualifying it as a qualified holding or it reaches or exceeds the level of 20%, 30% or 50% of the voting rights or of the share capital, or the payment institution will become a dependent undertaking.
- (2) Where, as a result of occurrences of circumstances beyond the will of the person, his holding becomes qualified or reaches or exceeds the levels specified in paragraph (1), the acquirer shall not be entitled to exercise the right to vote according to the shares/holdings held without the prior permission of the National Bank. In order to obtain permission, the acquirer shall submit an application during one month as of the occurrence of the basis for it.
- (3) Until the permission of the National Bank is obtained, the holdings referred to in paragraph (2) shall not be taken into account in determining the quorum of the shareholders' / associates' meeting and in decision-making of the meeting.
- (4) In order to obtain the permission, the person or persons acting in concert shall forward an application, by which shall communicate the decision to acquire holdings according to paragraph (1) or about the occurrence of basis according to paragraph (2), and shall attach the documents established by the National Bank.
- (5) The National Bank shall evaluate the decision to acquire the holdings on the basis of the documents and information submitted by the applicant according to the normative acts of the National Bank.
- (6) The National Bank shall examine the application for issuing the permission referred to in paragraphs (1)

and (2) within 3 months from the date of receipt of the application and of all necessary documents and information. If necessary for the assessment provided under paragraph (5), the National Bank may request the submission of additional documents and / or information. The applicant shall submit the additional information or documents solicited by the National Bank within maximum 20 working days from the date of receipt of application. In case the applicant fails to submit the requested information or documents within the time limit specified in this item, the National Bank shall refuse to grant the permission. For the period between the date of solicitation for information and the date of receipt of information, the timing for examination of the application is suspended. Any other solicitation on behalf of the National Bank to fill in or clarify the information received shall not have the effect of suspending the assessment period. The National Bank of Moldova may decide to extend the stipulated period of suspension up to 30 working days, if the applicant is located or regulated in another State or is a person who is not subject of supervision on behalf of the National Bank of Moldova.

(7) The National Bank shall decide on the application for permission referred to in paragraphs (1) and (2) on the basis of the potential influence exerted by the applicant on the payment institution, taking into account the need to ensure the stable and prudent management of the institution concerned and if it ascertained that the applicant's financial situation is safe and appropriate. In assessing the fulfillment of these criteria, there shall be taken into account the reputation of the applicant, the reputation and experience of any person who will manage the activity of the institution as a result of the acquisition of holdings, the financial situation of the applicant taking into account the specific nature of the activity being pursued or envisaged by the company, lack of impediments for effective performance of the National Bank's oversight attribution of the institution's activity, lack of reasonable basis for considering that money laundering and terrorist financing operations are being or will be carried out in connection with the requested acquisition or that the risk of such operations will increase.

(8) In order to make a decision regarding the application for issuing the permission, the National Bank can consult other competent public authorities in the country and abroad, period during which the term of application's examination for granting permission stipulated in paragraph (6) shall be suspended.

(9) The National Bank shall reject the application for issuing permission if there are reasonable basis for doing so, on the basis of the conditions and criteria set out in paragraph (7) or if the information and documents submitted by the applicant are incomplete and/or contain erroneous data. The reasons for rejecting the application shall be communicated to the applicant.

(10) The National Bank can set a time limit for the acquisition of holdings, at the expiration of which the issued permission becomes invalid.

(11) If the permission to acquire qualified holdings has not been requested within the time limit or if necessary information has not been submitted or the application has been rejected, the National Bank has the right to order suspension of exercising the voting rights related to shares / holdings held without permission before obtaining the prior permission from the National Bank and / or to order their alienation during 6 months' period.

(12) The National Bank of Moldova may extend the six-month period provided for in paragraph (11) for periods of not more than 6 months, no more than 3 consecutive times, in case the extension is necessary for non-admission of endangering the financial stability or in case there is a public interest in ordering the prolongation, or when a potential acquirer of the shares exposed for sale has been identified without a prior assessment by the National Bank of Moldova, whose suitability and adequacy does not arise reasonable suspicions at the moment of approval of the extension decision.

(13) In case of suspension of exercising the voting right of the shareholder/associate according to paragraph (11), the shares/holdings the voting right of which is suspended shall not be taken into account in determining the quorum of the shareholders'/associates' meeting and in taking decisions by the meeting. In such a case, if there is a danger for the safe and stable administration of the payment institution, the National Bank has the right to limit the activity of the institution, and to prohibit (restrict) the development of certain activities or to prohibit the payment of dividends or another distribution of capital.

[Art. 16 1 introduced by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 17. Peculiarities of license issuance to a subsidiary of payment institution with the head office abroad

(1) For a payment institution with the head office abroad(hereinafter the foreign payment institution)to obtain a license for the activity of payment services provision by its subsidiary with the office in the Republic of

Moldova, the foreign payment institution shall submit an application in writing to the National Bank.

(2) The following documents and information relating to the applicant shall be submitted with the application:

- a) decision of the foreign payment institution's authorized body on the establishment of the subsidiary with the office in the Republic of Moldova;
- b) certified copy of the foreign payment institution's registration act;
- c) certified copy of the license or another document which gives the right to operate as a payment institution, issued by the competent authority of the country where the foreign payment institution has its head office and the list of activities for which the license or that document was issued;
- d) copy of the foreign payment institution's charter;
- e) certified copy of the charter of the foreign payment institution's subsidiary;
- f) consent in writing for the establishment of the subsidiary issued by the supervisory authority of the country where the foreign payment institution has its head office and the commitment of this supervisory authority to collaborate with the National Bank;
- g) financial reports, confirmed by an external auditor, for the past three years or for the period of the existence of the institution (if this period is less than three years),
- h) documents and information specified in Article 14 paragraph (2) items 2) to 8), 10) to 14) shall be applied accordingly.

(3) The National Bank issues the license for the activity of the foreign payment institution's subsidiary only if it is satisfied that:

- a) the foreign payment institution is licensed for payment service activity in its home country;
- b) the supervisory authority of the foreign payment institution's home country agreed to establish the subsidiary and to the commitment to collaborate with the National Bank;
- c) the financial situation of the foreign payment institution is sound and stable;
- d) the foreign payment institution is supervised adequately on a consolidated basis by the competent authorities of the home country;
- e) the legislative and normative acts or administrative acts under the jurisdiction of the foreign payment institution's home country do not prevent the effective fulfillment of the supervisory duty or the provision of the required information;
- f) the foreign payment institution's home country ensures the compliance with the principle of reciprocity in terms of providing access to payment institutions with the head office in the Republic of Moldova to the payment service market of that country.

4) The National Bank shall reject the application for license issuance of the foreign payment institution's subsidiary if:

- a) it discovers that the applicant does not meet the conditions defined in paragraph (3) of this Article and Article 15 paragraphs (1) to (3), which shall be applied accordingly;
- b) the applicant has not submitted the documents and information provided for in paragraph (2) of this Article or the documents and information provided contain incomplete, conflicting, inaccurate or insufficient information to determine whether the conditions provided for in paragraph (3) of this Article and Article 15 paragraphs (1) to (3) are met.

(5) The application, documents and information submitted for obtaining the license for a foreign payment institution subsidiary, shall be considered in accordance with the Articles 14 to 16.

Article 18. Communicating the decision on license issuance

(1) Within 3 months of receipt of the application and of all the required documents and information, the National Bank shall inform the applicant about the decision to issue the license or to reject the application for license issuance.

(2) If the application for license issuance is rejected, the National Bank shall communicate the reasons of its rejection, and the documents and information specified in Article 14 shall be returned.

(3) After the presentation of the license issued by the National Bank, the state registration body shall list in State Registry the payment service provision as the object of the payment institution's activity.

(4) After the state registration, the National Bank shall list the payment institution in the register specified in Article 23.

[Art.18 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 19. License issuance. Authorized copies of licenses, license re-issuance, issuance of license duplicate.

- (1) The license shall be issued within 3 business days from the date of receipt of the document confirming the payment of the license fee.
- (2) For each branch of the payment institution, which will operate under the license, shall be issued an authorized copy of the payment company's license.
- (3) Where the payment institution changes the name and other data contained in the license are modified, the payment institution is required to submit a request on license re-issuance.
- (4) In case of loss or damage of the license, the payment institution is required to submit a request in writing on the issuance of the duplicate license.
- (5) Issuance of authorized copies of licenses, license re-issuance, issuance of license duplicate shall be made in accordance with the conditions laid down in the National Bank's normative acts.
- (6) If the applicant, within 30 days from the date on which the decision on license issuance or re-issuance was communicated to him, has not submitted unreasonably the document confirming the payment of the fee for its issuance or re-issuance or he did not appear to be granted the re-issued license, the National Bank is entitled to cancel the decision on issuance / re-issuance of license or to make a decision to recognize it as invalid.

[Art.19 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

[Art.19 amended by the Law no.185 of 21.09.2017, in force on 27.10.2017]

Article 20. Term of license. License fee.

- (1) The license shall be issued for an indefinite term.
- (2) The payment institution is not entitled to transmit the license or its copy to another entity.
- (3) The fee for issuing a license to a payment institution is:
 - 1) MDL 8 000, where the payment institution provides the payment services provided for in Article 4 paragraph (1) item 6) or item 7);
 - 2) MDL 12 000, where the payment institution provides the payment services stipulated in Article 4 paragraph (1) items 1) - 5) or all services permitted to the payment institution according to Article 7 paragraph (4).
- (4) The fee for issuing an authorized copy of the license, the re-issuance of the license /its authorized copy and for issuing the duplicate license / its authorized copy is MDL 450.
- (5) Fees charged according to paragraphs (3) and (4) shall be transferred to the state budget and are not repayable, if the payment institution / branch does not commence or cease its activity.

[Art.20 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 21. Changes in the data provided for license issuance

- (1) The payment institution is required to notify in writing the National Bank of any change in the data contained in the documents attached to the application for the issuance of license / authorized copy of the license.
- (2) The notification shall be submitted to the National Bank within 10 business days from the date when the changes occurred, together with the documents certifying those changes. The documents shall be submitted in original or copy, providing the originals for verification.

Article 22. Withdrawal of license

- (1) The National Bank may withdraw the license issued to a payment institution in case the institution:
 - a) does not commence its activity within 12 months from the data of issuing the license;
 - b) requests the withdrawal of license or expressly renounces it or has ceased the activity for more than 6 months;
 - c) has obtained the license through false statements or any other irregular means;
 - d) no longer fulfils the conditions for license issuance;
 - e) does not hold sufficient regulatory capital;
 - f) would constitute a threat to the stability of the payment system in which it participates by continuing its payment services activity;
 - g) committed infringements specified in Article 97 letter c), d) and f);
 - h) does not eliminate within the established term the circumstances that led to suspension of certain activities of the license holder, according to Article. 99 paragraph (1) letter c) of this Law.
- (2) In case of voluntary liquidation or termination of its activity, the payment institution is obliged to request,

at least 30 days before the date planned to make the decision on voluntary liquidation or termination of the activity, the withdrawal of license. The National Bank shall make a decision, within 30 days from the receipt of the request, on the withdrawal of license after it is satisfied that the payment institution:

- a) has a plan on business termination, without prejudice to the payment service users' interests;
- b) will insure the full and timely fulfillment of its obligations on the payment transactions performed.

(3) The decision on license withdrawal shall enter into force on the date of adoption.

(4) The grounded decision of the National Bank on license withdrawal shall be communicated in writing to that payment institution. A notice of license withdrawal shall be published, within 7 days after adoption, in the Official Monitor of the Republic of Moldova.

(5) From the date of license withdrawal, the payment institution is required to cease the provision of payment services, and take measures to offset the claims of creditors for the performed payment transactions.

