

UNOFFICIAL TRANSLATION OF THE ELECTRONIC MONEY LAW

Consolidation of Laws 81(I)/2012 and 30(I)/2018.

This translation of law is not official. It has been prepared by the Central Bank of Cyprus to assist users and it comprises the translation of the law into the English language to serve as a reference tool. The Central Bank of Cyprus is not responsible as to its content.

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Official Journal of
the EU: L 267,
10.10.2009,
p. 7.

For the purposes of harmonisation with the European Community act entitled “Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 for the taking up, pursuit, and prudential supervision of the business of electronic money institutions amending directives 2005/60/EC and 2006/48/EC and repealing directive 2000/46/EC”,

The House of Representatives votes as follows:

**PART I
GENERAL PROVISIONS**

Short title.

1. The Electronic Money Laws of 2012 and 2018.

Interpretation.

2. In this Law, unless the context requires otherwise-

“agent” means a natural or legal person which provides payment services on behalf of an electronic money institution;

“competent authority” means the Central Bank;

35(I) of 2002 “insurance undertaking” has the meaning given thereto by section 2 of the
141(I) of 2003 Insurance Services and Other Related Issues Laws;

165(I) of 2006

69(I) of 2004

70(I) of 2004

136(I) of 2004

152(I) of 2004

153(I) of 2004

240(I) of 2004

17(I) of 2005

26(I) of 2008

105(I) of 2009

50 (I) of 2011.

“means of control” -

Official Gazette,
Appendix Three
(I):
20.11.2009.

(a) with reference to a company established by virtue of the Cooperative Companies Laws, has the meaning given thereto by paragraph 2 of the Regulatory Decision of the Committee of the CSSDA in relation to the procedural rules and criteria for the

prudential evaluation of acquiring, increasing or reducing participation in a Cooperative Credit Institution.

66(l) of 1997
74(l) of 1999
94(l) of 2000
119(l) of 2003
4(l) of 2004
151(l) of 2004
231(l) of 2004
235(l) of 2004
20(l) of 2005
80(l) of 2008
100(l) of 2009
123(l) of 2009
27(l) of 2011
104(l) of 2011.

(b) with reference to any other legal person, has the meaning given thereto by section 2 of the Banking Laws.

“payee” means the natural or legal person who is the intended recipient of banknotes, coins, scriptural money or electronic money which are the subject of a payment transaction.

“issuer of electronic money” means a person referred to in subsection (4) of section 4.

42(l) of 2009. “auditor” means a person who is licensed under the Auditors and Obligatory Audit of the Annual and Consolidated Accounts Law.

“control”-

(a) with reference to a company established by virtue of the Cooperative Companies Laws, has the meaning given to the term “special participation” by paragraph 2 of the Regulatory Decision of the Committee of the CSSDA in relation to the procedural rules and the criteria for the prudential evaluation of acquiring, increasing or reducing participation in a Cooperative Credit Institution,

(b) with reference to any other legal person, it has the meaning given thereto by section 2 of the Banking Laws.

144(l) of 2007
106(l) of 2009.

“investment services company” has the meaning given thereto by section 2 of the Investment Services and Activities and Regulated Markets Law.

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

Cap. 113. “subsidiary” has the meaning given thereto by section 148 of the Companies Law and, in addition, a company shall be deemed to be a subsidiary of another company if the competent authority considers that the latter exercises substantial control over it.

9 of 1968
76 of 1977
17 of 1979
105 of 1985
198 of 1986
19 of 1990
14(l) of 1994
41(l) of 1994
15(l) of 1995
21(l) of 1997
82(l) of 1999
149(l) of 1999
2(l) of 2000
135(l) of 2000
151(l) of 2000
76(l) of 2001
70(l) of 2003
167(l) of 2003
92(l) of 2004
24(l) of 2005
129(l) of 2005
130(l) of 2005
98(l) of 2006
124(l) of 2006
70(l) of 2007
71(l) του 2007
131(l) του 2007
186(l) του 2007
87(l) of 2008
41(l) of 2009
49(l) of 2009
99(l) of 2009
42(l) of 2010
60(l) of 2010
88(l) of 2010
53(l) of 2011
117(l) of 2001
145(l) of 2011
157(l) of 2011
198(l) of 2011.

“electronic money institution” means-

(a) a legal person authorised to issue electronic money under Part III,
or

(b) a legal person authorised to issue electronic money by the competent authorities of a member state other than the Republic, provided that the procedure specified in section 24 has been complied with in relation to this legal person.