(6) Within three working days from the date of the decision of withdrawing the license, the payment institution is obliged to submit the withdrawn license to the National Bank.

[Art.22 completed by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 23. Register of the payment institutions

(1) The National Bank shall keep a public register of the payment institutions which obtained their licenses. The Register shall include details on payment institution: the name, address, type of business licensed; the date and number of the decision on license issuance; series, number and date of license issuance; information on re-issuance, issuance of license duplicates and license withdrawal, branches and agents, as well as other relevant information.

(2) The register shall be public, including accessible on the official website of the National Bank and shall be updated regularly.

(3) The payment institution which license was withdrawn shall be excluded from the register through an appropriate mention.

Section 2

Payment institution's activity

Article 24. Payment institution's payment accounts and the prohibition on accepting deposits

(1) The payment institution is entitled to open and keep payment accounts for its customers designated exclusively for the execution of payment transactions, where the payment service provision requires opening and managing payment accounts.

(2) The payment institution is not entitled to accept (attract) deposits or other repayable funds under the Law on banking activity no. 202 of 06 October 2017.

(3) Any funds received by the payment institution from payment services users in order to provide payment services do not represent a deposit or other repayable funds under the Law on banking activity no. 202 of 06 October 2017, and neither electronic money under this Law.

(4) The National Bank shall be authorized to determine whether an activity represents or not the acceptance (attraction) of deposits or of other repayable funds, crediting activity related to payment services, payment services activity in accordance with the criteria set out in the normative acts of the National Bank and whether this Law shall be applied to persons who are engaged in the respective activity. Determining the nature of activity, expressed by the National Bank, is mandatory for the parties concerned.

[Art.24 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 25. Additional activities permitted to the payment institution

(1) Besides the provision of payment services, the payment institutions are entitled to engage in the following activities:

- a) provision of operational and closely related payment services such as: ensuring the execution of payment transactions, foreign currency exchange transactions, safekeeping activities, and the storage and processing of data;
- b) the administration (operation) of payment systems;
- c) business activities other than the provision of payment services, according to the legislation.

(2) Where a payment institution, at the same time, is engaged in business activities other than the provision of payment services, the National Bank may require the establishment of a separate entity for the payment services provision, if it discovers that the other business activities impair or are likely to impair either the financial soundness of the payment institution or the ability of the National Bank to supervise the payment institution's compliance with all obligations laid down by this Law.

(3) Payment institutions may grant credit relating to payment services as referred to in Article 4 paragraph (1) items 4), 5) only if all of the following conditions are met:

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

(b) the credit granted in connection with a provided payment service shall be repaid within a short period which shall in no case exceed 12 months;

c) the credit shall not be granted from the funds received or held for the purpose of executing a payment transaction;

d) the regulated capital of the payment institution shall at all times be appropriate.

(4) Payment institutions shall carry out the lending activity stipulated in paragraph (3) in accordance with the rules of a prudent and sound practice, in compliance with this Law and with the normative acts of the National Bank, which establish the conditions for granting credits (loans) related to payment services.

[Art.25 completed by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 26. Funds safeguarding requirements

(1) The payment institution is required to keep separate record of the funds received from each payment service user, directly or through another payment service provider for the execution of payment transactions, from any other persons or from its own funds.

(2) Funds received from payment service users, directly or through another payment service provider, for the execution of payment transactions, where they are still held by the payment institution and yet not delivered to the payee or transferred to another payment service provider by the end of the business day following the day when the funds have been received, shall be deposited (registered) on separate bank accounts opened by the payment institution with the banks in the Republic of Moldova.

(3) Funds received from payment service users, directly or through another payment service provider, for the execution of payment transactions, safeguarded under paragraphs (1) and (2), are exempted from the enforcement measures, including enforcement measures provided by the Enforcement Code of the Republic of Moldova to fulfill the claims of the payment institution's creditors, other than of the payment service users, where the respective institution can no longer fulfill its obligations, especially in case of its insolvency. In case of a payment institution's insolvency, these funds shall not be included in the debit mass.

(4) Where a portion of the funds received by a payment institution from payment service users for future payment transactions, and the remaining amount to be used for non-payment services, for that portion of the funds to be used for future payment transactions the payment institution shall apply the requirements provided for in paragraphs (1) to (3).

[Art.26 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 27. Branches and agents

(1) The payment institution is entitled to conduct the activities for which it has obtained the license, directly, through its branch with its office in the Republic of Moldova or through an agent.

(1¹) Any natural or legal person providing payment services in the name and on behalf of payment institutions, branches and payment agents shall be considered as a payment agent for the purposes of this Law.

(2) Branches and agents are not entitled to start the activity before they are listed in the register of payment institutions.

(3) To be listed in the register, the payment institution, which intends to provide payment services through a branch /an agent, shall submit to the National Bank the following:

a) name and office of the branch /payment agent;

b) a description of the internal control mechanisms to be used by the branch/ agent to comply with the requirements of legislation on preventing and combating money laundering and terrorism financing;

c) data on the identity of the administrators of the branch/payment agent who will provide payment services, the evidence that they have good reputation, possesses knowledge and experience appropriate to the nature, extent and complexity of the activity concerned, according to the criteria established by the regulations issued by the National Bank;

d) the list of the payment services of the payment company for which the branch/ agent is mandated;

e) the unique identification code or other identification number of the agent in the information system of the payment company.

(3¹) Where the payment agent is a payment services provider referred to in article. 5, paragraph (1), or if the agent is a natural person, the National Bank shall make an entry in the register of payment institutions according to the procedure established by the National Bank's normative acts.

(4) The National Bank shall examine the information specified in paragraphs (3) and (3¹) and, within 30 days after their receipt, shall inform the payment institution of the decision to include the branch / paying agent in the register.

(5) The National Bank shall list the branch/ agent in the register of payment institutions, if the information provided in paragraph (3) and paragraph (3¹) is presented and if it is ascertained that the information is up to date, accurate and complete.

(5¹) The payment institution is obliged to notify the National Bank of any modification of the data in the documents submitted for the registration of the branch / paying agent within 10 working days from the date of occurrence of modifications and to submit the documents confirming the modifications within 30 days after the modifications occurred.

(5²) The payment institution shall ensure that the branches / paying agents acting on its behalf inform the payment services users about this fact.

(6) In case the National Bank considers that the information it has been provided is incomplete, contradictory or inaccurate, it may take further steps to verify the information before registering the branch / paying agent in the register. Upon solicitation by the National Bank of additional information on behalf of the payment institution, it shall submit the solicited information within maximum 30 days from the date of solicitation's communication, during which the term of examination provided in paragraph (4) shall be suspended.

(7) If, after taking additional measures to verify the information, the National Bank is not assured that the information it has been provided in accordance with paragraphs (3) and (3¹) is up to date, accurate and complete, it shall refuse to register the branch / payment agent in the register and shall inform the payment company about that, and the documents and information specified in paragraphs (3) and (3¹) shall be returned.

(8) The National Bank shall withdraw the registration of the branch or agent, if it no longer meets the conditions of this Law and normative acts issued for its execution, and when it finds that the registration was made based on false information or documents. The National Bank shall inform that payment institution of withdrawal of its registration, which is required to stop the activity of that branch or the payment service activity of the respective agent.

(9) The National Bank shall remove from the register the branch/payment agent based on the request submitted by the payment institution, no later than 3 days after the date of termination of the activity through the branch/ payment agent.

[Art.27 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 28. Outsourcing

(1) Where a payment institution intends to outsource operational functions of payment services to a legal person (provider), it shall inform the National Bank at least one month until the date when it plans to sign the contract on outsourcing.

(2) The outsourcing of important operational functions, including the information system management function, shall not be undertaken in such way as to impair the quality of the payment institution's internal control and to prevent the National Bank from verifying and monitoring of the payment institution's fulfillment of all obligations laid down in this Law as well as shall not hinder exercising duties of authorized public control authorities.

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

(4) Outsourcing of important operational functions may be undertaken only when the payment institution complies with the following minimum conditions:

a) the outsourcing shall not result in the delegation to the provider of the institution's senior management responsibility;

b) the relationship and obligations of the payment institution towards its payment service users under this Law shall not be affected;

c) the conditions with which the payment institution is to comply in order to be licensed and remain so in accordance with this Law shall not be affected;

d) none of the conditions subject to which the payment institution's license was granted shall be removed or modified.

(5) The important operational functions that may be outsourced by the payment institution shall be laid down in the normative acts of the National Bank.

(6) Payment institution shall attach to the notification mentioned in paragraph (1) the documents and information which confirm the compliance with the provisions of paragraph (4).

(7) The payment institution shall ensure that its branches or agents acting on its behalf inform the payment service users that it is going to outsource the operational functions relating to the provided payment service.

(8) The payment institution shall take reasonable measures to ensure compliance with this Law, the legislative and normative acts in force by the providers of outsourced operational functions.

(9) The payment institution shall notify the National Bank within 10 working days of any modification in its outsourced activities.

[Art.28 completed by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 29. Accounting

(1) The payment institution shall organize and carry out the accounting in accordance with the Law on accounting and financial reporting no. 287 of December 15, 2017

(2) For supervisory purposes, the payment institution shall provide the National Bank with separate accounting information, as well as other required information on:

a) provision of payment services specified in Article 4 paragraph (1) excluding item 4);

b) provision of services specified in Article 25 paragraph (1) letter a) and b);

c) other activities carried out by the payment institution.

(3) The accounting information submitted in accordance with the paragraph (2) shall be accompanied, in order to confirm the accuracy of information, by an auditor's report prepared according the applicable legislative and normative acts by the internal auditor, an audit firm or by an independent auditor, which audits the payment institution.

(4) The information stipulated in paragraph (2) shall be presented in terms, form, manner and content established by the National Bank.

[Art.29 paragraph (1) amended by the Law no.208 of 12.10.2018, in force 01.01.2019]

[Art.29 paragraph (2) amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 30. Audit

(1) The annual and annual consolidated financial reports of the payment institutions are subject to audit by the auditing committee / auditor (hereinafter internal auditor), audit firm or independent auditor.

(2) The internal auditor, audit firm or independent auditor which performs the audit of a payment institution informs the National Bank as soon as he / it is aware of any fact or decision concerning payment institution that:

a) constitutes a material breach of the law, other normative acts or other acts issued for its application, which regulates the activity of providing payment services;

b) may lead to a situation where payment institution will not be able to perform its pecuniary obligations or may affect the payment institution's ability to continue operating;

c) can lead to an impossibility of the internal auditor, audit firm or independent auditor to express an opinion on the financial statements or may conduct to express by them of an opinion with limitations;

d) concerns the incorrect or incomplete data submitted periodically to the National Bank.

(3) At the request of the National Bank, internal auditor, audit firm or independent auditor which performs the

audit of payment institution is required to provide information on audit activity of performed payment service activity.

(4) Fulfillment with good faith by the internal auditor, audit firm or independent auditor which performs the audit of payment institution, of the obligation to inform the National Bank under paragraph (2) and (3) does not constitute breach of the obligation of professional secrecy, incumbent by law or contractual terms, and cannot attract liability of any kind of it.

Article 31. Payment institution's liability

(1) The payment institution is required to ensure that the branches, agents and outsourced operational service providers comply with the requirements of legislative and normative acts.

(2) Failure of the agent and the outsourced operational service provider to comply with the requirements of this Law may serve as a ground for the payment institution to terminate the contracts signed with them.

(3) That payment institution remains liable for any acts (non-acts) relating to payment service provision, its employees, or any branch, agent or outsourced operational service provider.

(4) The payment institution's branches and agents shall inform the payment service users of the fact that they are acting on behalf of the payment institution.

(5) When the agent or branch is removed from the register, the documents and funds relating to the non-executed obligations and unfinished accounts on provision of payment services or on activities carried out to provide such services shall be submitted/sent to the payment institution.

Article 32. Record-keeping

The payment institution keeps all the records, documents and other information relating to the provided payment services and the activity carried out for at least 5 years.

Article 32¹. Management of operational and security risks

(1) Payment services providers shall establish a framework with appropriate mitigation measures and control mechanisms to manage the operational and security risks, relating to the payment services they provide. As part of that framework, payment service providers shall establish and maintain effective incident management procedures, including for the detection and classification of major operational and security incidents.

(2) Payment services providers shall provide to the National Bank on an annual basis, or at shorter intervals as determined by the National Bank an updated and comprehensive assessment of the operational and security risks relating to the payment services they provide and on the adequacy of the mitigation measures and control mechanisms implemented in response to those risks.

(3) The mandatory minimum requirements for the security and continuity of the activity to be applied by payment services providers shall be laid down in the National Bank's normative acts.

[Art. 32¹ introduced by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 32². Reporting of incidents

(1) In the event of an incident that caused malfunctions in the core business or affected the availability, security or integrity of the information system, the payment institutions, postal service providers and electronic money institutions shall notify the incident, no later than the next working day to the National Bank.

(2) In the event that an incident has or may have an impact on the payment services users' financial interests of the payment services provider, he shall without undue delay inform the relevant users about the incident and about all available measures that they may take in order to mitigate its negative effects.

(3) The periodicity, the criteria for evaluating the incident and the details of the reports on the incident that follow to be communicated shall be established in the normative acts of the National Bank.

[Art. 32² introduced by the Law no.208 of 12.10.2018, in force 23.12.2018]

Chapter IV

TRANSPARENCY OF CONDITIONS AND INFORMATION REQUIREMENTS FOR PAYMENT SERVICES

Section 1

General provisions

Article 33. Scope

- (1) The provisions of this Chapter shall apply to single payment transactions, framework contracts and payment transactions covered by them, where the payment service user is a consumer.
- (2) The parties to the payment transaction may agree to apply in whole or in part, the provisions of this Chapter.

Article 34. General information

Without prejudice to other provisions of this Law, the payment service providers referred to in Article 5 paragraph (1) letters a) to d) are obliged:

- 1) to ensure that at least the following general information is provided in every place of payment services provision in a visible spot:
 - a) address of the place (location) of payment service provision;
 - b) copy of the license of the payment services provider and, where applicable, authorized copy of the license of the payment service provider for the branch;
 - c) contact telephone numbers and, if available, official website, e-mail address of the payment service provider;
- 2) if they have an official website, to ensure the publication of the information referred to in item 1) letter b) and c) as well as the information on the places (locations) of service provision, branch offices, name and offices of payment agents, if exists any.

Article 35. Charges for providing information

- (1) The payment service provider shall not charge any fee or another payment from the payment service user (hereinafter the charge) for providing information under this Chapter.
- (2) The payment service provider and the payment service user may agree on charges for additional or more frequent information than the one provided in this Chapter, or transmission by means of communication other than those specified in the framework contract, provided at the payment service user's request.
- (3) Where the payment service provider may impose charges for information in accordance with paragraph (2), they shall be appropriate to the payment service provider's actual costs.
- (4) Where a currency exchange service is provided until a payment transaction is initiated, and that money exchange service is to be provided at the sales point or by the payee, the party which provides the money exchange service, shall inform the payment service user of all charges and exchange rate to be applied for the conversion of the payment transaction.
- (5) Where a payee offers a discount for using a specific payment instrument and/or payment service, the payee shall inform the payer of it before initiating the payment transaction.
- (6) Where a payment service provider or a third party is requesting a charge for using a specific payment instrument and/or payment service, he shall inform the payment service user of this until initiating the payment transaction.

Article 36. Burden of proof on information requirements

The burden of proof shall lie with the payment service provider to prove that it has complied with the information requirements laid down in this Chapter.

Article 37. Derogation from information requirements for low-value payment instruments and payment instruments related to electronic money

- (1) In the case of payment instruments which, according to the framework contract, solely concern individual payment transactions which have a spending limit (total use of funds) of MDL 2 500 or their equivalent in

foreign currency at the official rate of Moldovan Leu on the day of transaction, or deposit (store) funds which at no time exceed MDL 2 500 or their equivalent in foreign currency at the official rate of Moldovan Leu on the day of transaction:

- 1) by way of derogation from Articles 42 and 46, the payment service provider shall provide the payer only information on the main characteristics of the payment service, including the way in which the payment instrument can be used, liability, charges levied and other important information needed to take an informed decision as well as an indication of where any other information and conditions specified in Article 42 paragraph (1) are made available in an easily accessible manner;
- 2) it may be agreed that, by way of derogation from Article 44, the payment service provider not to be required to propose changes in the conditions of the framework contract on paper or on another durable medium;
- 3) it may be agreed that, by way of derogation from Articles 47 and 48, after the execution of a payment transaction:
 - a) the payment service provider shall provide or make available only a reference enabling the payment service user to identify the payment transaction, the amount of the payment transaction, any charges and/ or, in the case of several payment transactions of the same kind made to the same payee, information on the total amount and charges for those payment transactions;
 - b) the payment service provider is not required to provide or make available information referred to in letter a), if the payment instrument is used anonymously or if the payment service provider is not otherwise technically in a position to provide it. In this case, the payment service provider shall provide the payer with a possibility to verify the amount of funds stored.

Section 2

Single payment transactions

Article 38. Prior general information

- (1) Before a payment service user becomes a party to a contract or an offer of single payment transaction, the payment service provider shall provide, in an easily accessible manner, the following information to the payment service user:
 - (a) information or unique identifier that has to be provided by the payment service user in order for a payment order to be properly executed;
 - (b) the maximum execution time for the payment service to be provided;
 - (c) all charges payable by the payment service user to his payment service provider and, where applicable, the breakdown of the amounts of any charges by type and amount;
 - (d) where applicable, the actual or reference exchange rate to be applied to the payment transaction.
- (2) The information and conditions relating to payment services shall be communicated to the payment service user in a clear and accessible manner, in the state language or in any other language agreed between the parties.
- (3) The payment service provider shall provide, at the payment service user's request, the information stipulated in paragraph (1) on paper or on another durable medium or in the manner agreed by the parties (e-mail, SMS, etc.).
- (4) If the single payment service contract has been concluded at the request of the payment service user using a means of distance communication that does not permit the payment service provider to comply with paragraphs (1) and (2), the payment service provider shall fulfill his obligations under that paragraphs immediately after the execution of the payment transaction.
- (5) The obligations specified in paragraphs (1) and (2) may also be fulfilled by submitting a copy of the draft single payment service contract or the draft payment order including the information and conditions specified in paragraph (1).
- (6) Where a payment order for a single payment transaction is transmitted through a payment instrument and/or under a payment service governed by a framework contract, the payment service provider is not required to provide or make available the information that has already been transmitted to the payment service user under a framework contract signed with another payment service provider or which is to be transmitted under that framework contract.
- (7) Where appropriate, any other relevant information and conditions provided in Article 42 paragraph (1) and

(2) shall be made available to the payment service user in an easily accessible manner.

Article 39. Information for the payer after the receipt of the payment order

(1) Immediately after the receipt of the payment order, the payer's payment service provider shall provide or make available to the payer the following information:

- a) the reference enabling the payer to identify the payment transaction and, where appropriate, information relating to the payee;
- b) the amount of the payment transaction in the currency used in the payment order;
- c) the amount of any charges for the payment transaction payable by the payer and a breakdown of the amount of such charges by type and amount;
- d) where applicable, the exchange rate used in the payment transaction by the payer's payment service provider or a reference thereto, when different from the rate provided in accordance with Article 38 paragraph (1) letter (d), and the amount of the payment transaction after that currency conversion;
- e) the date of receipt of the payment order.

(2) The information shall be provided in accordance with the requirements stipulated in Article 38 paragraph (2) and (3).

Article 40. Information for the payee after the execution of the payment transaction

(1) Immediately after the execution of the payment transaction, the payee's payment service provider shall provide or make available to the payee the following information:

- a) the reference enabling the payee to identify the payment transaction and, where appropriate, the payer and any information transferred with the payment transaction;
- b) the amount of the payment transaction in the currency in which the funds are at the payee's disposal;
- c) the amount of any charges for the payment transaction payable by the payee and a breakdown of the amount of such charges by type and amount;
- d) where applicable, the exchange rate used in the payment transaction by the payee's payment service provider, and the total amount of the payment transaction before the currency conversion;
- e) the credit value date.

(2) The information shall be provided in accordance with the requirements stipulated in Article 38 paragraph (2) and (3).

Section 3

Framework contract

Article 41. Scope

(1) This Section shall apply to payment operations that are under the scope of a framework contract.

(2) A framework contract is a contract on payment services which covers at least the information provided in Article 42 and is mandatory (necessary) at least where there is a payment account or a payment instrument and/or a payment service specific to individual and successive payment transactions (any payment transactions other than the single payment transactions).

Article 42. Pre-contract information

(1) Before a payment service user is bound by any framework contract, the payment service provider shall provide the payment service user, with sufficient time in advance, the following information on paper or on another durable medium, in easily understandable words and in a clear form, in a state language or in other language agreed between the parties:

1) On the payment service provider:

- a) the name of the payment service provider, the address of the head office and, where applicable, the address of the agent or branch, and any other address, including electronic mail address, relevant for communication with the payment service provider;
- b) the payment provider's supervisory authorities, the public register where the payment service provider is listed and the registration number or other equivalent means of identification in that register;

2) On use of the payment service:

- a) a description of the main characteristics of the payment service to be provided;
- b) a specification of the information or a unique identifier that has to be provided by the payment service user in order for a payment order to be properly executed;
- c) the form of and procedure for giving consent to execute a payment transaction and withdrawal of such consent in accordance with Articles 52 and 62;
- d) a reference to the point in time of receipt of a payment order as defined in Article 60 and the cut-off time, if any, established by the payment service provider;
- e) the maximum execution time for the payment service to be provided;
- f) whether there is a possibility to agree on spending limits for the use of the payment instrument in accordance with Article 53 paragraph (1);

3) On charges, interest and exchange rates:

- a) all charges payable by the payment service user to the payment service provider and the breakdown of their amounts by type and amount;
- b) where applicable, the interest and exchange rates to be applied or, if reference interest and exchange rates are to be used, the method of calculating the actual interest, and the relevant date and index or base for determining such relevant reference interest or exchange rate;
- c) if parties agree, the immediate application of changes in reference interest or exchange rate and information requirements related to the changes in accordance with Article 44 paragraphs (4) to (6);

4) On communication:

- a) where applicable, the means of communication, including the technical requirements for the payment service user's equipment, agreed between the parties for the transmission of information under this Law;
- b) the manner in and frequency with which information under this Law is to be provided or made available;
- c) the language or languages in which the framework contract will be concluded and communication during this contractual relationship undertaken;
- d) the payment service user's right to receive, on request, during the contractual terms of the framework contract and information and conditions in accordance with this paragraph on paper or on another durable medium;

5) On safeguards, safety and corrective measures:

- a) where a payment instrument is applicable, a description of steps to be undertaken by the payment service user to safeguard a payment instrument and the ways of notifying the payment service provider in case of loss, theft or misappropriation of his payment instrument or any other unauthorized use of it under Article 54 paragraph (1) letter b);
- b) if agreed, the conditions under which the payment service provider reserves the right to block a payment instrument in accordance with Article 53;
- c) the liability of the payer for unauthorized payment in accordance with Article 58, including information on the relevant amount;
- d) how and within what period of time the payment service user is to notify the payment service provider of any unauthorized or defectively (incorrectly) executed payment transaction as well as the payment service provider's liability for unauthorized payment transactions in accordance with Article 56;
- e) the liability of the payment service provider for the non-execution or defective execution of payment transactions in accordance with Article 70;
- f) the conditions for refund in accordance with Article 59;

6) On changes and termination of framework contract:

- a) if the parties agree, information that the payment service user will be deemed to have accepted changes in the contractual conditions in accordance with Article 44, unless he notifies the payment service provider that he does not accept them before the date of their proposed date of entry into force;
- b) the duration of the contract;
- c) the right of the payment service user to terminate the framework contract;

7) On the disputes redress:

- a) any contractual clause on the law applicable to the framework contract and/or the competent courts;
 - b) the redress procedures of complaints and disputes available to the payment service user under Chapter IX.
- (2) The obligations under paragraph (1) may be also fulfilled by submitting a copy of the draft framework contract including the information and conditions specified in paragraph (1).