128(l) of 2009 “payment institution” has the meaning given thereto by section 2 of the
52(l) of 2010. Payment Services Law

“consumer” means a person who, as far as the holding of electronic money is concerned, acts for purposes not related to his commercial or professional activities

“member state” means a member state of the European Union or another state which is party to the agreement for the European Economic Area

“home member state” means the member state in which the registered office of the issuer of electronic money is situated, or, if the issuer of electronic money has, under the law of its incorporation, no registered office, the member state in which its head office is situated

“host member state” means the member state other than the home member state, in which the issuer of electronic money has an agent or a branch, or distributes or redeems electronic money via natural or legal persons, or issues electronic money or provides payment services

“Central Bank” means the Central Bank of Cyprus

“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

“average value of electronic money in circulation” means the average value, over the past six calendar months, of the total value of financial obligations relevant to the electronic money issued at the end of each calendar day, which average value is calculated on the first calendar day of each calendar month and is applicable for the said calendar month

“directive”, with reference to a directive issued by virtue of this Law, means a directive which constitutes a regulatory administrative act and which is published in the Official Gazette of the Republic

Official Journal
of the EU: L
319,
5.12.2007, p. 1
L 187,
18.7.2009, p. 5.

“Directive 2007/64/EC” means the act of the European Community entitled “Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC” as corrected and as this may further be amended or replaced

Official Journal
of the EU: L267,
10.10.2009 p.7.

“Directive 2009/110/EC” means the act of the European Community entitled “Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions, amending directives 2005/60/EC and 2006/48/EC and repealing directive 2000/46/EC”, this may further be amended or replaced

Official Journal of
the EU: L337,
23.12.2015, p. 35,

“Directive (EU) 2015/2366” means the act of the European Union entitled “Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 in relation to payment services in the internal market,

amending directives 2002/65/EC, 2009/110/EC and 2013/36/EU, and Regulation (EU) No. 1093/2010 and repealing directive 2007/64/EC”.

“payment service provider” has the meaning given thereto by the Payment Services Law

“credit institution” has the meaning given thereto by section 2 of the Banking Law

“payer” means a natural or legal person who holds a payment account and allows a payment from that payment account, or, where there is no payment account, a natural or legal person who instructs his payment service provider to execute a payment transaction

“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

the term “close links” -

- (a) with reference to a company established by virtue of the Cooperative Companies Laws, has the meaning given thereto by paragraph 2 of the Regulatory Decision of the Committee of the CSSDA in relation to the procedural rules and criteria for the prudential evaluation of acquiring, increasing or reducing participation in a Cooperative Credit Institution
- (b) with reference to any other legal person, it has the meaning given thereto by article 2 of the Banking Laws

“Agreement on the European Economic Area” means the Agreement signed at Oporto on 2 May 1992 and adjusted by the Protocol which was signed in Brussels on 17 March 1993, as this Agreement may further be amended or replaced

“cooperative company” means a company established by virtue of the Cooperative Companies Laws

“cooperative credit institution” has the meaning given thereto by article 2 of the Cooperative Companies Laws

“payment system” means a system for the transfer of electronic money, scriptural money, banknotes or coins with standardised procedures for the processing, clearing and / or settlement of transactions

“bank” has the meaning given thereto by section 2 of the Banking Laws and includes, in addition, the Cooperative Central Bank Ltd and the Housing Finance Corporation

“third country” means a country or state other than a member state

“Co-operative Societies Supervision and Development Authority” or “CSSDA” means –

- (a) the Commission of the Co-operative Societies Supervision and Development Authority (CSSDA) where the competence to issue directives under this Law is concerned, and
- (b) the Commissioner of the said Authority where any other competence under this Law is concerned;

“payment service” means one or more of the business activities listed in the Annex to the Payment Services Laws

"branch" means, in relation to a legal person, a place of business other than the head office, which is part of the legal person, has no legal personality and carries out directly, in whole or in part, the transactions inherent in the business of the legal person; all the places of business set up in the same Member State by an electronic money institution with a head office in another Member State shall be regarded as a single branch

“payment service user” means a natural or legal person using a payment service in the capacity of either payer or payee, or both.

Scope of this Law.

3.-(1) This Law shall regulate -

- (a) the issue of electronic money in the Republic
- (b) the issue of electronic money in a member state other than the Republic or in a third country, by a person who is located, residing or staying in the Republic, or, in the case of a legal person, is registered in the Republic or is established in the Republic, and
- (c) the authorisation and prudential supervision of electronic money institutions by the Competent Authority.