(3) If the framework contract has been concluded at the request of the payment service user using a means of distance communication that does not enable the payment service provider to comply with paragraph (1), the payment service provider shall fulfill his obligations under that paragraph immediately after the conclusion of the framework contract.

Article 43. Accessibility of information and framework contract conditions

At any time during the contractual relationship the payment service user is entitled to receive, on request, the contractual terms of the framework contract as well as the information and conditions specified in Article 42 paragraph (1) on paper or on another durable medium.

Article 44. Changes in conditions of the framework contract

(1) Any changes in the framework contract as well as changes in the information and conditions specified in Article 42 paragraph (1), shall be proposed by the payment service provider on paper or on another durable medium or in the manner agreed by the parties (e-mail, sms, etc.) as provided for in Article 38 paragraph (2) and no later than 2 months before the proposed date of their application.

(2) Where applicable in accordance with of Article 42 paragraph (1) item (6) letter a), the payment service provider shall inform the payment service user that he is to be deemed to have accepted these changes if he does not notify the payment service provider that he does not accept them before the proposed date of their entry into force.

(3) In the case referred to in paragraph (2), the payment service provider shall also specify that the payment service user has the right to terminate the framework contract immediately and without charge before the date of entry into force of the proposed changes.

(4) Changes in the interest or exchange rates may be applied immediately and without notice, provided that such a right is agreed upon in the framework contract and that the changes are based on the reference interest or exchange rates agreed in accordance with Article 42 paragraph (1) item 3) letter b) and c).

(5) The payment service user shall be informed of any change in the interest rate at the earliest opportunity (but no later than within 3 business days) on paper or on another durable medium, unless the parties have agreed a specific frequency or manner (e-mail, SMS, etc.) in which the information is to be provided or made available.

(6) If changes in interest or exchange rates are more favorable to the payment service users, they may be applied without notice.

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

Article 45. Termination of a framework contract

(1) The payment service user may terminate the framework contract at any time, unless the parties have agreed a period of notice. Such a period may not exceed one month.

(2) Unilateral termination of a framework contract concluded for a fixed period exceeding 12 months or for an indefinite period shall be free of penalties or other payments for the payment service user after the expiry of 12 months of the date of concluding the framework contract.

(3) Except for the case as provided in paragraph (2), penalties or other payments for the unilateral termination by the payment service user shall be appropriate and in line with actual costs of the payment service provider.

(4) If agreed in the framework contract, the payment service provider may unilaterally terminate a framework contract concluded for an indefinite period by sending a notice on paper or on another durable medium or in the manner agreed by the parties (e-mail, SMS, etc.) at least 2 months in advance.

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

(6) The provisions of paragraphs (1) to (5) shall not apply under the termination of a framework contract for non-fulfillment of the obligations by any of the parties.

Article 46. Information provided before the execution of individual payment transactions

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

Article 47. Information for the payer on individual payment transactions

(1) After the amount of an individual payment transaction is debited from the payer's account or, where the payer does not use a payment account, after the receipt of the payment order, the payer's payment service provider shall provide immediately the payer on paper or on another durable medium or in the other manner agreed by the parties (e-mail, SMS, etc.), with the following information:

- a) the information enabling the payer to identify each payment transaction and, where appropriate, information relating to the payee;
- b) the amount of the payment transaction in the currency in which the payer's payment account is debited or in the currency used for the payment order;
- c) the amount of charges for the payment transaction and a breakdown thereof by type and amount or the interest payable by the payer;
- d) where applicable, the exchange rate used in the payment transaction by the payer's payment service provider, and the total amount of the payment transaction after that currency conversion;
- e) the debit value date or the date of receipt of the payment order.

(2) The payer's payment service provider shall provide the payer, at least once a month, on paper or in other manner agreed by the parties (e-mail, SMS, etc.), free of charge, with the information relating to all registered transactions (account statement).

Article 48. Information for the payee on individual payment transactions

(1) After the execution of an individual payment transaction, the payee's payment service provider shall provide the payee without undue delay (not later than the business day when the payment transaction has been executed) on paper or on another durable medium or in other manner agreed by the parties (e-mail, SMS, etc.), with the following information:

- a) the information enabling the payee to identify the payment transaction and, where appropriate, the payer, and any information transferred with the payment transaction;
- b) the amount of the payment transaction in the currency in which the payee's payment account is credited;
- c) the amount of any charges for the payment transaction, a breakdown thereof by type and amount, or the interest payable by the payee;
- d) where applicable, the exchange rate used in the payment transaction by the payee's payment service provider, and the total amount of the payment transaction before that currency conversion;
- e) the credit value date.

(2) The payee's payment service provider shall provide the payee, at least once a month, on paper or in other manner agreed by the parties (e-mail, SMS, etc.), free of charge, with the information relating to all registered transactions (account statement).

Chapter V

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

Section 1

General provisions

Article 49. Scope

(1) This Chapter shall govern the rights and obligations of the parties where the single payment transactions, framework contracts and payment transactions covered by them, where the payment service user is not a consumer.

- (2) Where the payment service user is not a consumer, the parties may agree that Article 50 paragraph (1) and (2), Article 52 paragraph (3) and Articles 57 to 59, 62, 70 shall not apply in whole or in part, as well the parties may agree on a time period different from that laid down in Article 56 paragraph (1).
- (3) The National Bank may establish through normative acts requirements for performance of payment transactions, the use of certain payment instruments and payment services.

Article 50. Charges

- (1) The payment service provider shall not charge the payment service user for fulfillment of his information obligations or corrective and preventive measures under this Chapter, unless otherwise specified in this Chapter.
- (2) The charges that may be applied under Article 61 paragraph (4), Article 62 paragraph (6) and Article 69 paragraph (3) shall be agreed between the payment service user and the payment service provider and should be limited to covering the payment service provider's actual costs.
- (3) Where a payment transaction does not involve any currency conversion, the payee shall pay the charges levied by his payment service provider, and the payer shall pay the charges levied by his payment service provider.
- (4) The payment service provider shall not prevent the payee from offering the payer a reduction for the use of a payment instrument or a payment service. The payee is not entitled to request charges from the payer for the use of a payment instrument or a payment service.
- (5) The payment service provider shall not charge the payment service user who is a consumer where the contract signed with the provider (supplier) of public utilities (residential, communal, non-communal and other public utilities stipulated by the Government's normative acts) provides for the payment of remuneration to the payment service provider for services of receiving the funds from the consumer and the execution of payment transactions in favor of the provider of those services.
- (6) The conditions for determining the amount of interchange fees and of additional fees applied depending on the brand and category of those payment cards for payment transactions made with a payment card or by a similar device by payment services providers are determined by the National Bank's normative acts.
- (7) The fees charged by the payment services providers for the payment transactions involving utilization of the automated interbank payment system shall not exceed the level of fees set out in the National Bank's normative acts.

[Art.50 amended by Law no.208 of 12.10.2018, in force 23.12.2018]

Article 51. Derogation for low-value payment instruments and payment instruments related to electronic money

- (1) In the case of payment instruments which, according to the framework contract, solely concern individual payment transactions which have a spending limit (total use of funds) of MDL 2 500 or their equivalent in foreign currency at the official rate of Moldovan Leu on the day of transaction, or deposit (store) funds which at no time exceed MDL 2 500 or their equivalent in foreign currency at the official rate of Moldovan Leu on the day of transaction, the payment service providers may agree with their payment service users that:
- a) Article 54 paragraph (1) letter (b) and Article 55 paragraph (1) letter (c) to (e) as well as Article 58 paragraph (3) and (4) do not apply, if the payment instrument does not allow its blocking or prevention of its further use;
 - b) Article 56 paragraphs (2) and (3), Article 57, Article 58 paragraphs (1) and (2) do not apply, if the payment instrument is used anonymously or the payment service provider is not in a position for other reasons which are intrinsic to the payment instrument to prove that a payment transaction was authorized;
 - c) by way of derogation from Article 61 paragraphs (2) to (4), the payment service provider is not required to notify the payment service user of the refusal of a payment order, if the non-execution of the payment is apparent from specific context;
 - d) by way of derogation from Article 62, the payer may not revoke the payment order after transmitting the payment order or giving his consent to the payee to execute the payment transaction;
 - e) by way of derogation from Articles 64 and 65, other execution periods apply.
- (2) Article 56 paragraphs (2) and (3) and Article 58 shall apply also to electronic money, except where the payer's payment service provider does not have the ability to freeze the payment account or block the payment instrument.

Section 2

Authorization of payment transactions

Article 52. Consent and withdrawal of consent

- (1) A payment transaction is considered to be authorized only if the payer has given consent prior to or after the execution of the payment transaction.
- (2) Consent to execute a payment transaction or a series of payment transactions shall be given in the form agreed between the payer and his payment service provider. In the absence of such consent, a payment transaction shall be considered to be unauthorized.
- (3) Consent may be withdrawn by the payer at any time, but no later than the point in time of irrevocability under Article 62.
- (4) Consent to execute several (a series of) payment transactions may be withdrawn with the effect that any future payment transaction is to be considered as unauthorized.
- (5) The procedure for giving consent shall be agreed between the payer and his payment service provider.

Article 53. Limits of the use of the payment instrument

- (1) Where a payment instrument is used for the purposes of giving consent, the payer and his payment service provider may agree on spending limits for payment transactions executed through that payment instrument.
- (2) If the framework contract provides so, the payment service provider may reserve the right to block the payment instrument for objectively justified reasons related to:
 - a) the security of the payment instrument;
 - b) the suspicion of its unauthorized or fraudulent use;
 - c) a significantly increased risk that the payer may be unable to fulfill his liability to pay, in the case of a payment instrument with a credit line.
- (3) In cases stipulated in paragraph (2), where possible, before the payment instrument is blocked and at the latest immediately thereafter, the payment service provider shall inform the payer, in an agreed manner, of the blocking of the payment instrument and the reasons for it, unless giving such information would compromise objectively justified security reasons or is prohibited by other normative acts.
- (4) The payment service provider shall unblock the payment instrument or replace it with a new payment instrument once the reasons for blocking no longer exist.

Article 54. Obligations of the payment service user in relation to payment instruments

- (1) The payment service user who is entitled to use a payment instrument shall have the following obligations:
 - a) to use the payment instrument in accordance with the terms governing its issue and use;
 - b) to notify its payment service provider or the entity specified by the latter without undue delay on becoming aware of loss, theft or misappropriation of the payment instrument or any other unauthorized use of it.
- (2) For the purposes of paragraph (1) letter a), the payment service user shall take all reasonable steps to keep the personalized security features safe, as soon as he receives a payment instrument.

Article 55. Obligations of the payment service provider in relation to payment instruments

- (1) The payment service provider that issues a payment instrument shall have the following obligations:
 - a) to make sure that the personalized security features of the payment instrument are not accessible to parties other than the payment service user entitled to use the payment instrument, without prejudice to the obligations on the payment service user as provided in Article 54;
 - b) to refrain from sending an unsolicited payment instrument, except where a payment instrument already given to the payment service user is to be replaced;
 - c) to ensure that appropriate means are available at all times to enable the payment service user to make a notification pursuant to Article 54 paragraph (1) letter b) or request unblocking pursuant to Article 53 paragraph (4);
 - d) on request, the payment service provider shall provide the payment service user with the means to prove, for 18 months after notification, the payment service user that he made such notification in accordance with

the Article 54 paragraph (1) letter b);

e) to prevent all use of the payment instrument once notification pursuant to Article 54 paragraph (1) letter b) has been made.

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

Article 56. Notification of the unauthorized payment transactions and the payment service provider's liability for unauthorized payment transactions

(1) The payment service user may obtain rectification of a payment transaction from the payment service provider only if he notifies his payment service provider without undue delay on becoming aware of any unauthorized or incorrectly executed payment transactions giving rise to a claim, including that under Article 70, and no later than 13 months after the debit date of his account, unless, where applicable, the payment service provider has failed to provide or make available the information on that payment transaction in accordance with Chapter IV.

(2) In case of an unauthorized payment transaction, the payer's payment service provider without undue delay refunds to the payer the amount of that unauthorized payment transaction and, where applicable, restore the debited payment account to the state in which it would have been, if the unauthorized payment transaction had not taken place. The refund shall be made in the currency of payment account from which the transaction amount was debited, and where the payment account was not used to make the payment transaction - in the currency in which the payment service provider received the funds from the payer.

(3) If the payment service provider fails to execute his payment user's indications or deviate from them, where it cannot be considered that the user being aware of the actual situation, would have approved the deviation, the payment service provider is required to pay indemnity under the law applicable to the contract between the payer and his payment service provider.

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

Article 57. Evidence on authentication and execution of payment transactions

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

(2) Where a payment service user denies having authorized an executed payment transaction, the use of a payment instrument recorded by the payment service provider shall in itself not necessarily be sufficient to prove either that the payment transaction was authorized by the payer or that the payer acted fraudulently or failed with intent or gross negligence to fulfill one or more of his obligations under Article 54. The payment services provider shall provide supporting evidence to prove fraud or gross negligence on part of the payment service user.

[Art.57 completed by Law no.208 of 12.10.2018, in force 23.12.2018]

Article 58. Payer's liability for unauthorized payment transactions

(1) If the payer failed to ensure the safety of the personalized security features of the used payment instrument, he shall bear the losses relating to any unauthorized payment transaction, resulting from the occurrence of an emergency situation (lost, stolen or misappropriated payment instrument), up to a maximum amount agreed between the payment service provider and the user but no more than MDL 2 500.

(2) The payer shall bear all the losses relating to any unauthorized payment transaction, if he incurred them by acting fraudulently or by failing to fulfill one or more of his obligations under Article 54 with intent or gross negligence. In such cases, the maximum amount referred to in paragraph (1) of this Article shall not apply.

(3) The payer shall not bear any financial consequences resulting from the occurrence of an emergency situation, after notification in accordance with Article 54 paragraph (1) letter (b), except where he has acted fraudulently.

(4) If the payment service provider does not provide appropriate means for the notification at all times of a

lost, stolen or misappropriated payment instrument, the payer shall not be liable for the financial consequences resulting from use of that payment instrument, except where he has acted fraudulently.

(5) The provisions of paragraphs (1) to (4) shall also apply to the electronic money, except where the payer's payment service provider is not able to freeze the payment account or block the payment instrument.

Article 59. Refund conditions and procedure for the amount of a payment transaction initiated by or through a payee

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

a) the authorization does not specify the exact amount of the payment transaction when the authorization was made;

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

(2) For the purposes of paragraph (1) letter b), the payer may not rely on currency exchange reasons if the reference exchange rate agreed with his payment service provider in accordance with Article 38 paragraph (1) letter d) and Article 42 paragraph (1) item 3) letter b) was applied.

(3) At the payment service provider's request, the payer shall provide factual elements relating to the conditions specified in paragraph (1).

(4) The refund, under the paragraph (1), consists of the full amount of the executed payment transaction.

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

(6) It may be agreed in the framework contract between the payer and the payment service provider that the payer has no right to a refund where he has given his consent to execute the payment transaction directly to his payment service provider and, where applicable, information on the future payment transaction was provided or made available in an agreed manner to the payer for at least 4 weeks before the due date by the payment service provider or by the payee.

(7) To receive a refund under paragraph (1) or paragraph (5), the payer shall request it from his payment service provider within a period of 8 weeks from the date on which the funds were debited. The refund shall be made in the currency of the payment account from which the transaction amount was debited, and where the payment account was not used to make the payment transaction - in the currency in which the payment service provider received the funds from the payer.

(8) Within 10 business days of receiving a request for a refund, the payment service provider shall either refund the full amount of the payment transaction or refuse to refund the amount, providing justification for refusing the refund and indicating the bodies (institutions) to which the payer may refer the matter, if he does not accept the justification of the refusal. The payment service provider's right to refuse the refund shall not apply in the case set out in paragraph (5).

Section 3

Execution of payment transactions

Article 60. Receipt of payment orders

(1) The point in time of receipt of the payment order is the time when the payment order is transmitted directly by the payer or indirectly by or through a payee, is received by the payer's payment service provider.

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

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

(4) If the payment service user initiating a payment order and his payment service provider agrees that execution of the payment order shall start on a specific day or at the end of a certain period or on the day on which the payer has set funds at his payment service provider's disposal, the point in time of receipt for the

purposes of Article 64 is deemed to be the agreed day. If the agreed day is not a business day for the payment service provider, the payment order received shall be deemed to have been received on the following business day.

Article 61. Refusal to execute payment orders

- (1) Where all the conditions of the payer's framework contract are met, the payer's payment service provider may not refuse the execution of an authorized payment order, regardless of whether the payment order was initiated by a payer or by or through a payee, if such execution is not prohibited by other applicable laws.
- (2) Where the payment service provider refuses to execute a payment order, he shall notify the payment service user on the refusal and, unless prohibited by other applicable laws, shall communicate the reasons of the refusal and the procedure to correct any factual mistakes that have led to the refusal.
- (3) The payment service provider shall provide or make available the notification in an agreed manner at the earliest opportunity and at the latest until the end of the following business day when that payment order was received.
- (4) The framework contract may include a condition that the payment service provider may charge for such a notification provided in paragraph (2), in which the refusal is objectively justified.
- (5) A payment order which execution was refused shall be deemed as not being received.

Article 62. Irrevocability of a payment order

- (1) A payment order directly transmitted to the payee may not be revoked once it has been received by the payer's payment service provider, if this Article does not provide for otherwise.
- (2) Where the payment transaction is initiated by or through the payee, the payer may not revoke the payment order after transmitting the payment order or giving his consent to execute the payment transaction to the payee.
- (3) In the case of a direct debit and without prejudice to refund rights, the payer may revoke the payment order at the latest by the end of the business day preceding the day agreed for debiting the funds.
- (4) In the case referred to in Article 60 paragraph (4) the payment service user may revoke a payment order at the latest by the end of the business day preceding the agreed day.
- (5) After the time limits specified in paragraphs (1) to (4), the payment order may be revoked only if agreed between the payment service user and his payment service provider. In the case referred to in paragraphs (2) and (3), the payee's agreement shall also be required.
- (6) If agreed in the framework contract, the payment service provider may charge for revocation.

Article 63. Amounts transferred and amounts received

- (1) The payment service provider of the payer, the payment service provider of the payee and any intermediaries of the payment service providers transfer the full amount of the payment transaction and refrain from deducting charges from the amount transferred, except for the case provided in paragraph (2).
- (2) The payment service provider of the payee may deduct charges from the amount transferred before crediting the payee with that amount only if so was agreed between them in advance.
- (3) In the case provided in paragraph (2), the full amount of the payment transaction and charges shall be separated in the information given to the payee.
- (4) If any charges, other than those referred to in paragraph (2), are deducted from the amount transferred:
 - a) the payment service provider of the payer shall ensure that the payee receives the full amount of the payment transaction initiated by the payer;
 - b) in cases where the payment transaction is initiated by or through the payee, his payment service provider shall ensure that the full amount of the payment transaction is received by the payee.

Article 64. Payment transactions to a payment account

- (1) The payer's payment service provider shall ensure that, after the point in time of the payment order receipt in accordance with Article 60, the amount of payment transaction is credited to the payee's payment service provider's account at the latest by the end of the next business day.
- (2) After the receipt of funds, the payment service provider of the payee shall value date and make available

the amount of the payment transaction to the payee's payment account, in accordance with Article 67.

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

Article 65. Payment transactions in the absence of payee's payment account with the payment service provider

Where the payee is a natural person who does not have a payment account with the payment service provider, the funds shall be made available to the payee by the payment service provider who receives the funds for the payee within the period specified in Article 64.

Article 66. Cash placed on a payment account

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

(2) Where the payment service user is not a consumer, the amount shall be made available and value dated at the latest on the next business day after the receipt of the funds.

Article 67. Value date and availability of funds

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

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

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

Article 68. Special requirements for payment transactions of natural persons using cash payment terminals

(1) Where a payment service provider uses a cash payment terminal (cash-in terminal) to receive cash from the natural person to execute a payment transaction, such terminal should automatically ensure that:

a) the information on the name of the good or service for which the payment obligation is executed by the natural person to the payee – is received from the payer;

b) the payer is provided, before he introduces the cash, at least the information specified in Article 38 paragraph (1) letters a) to c);

c) the cash introduced (deposited) by the payer is received.

(2) The cash payment terminal used by the payment service provider shall ensure that the payer receives a receipt, on which is printed at least the following data:

a) name of document;

b) information specified in Article 39 paragraph (1) letters a) to c), and e);

c) date, point in time when the cash is received, number of the receipt and of the cash register machine;

d) address of the place (location) of the cash payment terminal;

e) name and head office address of the payment service provider who received the cash, and his IDNO, and contact telephone numbers.

(3) The use of cash payment terminal to receive cash in foreign currency shall be prohibited.

(4) In cases where the Law on preventing and combating money laundering and terrorism financing provides for mandatory measures to identify the natural person - payer, the payment service provider is not entitled to receive cash for the execution of the payment transaction without the participation of the natural person assigned by the payment service provider and to use cash payment terminals for receiving such payments.

(5) After the payment execution is confirmed by the cash payment terminal and the given receipt is received, the natural person is exempted from any liability for the payment made through the cash payment terminal to the address of the payee, payee's payment service provider or payer's payment service provider.

Section 4

Liability

Article 69. Incorrect unique identifiers

- (1) If a payment order is executed in accordance with the unique identifier, the payment order shall be deemed to have been executed correctly with regard to the payee specified by the unique identifier.
- (2) If the unique identifier provided by the payment service user is incorrect, the payment service provider shall not be liable under Article 70 for non-execution or defective execution of the payment transaction. The payer's payment service provider shall make reasonable efforts to recover the funds involved in the payment transaction.
- (3) If the parties agreed in the framework contract, the payment service provider may charge the payment service user for recovery transaction.
- (4) If the payment service user provides information additional to that specified in Article 38 paragraph (1) letter a) or Article 42 paragraph (1) item 2) letter b), the payment service provider shall be liable only for the execution of payment transactions in accordance with the unique identifier provided by the payment service user.