(2) Subject to subsection (4), the following are excluded from the scope of this Law-

- (a) monetary value stored in an instrument which can be used exclusively for the purchase of goods or services -
 - (i) in the business premises of the issuer of the instrument, or
 - (ii) in a restricted network of service providers or for a restricted spectre of goods or services, following a commercial agreement with the issuer

(b) monetary value used for payment transactions executed with the use of a telecommunications or digital device or an electronic device, provided the following conditions are met:

- (i) the goods on sale or the services provided are delivered and are intended to be used through a telecommunication or digital device or an electronic device, and
- (ii) the person providing the connection does not act simply as an intermediary between the user of the payment service and the seller of the goods or the payment service provider.

(3) In applying the provisions of subsection (2), any directives issued by virtue of paragraph (b) or (c) of subsection (6) of section 3 of the Payment Services Laws shall be taken into consideration.

(4) The CSSDA and the Central Bank may jointly or severally specify by directive that only legal persons, already authorised accordingly by the competent authority, may issue monetary value falling under paragraph (a) of subsection (2). For this purpose, the Competent Authority may specify in the relevant directive that the provisions of this Law shall apply in whole or in part to persons issuing monetary value under paragraph (a) of subsection (2).

PART II RIGHT TO ISSUE ELECTRONIC MONEY

Right to issue electronic money.

4.-(1) Only the persons referred to in subsection (4) may issue or appear to issue electronic money in the Republic.

(2) Without prejudice to subsection (1), only the persons referred to in subsection (4) and, subject to sections 19 to 24, persons acting on their behalf, may engage or appear to engage in one or more of the following activities in the Republic as a regular occupation or business activity-

- (a) maintain a readily available electronic device, in which monetary value may be stored, for the purpose of placing electronic money in circulation·
- (b) maintain a readily available instrument for the distribution of electronic money for the purpose of placing electronic money in circulation·
- (c) receive monetary value in exchange for the distribution of electronic money·
- (d) distribute electronic money·
- (e) place electronic money in circulation·

- (f) sell or resell electronic money products·
- (g) renew the value of an electronic money product already in the hands of an electronic money holder·
- (h) when not acting in their capacity as payers, to distribute electronic money to a person holding or purporting to hold electronic money·
- (i) redeem electronic money held by a holder of electronic money·
- (j) acting in the capacity of an employee or other capacity on behalf of a third party, approach persons who are holders or potential holders of electronic money.

(3) For the purposes of this section, electronic money is issued in the Republic or an activity falling within subsection (2) is exercised in the Republic-

- (a) when a person not located, neither residing nor staying in the Republic, or, if a legal person, not registered or established in the Republic, issues electronic money or engages in activities falling within subsection (2), as the case may be, approaching persons, as holders or potential holders of electronic money, who are located, residing or staying in the Republic, or, in the case of legal persons, are registered or established in the Republic, provided that the person issuing electronic money or engaging in activities falling under subsection (2) approaches the holders or potential holders of electronic money at a time when they are located or established in the Republic or provided that the relevant contract is drawn up in the Republic, or
- (b) when a person located, residing or staying in the Republic, or, in the case of a legal person, registered or established in the Republic, issues electronic money or engages in activities falling under subsection (2), as the case may be, and approaches persons, being holders or potential holders of electronic money, who are located, residing or staying in or out of the Republic, or, in the case of legal persons, are registered in the Republic or another state or are established in or out of the Republic·

(4) Electronic money may be issued in the Republic by persons falling in any of the following categories:

- (a) banks·
- (b) banks licensed by the designated authorities of other member states·
- (c) cooperative credit institutions·

- (d) institutions providing postal payment services and which issue electronic money by virtue of relevant legislation
 - (e) the European Central Bank and the national central banks, when not acting in their capacity as monetary or other public authorities
 - (f) member states or their regional or local authorities, when acting in their capacity as public authorities, and
 - (g) electronic money institutions.
- (5) No person shall be entitled to any payment-
- (a) for services offered in violation of subsection (2), or
 - (b) for services offered which relate to electronic money issued in violation of subsection (1).
- (6) A court, before which a criminal offence is tried, may order, for the infringement of subsection (1) or subsection (2), that the engagement of the accused party in the litigious operation is suspended for such period of time as the court may deem reasonable until the final adjudication of the case with respect to which the criminal prosecution was initiated.
- (7) In addition to imposing the penalties provided for in section 41, a court which finds a person guilty of a criminal offence committed in violation of subsection (1) or subsection (2) may prohibit the authorisation of a convicted person for a period not exceeding five years.
- (8) Whenever the CSSDA reasonably suspects that a cooperative company issues or appears to issue electronic money in violation of subsection (1) or engages or appears to engage in any activity falling under subsection (2) in violation of subsection (2), shall summon this cooperative company by written notice, to present to an authorised officer of the CSSDA within the deadline specified in the written notice any books and records specified in the written notice.
- (9) Whenever the Central Bank reasonably suspects that any person other than a cooperative company issues or appears to issue electronic money in violation of subsection (1) or engages or appears to engage in any activity falling under subsection (2) in violation of subsection (2), shall summon this person by written notice, to present to an authorised officer of the Central Bank within the deadline specified in the written notice any books and records specified in the written notice.