Article 70. Non-execution or defective execution of payment transactions

- (1) Where a payment order is initiated by the payer, his payment service provider shall, without prejudice to Article 56 paragraph (1), Article 69 paragraphs (2) to (4) and Article 73, be liable to the payer for correct execution of the payment transaction, unless he can prove to the payer and, where relevant, to the payee's payment service provider that the payee's payment service provider received the amount of the payment transaction in accordance with Article 64 paragraph (1), in which case, the payee's payment service provider shall be liable to the payee for the correct execution of the payment transaction.
- (2) Where the payer's payment service provider is liable under paragraph (1), he shall without undue delay refund to the payer the amount of the non-executed or defective payment transaction and, where applicable, restore the debited payment account to the state in which it would have been, if the defective payment transaction had not taken place. The refund shall be made in the currency of the payment account from which the transaction amount was debited, and where the payment account was not used to make the payment transaction - in the currency in which the payment service provider received the funds from the payer.
- (3) Where the payee's payment service provider is liable under paragraph (1), he shall immediately place the amount of the payment transaction at the payee's disposal and, where applicable, credit the corresponding amount to the payee's payment account.
- (4) In the case of a non-executed or defectively executed payment transaction, where the payment order is initiated by the payer, his payment service provider shall regardless of liability under paragraphs (1) to (3), on request, make immediate efforts to identify and trace the payment transaction and notify the payer of the outcome.
- (5) Where a payment order is initiated by or through the payee, his payment service provider shall, without prejudice to Article 56 paragraph (1), Article 69 paragraphs (2) to (4) and Article 73, be liable to the payee for correct transmission of the payment order to the payment service provider of the payer in accordance with Article 64 paragraph (3).
- (6) Where the payee's payment service provider is liable under paragraph (5), he shall immediately re-transmit the payment order in question to the payment service provider of the payer.
- (7) The payment service provider of the payee shall, without prejudice to Article 56 paragraph (1), Article 69 paragraphs (2) to (4) and Article 73, be liable to the payee for handling the payment transaction in accordance with his obligations under Article 67.
- (8) Where the payee's payment service provider is liable under paragraph (7), he shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount of the payment transaction is credited to the payee's payment service provider's account.
- (9) In the case of a non-executed or defectively executed payment transaction for which the payee's payment service provider is not liable under the paragraphs (5) to (8), the payer's payment service provider shall be liable to the payer. In this case, the payer's payment service provider shall, as appropriate and without undue delay, refund to the payer the amount of the non-executed or defective payment transaction and restore the debited payment account to the state in which it would have been had the defective payment transaction not

taken place. The refund shall be made in the currency of the payment account from which the transaction amount was debited, and where the payment account was not used to make the payment transaction - in the currency in which the payment service provider received the funds from the payer.

(10) In the case of a non-executed or defectively executed payment transaction, where the payment order is initiated by or through the payee, his payment service provider shall, regardless of liability under paragraphs (5) to (9), on request, make immediate efforts to identify and trace the payment transaction and notify the payee of the outcome.

(11) The payment service provider shall be liable to his respective payment service user for any charges for which he is responsible, including any interest to which the payment service user is subject as a result of non-execution or defective execution of the payment transaction.

Article 71. Additional financial compensation

Any financial compensation additional to that provided for under Articles 69 and 70 may be determined in accordance with the law applicable to the contract concluded between the payment service user and his payment service provider provides that.

Article 72. Right of recourse

(1) Where the liability of a payment service provider under Article 70 is attributable to another payment service provider or to an intermediary, that payment service provider or intermediary shall compensate the first payment service provider for any losses incurred or sums paid under Article 70.

(2) Further financial compensation may be determined in accordance with agreements between payment service providers and/or intermediaries and the laws applicable to the agreement concluded between them.

Article 73. No liability

Liability under Sections 2, 3 and 4 shall not apply in cases of abnormal and unforeseeable circumstances beyond the control of the party pleading for the application of those circumstances, the consequences of which would have been unavoidable despite all efforts to the contrary, or where a payment service provider is required to comply with legislation.

Chapter VI

ELECTRONIC MONEY

Section 1

General provisions

Article 74. Exclusion from the scope

This Chapter shall not apply in the cases referred to in Article 2 paragraph (2) item 11) and 12) with regard to the use of electronic money.

Article 75. Electronic money issuers

(1) Legal persons entitled to issue electronic money (hereinafter the electronic money issuers) are:

- a) banks operating under the Law on banking activity no. 202 of October 6, 2017;
- b) electronic money institutions;
- c) the National Bank when it does not act as the monetary authority or as another public authority;
- d) providers of postal services which operate in accordance with the Law on postal communications no. 36 of March 17, 2016.

(2) Issuance of the electronic money and other additional activities referred in Article 88 paragraph (1) letters a) to c) are financial market activities.

[Art.75 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 76. Prohibition on electronic money issuance by other persons

Persons who are not electronic money issuers shall be prohibited from issuing electronic money.

Article 77. Issuance and redemption of electronic money

- (1) The electronic money issuer shall issue electronic money at par value on receipt of funds. Where funds are received from abroad in foreign currency, the electronic money shall be issued at par value of the equivalent in national currency of the received funds.
- (2) Upon the request of the electronic money holder, the electronic money issuer redeems, at any moment and at par value, the monetary value of the electronic money held.
- (3) The contract between the electronic money issuer and the electronic money holder shall clearly and prominently state the conditions of redemption, including any fees relating thereto. The electronic money holder shall be informed of those conditions before being bound by any contract or offer.
- (4) Redemption may be subject to a fee only if stated in the contract in accordance with paragraph (3) and only in any of the following cases:
 - a) where redemption is requested before the termination of the contract;
 - b) where the contract provides for a termination date and the electronic money holder terminates the contract before that date;
 - c) where redemption is requested more than one year after the date of termination of the contract.
- (5) Any fee charged under paragraph (4) shall be proportionate and commensurate with the actual costs incurred by the electronic money issuer.
- (6) Where redemption is requested before the termination of the contract, the electronic money holder may request redemption of the electronic money in whole or in part.
- (7) Where redemption is requested by the electronic money holder on or up to one year after the date of the termination of the contract:
 - a) the total monetary value of the electronic money held shall be redeemed; or
 - b) where the electronic money institution carries out one or more of the activities listed in Article 88 paragraph (1) letter d) and it is unknown in advance what proportion of funds is to be used as electronic money, all funds requested by the electronic money holder shall be redeemed.
- (8) Notwithstanding paragraphs (4) to (7), the redemption rights of a person, other than a consumer, who accepts electronic money, shall be subject to the contractual agreement between the electronic money issuer and that person.

Article 78. Prohibition of interest and granting loans (credits)

- (1) Interest or any other benefit shall not be calculated and granted in relation to the period of time during which an electronic money issuer holds the electronic money.
- (2) Loans (credits) shall not be granted from the funds received or held for the purpose of electronic money issuance.

Section 2

Establishment, licensing and the activity of the electronic money institution

Article 79. Establishment of the electronic money institution

- (1) An electronic money institution may be legally established as a joint stock company or a limited liability company and shall be bound by the legislation governing the business of commercial institutions, unless otherwise specified in this Law.
- (2) The provisions of Article 9 paragraph (2) shall also apply to the electronic money institution accordingly.

Article 80. Mandatory nature of the license

The person who intends to issue and transfer electronic money as an institution issuing electronic money on the territory of the Republic of Moldova is obliged to obtain a license before starting this kind of activity.

[Art.80 in the redaction of the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 81. The authority competent to issue licenses

The National Bank shall have the exclusive right to issue to and withdraw licenses for electronic money issuance.

Article 82. Equity capital

(1) The electronic money institution shall hold, at the time of submitting the application for licensing, equity capital of at least MDL 6 000 000.

(2) The equity capital shall be formed, the contributions shall be deposited /the payment of electronic money institution's shares shall be made under Article 12, which shall apply accordingly.

Article 83. Regulatory capital

(1) The electronic money institution shall hold, at all times of its business, regulatory capital which shall not fall below the level of the amount referred to in paragraphs (2), (3), (4¹) or in article 82, the larger amount being taken into account.

(2) For the activities listed in Article 7 paragraph (2), which do not have any link with the issuance of electronic money, the requirement for the electronic money institution to have its regulatory capital shall be calculated in compliance with the Article 13 paragraph (2).

(3) For electronic money issuance, the regulatory capital shall amount to at least 2% of the average outstanding electronic money. The average outstanding electronic money means the average total amount of financial liabilities related to electronic money in issue at the end of each calendar day over the preceding six calendar months, calculated on the first calendar day of each calendar month and applied for that calendar month.

[Paragraph (4), art.83 repealed by the Law no.208 of 12.10.2018, in force 23.12.2018]

(4¹) In case when electronic money issuing institutions conduct any of the activities referred to in art. 88 par. (1) letter. a) and which are not related to the issuance of electronic money or carry out any of the activities mentioned in art. 88 para. (1) letters b) -d) and par. (1¹) and the value of electronic money in circulation is not known in advance, e-money companies shall be allowed to calculate the regulated capital requirements on the basis of a representative amount deemed to be used for the issuance of electronic money, provided that a representative amount can be reasonably estimated on the basis of historical data and in a satisfactory manner for the National Bank. In case the electronic money issuing institution does not have a sufficiently long activity, the regulated capital requirements shall be calculated on the basis of the amount of electronic money in circulation foreseen in the business plan, taking into account any adjustment of the respective plan required by the National Bank.

(5) The eligible elements for calculating the regulatory capital, method of its calculation, frequency, form and contents of the reports on the amount of the capital shall be provided in the normative acts of the National Bank.

(5¹) It is prohibited the utilization of multiple eligible items used to calculate the regulated capital of an electronic money issuing institution if it belongs to a group to which another electronic money-issuing institution, a bank, a payment institution or an entity of the financial sector is a part. This paragraph shall also apply in case an electronic money issuing institution performs activities other than the issuance of electronic money.

(6) On the basis of an evaluation of the risk-management processes, risk loss data base and internal control mechanisms of the electronic money institution, the National Bank may require the electronic money institution to hold an amount of regulatory capital which is up to 20% higher than the amount which would result from the application of the method used in accordance with this Article, or permit the electronic money institution to hold an amount of regulatory capital which is up to 20% lower than the amount which would result from the application of the method used in accordance with this Article.

[Art.83 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 84. Rules on licensing electronic money institution

(1) The rules on licensing the payment institutions listed in Articles 14 to 22 shall also apply to the electronic money institutions accordingly.

(2) The fee for issuing the license for an electronic money institution is MDL 30 000.

Article 85. Register of the electronic money institutions

- (1) The National Bank shall keep a public register of the electronic money institutions that obtained their licenses. The register shall include the following information on electronic money institution: the name, address, type of business licensed; the date and number of the decision on license issuance; series, number and date of license issuance; information on re-issuance, issuance of license duplicates and license withdrawal, branches and agents, as well as other relevant information.
- (2) The register shall be public, including accessible on the official website of the National Bank and shall be updated regularly.
- (3) The electronic money institution which was withdrawn the license shall be excluded from the register through an appropriate mention.

Article 86. Control of electronic money issuing institutions' holdings

The provisions of art. 16¹ shall also apply accordingly to the institution issuing electronic money.

[Art.86 in the redaction of the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 87. Prohibition on accepting deposits

- (1) Electronic money institutions shall not accept deposits or other repayable funds under the Law on banking activity no. 202 of 6 October 2017.
- (2) Any funds received by the electronic money institutions from the electronic money holder shall be exchanged for electronic money without delay. Such funds shall not constitute either deposits or any other repayable funds under the Law on banking activity no. 202 of 6 October 2017.
- (3) The National Bank shall be entitled to determine whether an activity represents or not the acceptance (attraction) of deposits or of other repayable funds, activity of electronic money issuance, according to the criteria set out in the National Bank's normative acts, and whether this Law shall be applied to persons performing the respective activity. Defining the nature of the activity as expressed by the National Bank shall be mandatory for all interested parties.

[Art.87 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 88. Additional activities permitted to the electronic money institution

- (1) In addition to issuing electronic money, electronic money institutions shall be entitled to engage in the following activities:
 - a) the provision of payment services provided for in Article 7 paragraph (2);
 - b) the provision of operational services and closely related ancillary services, including foreign currency exchange transactions closely related to the electronic money issuance or to the provision of payment services referred to in point a);
 - c) the operation of payment systems;
 - d) business activities other than issuance of electronic money, according to the legislation.

(1¹) The electronic money issuing institution may grant credits (loans) related to the payment services referred to in Art. 4 par. (1) items 4), 5) under the conditions of art. Article 25 par. (3) - (4).

(2) Article 24 paragraphs (1) and (2), Article 26 shall accordingly apply to funds received for the activities referred to in paragraph (1) letter a) that are not linked to the activity of issuing electronic money.

[Art.88 completed by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 89. Funds safeguarding requirements

- (1) The electronic money institution is required to safeguard all funds received in exchange of the electronic money issued in compliance with the provisions of Article 26. Electronic money institution is obliged to keep separate record of funds received from each user, from the funds of any other person or from own funds, as well as to deposit them (record) in separate bank accounts opened by the electronic money institution in banks from Republic of Moldova.
- (2) Funds received in the form of payment by a payment instrument need not be safeguarded until the moment when the payment account of the electronic money institution is credited or the funds are made

available otherwise to the electronic money institution, in accordance with the execution time requirements set out in Article 64 paragraph (1), as appropriate.

(3) The received funds shall be subject to safeguarding in a term as short as possible but no longer than 5 business days of the date of electronic money issuance.

(4) The electronic money institution shall notify in advance the National Bank with regard to any significant change in the measures adopted to safeguard the funds received in exchange to the issued electronic money (changing of the bank/ banks where the funds received in exchange to the issued electronic money are deposited etc.).

Article 90. Branches, agents and outsourcing

(1) The electronic money institution shall not issue electronic money through agents.

(2) The electronic money institution may distribute and redeem electronic money through agents.

(3) The electronic money institution may provide the payment services provided for by this Law, through branches or agents, only if the conditions listed in Article 27 are met, which shall apply accordingly.

(4) Where there is an intention to outsource the performance of operational functions of services provided to another legal person (provider), the electronic money institution shall inform the National Bank at least one month before the date when it plans to sign the contract on outsourcing. The operational functions shall be outsourced under the conditions provided for in Article 28, which shall apply accordingly.

Article 91. Accounting and audit

(1) The accounting and audit rules provided for in Article 29 and Article 30 shall apply also to the electronic money institutions accordingly, with the features as defined in paragraph (2) of this Article.

(2) For supervisory purposes, the electronic money institution shall submit to the National Bank separate accounting information and other requested information on the following activities:

- a) issuance of electronic money and provision of payment services relating to electronic money issuance, including operational and closely related ancillary services as defined in Article 88 paragraph (1) letter b) and c);
- b) provision of payment services other than those related to issuance of electronic money, including operational and closely related ancillary services;
- c) other activities carried out by the electronic money institution.

Article 92. Liability and record-keeping

Liability and record-keeping rules provided for in Article 31 and Article 32 shall also apply to electronic money institutions accordingly.

Chapter VII

PRUDENTIAL SUPERVISION

Section 1

Supervisory authorities.

Provision of reports and information

Article 93. Supervisory authorities

(1) Public authorities in charge of supervising the compliance with this Law and normative acts issued to enforce the Law are the National Bank and the Ministry of Finance (hereinafter the supervisory authorities).

(2) The National Bank shall have the following functions as a supervisory authority:

- a) supervise the payment system in the Republic of Moldova;
- b) supervise and regulate the activity of payment institutions, electronic money institutions, postal operators as payment service providers, and banks as payment service providers and electronic money issuers;
- c) coordinate the activity of the supervisory authorities related to the supervision of payment service provision.

(3) The supervisory duty stipulated in paragraph (2) letter b) shall not involve the competence of the National

Bank to supervise the business activities of payment institutions and electronic money institutions provided for in Article 25 paragraph (1) letter c) and Article 88 paragraph (1) letter d), as well as activities other than those related to service provision performed by postal operators.

(4) The Ministry of Finance as a supervisory authority shall supervise the compliance of the State Treasury with this Law and normative acts issued by the Ministry of Finance to enforce this Law.

Article 94. Powers of supervisory authorities

(1) To fulfill the duty of supervising and regulation of the activity of the payment service providers, electronic money issuers, the supervisory authority shall be entitled to:

- a) request from the payment service provider, electronic money issuer, any manager and employee of the latter information that is required according to the legislation;
- b) perform through its employees and other specialists authorized under the law, inspections at the office of the payment service providers, electronic money issuers, their branches, agents and outsourced operations providers, and check their accounts, records and documents;
- c) adopt regulations regarding the manner and conditions of payment services provision and electronic money issuance, licensing and activity of payment institutions, electronic money institutions, postal operators as payment service providers, activity of banks as providers of payment services and electronic money issuers, protection of payment service users rights and holders of electronic money, as well as adopt normative acts needed to carry out surveillance under this Law and to take appropriate steps to exercise powers under this Law;
- d) apply remedies and sanctions to payment service provider and electronic money issuer, if they or their shareholders /associates, managers or employees, branches, agents or outsourced operation providers have committed infringements.

(2) The payment service providers and electronic money issuers, their branches, agents or outsourced operation providers shall allow the supervisory authorities' authorized staff and other specialists, authorized under the law, to access their premises, check the records, accounts and transactions providing for this purpose all the documents and information on the management, internal control and transactions of payment service providers and electronic money issuers, and cooperate with them, within the competences conferred by law.

(3) The supervisory activity should be proportional, adequate and adapted to the risks to which payment service providers and electronic money institutions are exposed.

Article 95. Cooperation of the supervisory authorities

(1) The supervisory authorities shall cooperate to fulfill their duties assigned under Article 93.

(2) The supervisory authorities shall be independent in fulfilling their duties as defined in the legislation.

(3) The supervisory authorities shall exchange, upon request, the information they need to fulfill their duties assigned under this Chapter.

Article 96. Provision of reports and information

(1) For supervision purpose, the payment service providers and electronic money issuers are required to provide to the supervisory authorities the information requested by it, provide their activity reports according to the procedure, in the manner, frequency and contents as defined in the legislative acts of supervisory authorities.

(2) The public authorities and other persons shall support the supervisory authorities to conduct the supervision and shall provide, upon request, any available information.

Section 2

Infringements, remedies and sanctions

Article 97. Infringements

As infringements shall be considered:

- a) the infringement of the provisions of this Law and/or other normative acts issued to enforce this Law;

- b) the infringement of the licensing conditions and restrictions or permits conditions and restrictions as provided for in this Law;
- c) prevention from exercising the supervisory and on-site inspection duty, non-fulfillment of the prescriptions and other remedies applied by the supervisory authority;
- d) performance of fake transactions and without any actual coverage to provide inaccurate financial statement;
- e) non-reporting, delayed reporting or the provision of inaccurate information;
- f) hampering the safety and soundness of the payment system, payment service provider or electronic money issuer, including engagement in other business not related to the payment service provision or electronic money issuance.

Article 98. Identification of infringements

- (1) Deeds constituting infringements shall be identified based on the reports, other information provided in compliance with the law and normative acts or during the on-site or/and off-site inspections, or based on the written notification submitted by the payments service user, electronic money holder or other interested person.
- (2) Finding of infringements is made, where appropriate, through study and analysis of the charter, regulations and internal policies, reports and the internal documents prepared as a result of executed operations, accounting acts, internal and external acts of business (contracts, certificates, minutes, applications, informative notes, etc.), including on the shareholders / associates, beneficial owners, customers, counter-agents of the person subject to control, other documents and data on paper and / or electronic form.
- (3) The on-site inspection shall be carried out based on a decision in writing of the supervisory authority which indicates: the number and date of decision; the name and the address of the inspected person; the type of inspection (comprehensive, thematic, unforeseen and planned); where needed, the inspected period of activity (except for the inspection of elimination of infringements previously identified); date of commencement of inspection; name, surname of the inspectors authorized to carry out the inspection; title, name, surname and signature of the person which issued the decision.
- (4) The off-site inspection shall be carried out without having a written decision issued.
- (5) Based on the on-site inspection it is prepared a statement (report) on the inspection results, in 2 copies, which will state: the date and place it was drawn up; the date and number of the decision based on which the inspection was carried out; the name and address of the inspected person, and where the representative of inspected person is present – his name, surname and title; period of inspection (date); information on the inspection results, including the infringements identified and their nature; when handing over the statement – the name, surname, title of the executive body manager /representative of the inspected person who received the statement, the date of receipt and his signature or refusal to take over /sign the statement; the name, surname and signatures of the inspectors who carried out the inspection. The date of drawing up the statement on inspection results shall be considered the date of its handing over (receiving) as defined in paragraph (6).
- (6) A copy of the preliminary statement on the on-site inspection results shall be sent (handed over) to the inspected person (his representative) to be signed. If the inspected person disagrees with the statement, it is entitled to submit in writing, within 5 business days of drawing up of that statement, the argumentation of the disagreement, enclosing the required documents. As a result of examination of the objections and explanations of the inspected person, the act on the results of the on-site inspection (in 2 copies) shall be prepared, a copy of which shall be sent (handed over) to the inspected person.
- (7) The on-site inspection of payment service provision activity by the bank specified in this Law shall be carried out taking into account the features provided in the Law on the National Bank of Moldova.
- (71) On the basis of the results of the off-site inspection, an act (report) on the results of the inspection shall be drawn up, in 2 copies, indicating: the date and the place of drawing up; the name and location of the inspected person; inspection period (date); information on the results of the inspection, including the infringements found and their nature; in the case of handing over the act - name, surname, position of the head of the executive body / representative of the inspected person who received the document, date of receipt and signature thereof or refusal to accept / sign the document; the names, surnames and signatures of the inspectors who have carried out the inspection. The date of drafting the act on the results of the inspection shall be considered the date of its handing over (receipt) according to paragraph (8).

(8) When the infringements are identified during the off-site inspection, the inspected person shall get familiarized with the information on the infringements identified by sending a copy of the preliminary act on the results of the off-site inspection. If there are any disagreements with the results of the off-site inspection, the person concerned is entitled to submit, within 5 business days of the date of handing over (receiving) that information, his arguments in writing on the disagreement, enclosing the required documents. As a result of examination of the objections and explanations of the inspected person, the act on the results of the off-site inspection (in 2 copies) shall be prepared, a copy of which shall be sent (handed over) to the inspected person.

(9) The date of identifying the infringement shall be considered:

- a) for on-site inspection – the date of drawing up of the statement on inspection results;
- b) for off-site inspection - the date of informing the person of the identified infringements.

(10) By derogation from the provisions of paragraphs 6 and 8, in case it is considered necessary to urgently adopt a decision to prevent significant damage to the payment systems, the National Bank can dispose the application of sanctions and measures without prior notice to the inspected person of the information on the infringements found and without granting to the person involved a time period to present the argument of disagreement. In such cases, by way of derogation from the provisions of paragraph 9, the date of the finding of the infringement shall be deemed to be the date of the adoption of the decision stipulated in this paragraph.

[Art.98 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 99. Remedies and sanctions

(1) In case of identifying infringements in the payment service provider's or electronic money issuer's business, the supervisory authority is entitled to impose the following remedies:

- a) issue prescriptions on termination and elimination of infringements;
- b) prescribe the modification of internal mechanisms and procedures;
- c) prohibit or restrict the activity of some or all payment services provision / electronic money issuance until the elimination of identified infringements.

(2) In addition to the measures provided for in paragraph (1), in case of identifying infringements in the business of payment institution, electronic money institution and postal operator as payment service provider, the National Bank is entitled to impose the following remedies:

- a) carry out, at its own expense, the extraordinary audit;
- b) increase its regulatory capital; increase in equity;
- c) limit its activity by restricting, suspending certain activities, by restricting, suspending or prohibiting certain transactions or operations including by imposing limits on the maximum amount of a payment transaction or cumulative amount of monthly transactions;
- d) restrict or prohibit activities through agents or branches.
- e) use of net profits to increase equity;
- f) replacement of administrators;
- g) the submission of a plan to restore compliance with the requirements of the present Law, as well as the normative acts issued for its implementation, detailing the measures and actions to be taken for this purpose and setting the deadline for implementation of the measures and actions concerned;
- h) imposing additional reporting requirements.

(3) When identifying infringements, the supervisory authority is entitled to impose the following sanctions against the payment service provider and electronic money issuer:

- a) issuance of a warning in writing;
 - a¹) issuing a public warning by indicating the individual, the legal person, including the payment services provider and the issuer of electronic money, and the nature of the infringement;
 - b) application and irrevocable collection of the fine of the bank, of the payment institution, of the postal services provider and of the electronic money issuing institution up to 10% of equity calculated at the last reporting date;
 - b¹) fine applicable to the administrator, from 1 to 100 average salaries of the sanctioned individual for the last 12 months, including all benefits (supplements, bonuses and other salary increases);
 - b²) fine equal to up to the double value of the benefit obtained as a result of the infringement, in case it can be determined;
 - c) suspending the license (business) of the payment institution, postal operator and electronic money

institution for a term of one month up to 6 months;

d) withdrawal of the license of the payment institution, postal operator and electronic money institution.

[Art.98 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 100. Application of remedies and sanctions

(1) Supervisory authorities shall apply remedies and sanctions against the payment service providers and electronic money issuers in accordance with the supervisory duties and powers provided for in Article 93 and Article 94.

(1¹) When determining the type of sanction or the remedial measure and the amount of fine against payment services providers and issuers of electronic money, the National Bank shall take into account the criteria established by the normative acts of the National Bank.

(2) Sanctions may be applied simultaneously with the application of remedies or independently.

(3) When applying individualized sanctions, one shall take into account the severity of the infringements committed, their frequency, and the personal and actual circumstances. The infringement committed during 2 years of the date of identifying the same type of infringement shall be considered a repeated infringement.

(4) Sanctions shall be applied within 6 months of the date of identifying, but no later than within 3 years of the date of committing the infringement, unless otherwise specified in the Law.

(5) The remedial measures and sanctions against a bank, a payment institution, postal operator and an electronic money institution shall be applied by the Executive Board of the National Bank. (6)

Application by the National Bank of the fine against the bank, payment institution, postal operator and an electronic money institution is performed in accordance with the Law on the National Bank of Moldova, which shall apply accordingly.

(7) In case it considers necessary, the National Bank is entitled to make public the information on application of remedies and sanctions.

(8) The remedies and sanctions shall be enforced immediately after the decision on their application is adopted, unless otherwise stipulated in that decision.

(9) The payment service provider and electronic money issuer against whom were applied remedies and sanctions (other than license withdrawal) are required to inform the supervisory authority of the elimination of the circumstances that led to application of remedies and sanctions and, where needed, undertake other actions outlined in the decision on application of remedies or sanctions and in the normative acts. The supervisory authority is entitled to verify the elimination of the mentioned circumstances.

(10) The payment service provider and electronic money issuer which license was withdrawn are required to submit to the supervisory authority, within 3 business days of the date of adopting the decision on license withdrawal, the withdrawn original license and the authorized copies of the license.

(11) Application of sanction shall not exempt from the financial, civil, administrative or, where needed, criminal liability.

[Art.100 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 101. Appealing acts of the supervisory authority

Acts adopted by the supervisory authority in compliance with this Law may be appealed in the administrative court according to the law.

Chapter VIII

PERSONAL DATA PROTECTION.

PROFESSIONAL SECRET

Article 102. Personal data protection

(1) The payment service providers and electronic money issuers shall process the personal data of payment service users and electronic money holders in accordance with the provisions of the Law on personal data protection no. 133 of July 08, 2011 and other normative acts on personal data processing and protection. If necessary for prevention, investigation and detection of fraud related to payment services and electronic money issuance, this processing is done without the consent of the person to whom the data refer to. In this

case the person may file a complaint with the national authority for personal data protection, which, without affecting the duties of other public authorities, shall perform the control of the legality of personal data processing transactions and shall inform those persons only of the fact that all the required verifications have been performed.

(2) When fulfilling their powers and duties, the supervisory authorities shall collect and process any required data and information, including personal data.

(3) When processing personal data, the personal data holders are required to keep them confidential and undertake the required organizational and technical measures to protect personal data against illegal or accidental access, destruction, modification, blocking, copying, distribution and other illegal actions.

[Art.102 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

Article 103. Professional secret and conflict of interests

(1) Members of the administrative board and the employees of the supervisory authority, expert accountants, authorized accountants, experts appointed under the law by the supervisory authority to conduct inspections, and auditors are required to keep the professional secret of any confidential information they get familiarized with during the fulfillment of their duties. These persons are required to keep the professional secret also after the termination of their activity with the supervisory authority or upon termination of any other relationship with it.

(2) The obligation to keep the professional secret shall also extend upon the confidential information created by the supervisory authority for the purpose or with regard to fulfillment of their duties, which disclosure could harm the interest or image of the person to which it relates.

(3) Persons referred to in paragraph (1) may use the professional secret information only for the purpose and during the fulfillment of their obligations related to supervisory authority's duties. Those persons are not entitled to use the professional secret information for personal or of other third parties' interest, to disclose this information or to permit third parties use it or to permit their access to that information.

(4) The professional secret information may be disclosed or supplied in the following situations:

a) at the express agreement of the person to whom the information relates;

b) when it is to be published in accordance with the legislation;

c) when supplying such information, in brief or consolidated, so as it cannot be identified by the bank or person to which it refers, as well as in case of performance of duties on public information;

d) at the request of the prosecution body, under the authorization of the instructor-judge, on a specific criminal case;

e) at the request of the court for the purpose of redressing of a case under examination;

f) at the request of the Information and Security Service, for the purpose of fulfillment of the duties related to ensuring the State security;

g) at the request of the Office for Prevention and Fight against Money Laundering, with regard to a person which enters the scope of the anti-money laundering and anti-terrorist financing law;

h) under the cooperation agreements with other public authorities or at the initiative of the National Bank for the purpose of fulfilling its specific duties related to supervision and control of compliance with the provisions of legislative acts;

i) under the procedures related to insolvency and liquidation of the bank, payment institution, postal operator and electronic money institution, except for the information about the third parties involved in actions related to insolvency and liquidation of the concerned bank, payment institution, postal operator and electronic money institution;

j) when the interests of the supervisory authority require the disclosure of this information under legal proceedings;

k) at the request of the supervising authorities of the payment service providers, electronic money issuers, the financial market and payment systems from other states.

(5) Persons and authorities competent to request and receive professional secret information are required to keep it confidential and can use it only for the purpose for which they requested it or were supplied it, under the law or the agreements signed, and as well shall not supply or disclose it to third parties, except for the cases of fulfilling the obligations as defined by law.

(6) The professional secret information may be supplied to central banks, supervising authorities of financial market, payment systems, payment service providers and electronic money issuers of other states based on

principle of reciprocity, as stipulated by the international treaties and agreements signed between the supervisory authority and the supervising authorities of the banks, financial market, payment systems and payment service providers, electronic money issuers of other states.

(7) Where the professional secret information comes from another state, it may be disclosed or supplied only on the express agreement of the competent authorities which supplied it and, where needed, exclusively for the purpose for which it provided its agreement.

(8) While exercising the duty of supervision, the persons referred to in paragraph (1) should not admit the occurrence of any conflict of interest where their job obligations enter into conflict with their personal interests.

[Art.103 amended by the Law no.160 of 26.07.2018, in force on 17.09.2018]

Chapter IX

DISPUTES AND COMPLAINTS

Article 104. Consideration of complaints

(1) The payment service provider / the electronic money issuer shall establish under his internal procedures the procedure for submitting complaints by the payment service user /electronic money holder and redressing of disputes with regard to the rights and obligations arising under this Law.

(2) The payment service provider / the electronic money issuer shall consider the complaint of the payment service user /electronic money holder and shall communicate his decision within at the latest 15 days of the receipt of the complaint.

Article 105. Notifying the supervisory authority and raising the objections in the court

Where the payment service provider / the electronic money issuer has not considered the complaint within the term stipulated in Article 104 paragraph (2) or where the payment service user /electronic money holder is not satisfied with the communicated decision, he as well as the consumer's associations, shall be entitled to notify the supervisory authority depending on the competence stipulated in Article 93 and Article 94 or bring the action against the payment service provider / the electronic money issuer to the competent court.

Chapter X

LIABILITY

Article 106.Liability for violation of this Law

(1) For violation of this law, natural and legal persons shall be liable under the civil, contravention or criminal law.

(2) The following infringements of this Law shall attract the contravention liability:

- a) infringement of prohibition stipulated in Article 24 paragraph (2) and Article 87 paragraph (1);
- b) infringement of Chapter IV on transparency of conditions and requirements for information on payment services;
- c) infringement of Article 50 paragraphs (1), (2), (5), Article 52 paragraph (4), Article 53, Article 55 paragraph (1), Article 56 paragraphs (1), (2), Article 58 paragraph (3), Article 59 paragraphs (1), (3), (4), (7), (8), Article 61, Article 62 paragraph (6), Articles 63 to 67, Article 68 paragraphs (1), (3), (5), Article 70 paragraphs (2) to (4), (6), and (8) to (10), Article 76, Article 77 paragraph (4), and Article 78.

(3) Contraventions identification and the contravention liability shall be attracted in accordance with the Contraventions Code.

Chapter XI

FINAL AND TRANSITORY PROVISIONS

Article 107.Entry into force of the Law

This Law shall enter into force on the expiration of one year from the date of its publication, except for Article 13 which shall enter into force as on January 1, 2015.

Article 108. Transitory provisions

(1) Within one year of the date of entry into force of this Law, the legal persons who until that date had provided and provide payment services and/or services of electronic money issuance shall:

- a) submit the application for license issuance for the activity of payment service provision or for the activity of electronic money issuance in accordance with this Law;
- b) bring their activity of payment service provision or electronic money issuance, and their relations with the third parties in line with the provisions of this Law and normative acts approved for its execution.

(2) The banks that hold licenses in accordance with the Law on banking activity no. 202 of 06 October 2017 shall provide the activity of payment service provision and of electronic money issuance without any other license or additional permit.

(3) The person who failed to comply with the requirements stipulated in paragraph (1) or whose application for license issuance was rejected shall not carry out the activity of payment services provision and , where applicable, of electronic money issuance.

(4) The Government and the National Bank shall, within one year of the date of publication of this Law:

- a) will submit to the Parliament proposals on bringing the legislation in line with this Law;
- b) will bring their normative acts in line with this Law or, where needed, adopt the normative acts required to enforce this Law.

[Art.108 amended by the Law no.208 of 12.10.2018, in force 23.12.2018]

PRESIDENT OF THE PARLIAMENT

Marian LUPU

Chişinău, 18 May 2012.

No.114.

See also

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