PART III

AUTHORISATION OF ELECTRONIC MONEY INSTITUTIONS

Chapter A – General Provisions

Mutatis Mutandis application of the Provision and Use of Payment Services and Access to Payment Systems Law.
31(I) of 2018.

4A. Without prejudice to the provisions of this Law, subsections (3) to (8) of section 5, paragraph (b) of subsection (5) of section 6, sections 11 to 17, subsections (5) to (9) of section 19, sections 20, 21 and 22, subsections (1) to (4) of section 23, section 24, subsections (1) to (3) of section 25 and sections 27, 28, 29, 30, 31, 32 and 33 of the Provision and Use of Payment Services and Access to Payment Systems Law, shall apply mutatis mutandis to electronic money institutions, including the delegated acts issued in accordance with Article 28, paragraph 5 and Article 29, paragraph 7 of Directive (EU) 2015/2366:

It is provided that the terms used in the aforementioned sections have the same meaning that the aforementioned Law may attribute to them.

Obligation for prior authorisation for electronic money institutions.

5.-(1) [Repealed].

(2)(a) The Competent Authority shall ensure that persons established outside the European Union and who have been authorised to issue electronic money by a third country, do not enjoy a more favourable treatment than electronic money institutions based in a member state. Where an agreement is signed between the European Union and a third country within the meaning of subsection 3 of section 8 of Directive 2009/110/EC, the Competent Authority may authorise legal persons established in this third country, and which have been authorised by the competent authorities of that third country and intent to maintain a branch in the Republic.

(b) For the purposes of this section, the Central Bank and the CSSDA may, jointly or severally, specify by directive, each for the persons for which it is the competent authority, the conditions and terms for such authorisation as well as impose responsibilities on the electronic money institutions of this section and on the authorised persons of such institutions.

(c) On issuing a directive by virtue of this section the Central Bank and the CSSDA act within the framework established by the relevant agreement between the European Union and that third country.

(d) Sections 6 to 23 do not apply to electronic money institutions referred in this section, with the exception of the provisions of section 8, of subsections (2) to (4) of section 14, of subsection (3) of section 15 and of section 21.

(3)(a) The Central Bank and the CSSDA may jointly or severally specify by directive, each for the persons for which it is the competent authority, that the issue of electronic money by a legal person not fulfilling the conditions of this Part shall be permitted only as long as the average value of electronic money

in circulation which results from all the business activities of this legal person does not exceed the limit specified· such legal persons shall be listed in the register provided for in section 8 provided they fulfil the conditions specified in the relevant directive.

(b) When issuing a directive pursuant to this subsection, the Central Bank and the CSSDA shall act within the framework specified by article 9 of Directive 2009/110/EC.

(4) The Competent Authority shall notify the European Commission -

(a) if an agreement within the meaning of Article 8, paragraph 3, of Directive 2009/110/EC is applicable in the Republic, and

(b) if subsection (3) of this section is applied, as required by Article 9, paragraph 9, of Directive 2009/110/EC.

Authorisation
(general
criteria).

6.-(1) [Repealed].

(2) [Repealed].

(3) [Repealed].

(4) [Repealed].

(5) [Repealed].

(6) [Repealed].

(7) The Competent Authority shall not grant authorisation if it is not fully convinced that all members of the Board or the management of the electronic money institution are fit and proper to hold such positions in accordance with criteria defined by the Competent Authority by directive.

(8) The name of the electronic money institution, the number and the date of issue of the authorisation, the payment services not related to the issue of electronic money that it is authorised to provide and any other information that the Competent Authority deems necessary, shall be listed on the authorisation of an electronic money institution.

(9) The criterion of financial need shall not be taken into consideration by the Competent Authority for the purposes of granting authorisation to an electronic money institution.

(10) The policy to be applied in granting authorisation to an electronic money institution shall be determined by decision of the Competent Authority.

(11) The Competent Authority may specify additional conditions for the granting of authorisation to an electronic money institution, and specify, particularise or clarify the obligations of an electronic money institution and its authorised persons as well as any other issue that deserves handling by virtue of this Part.

Taking of decision.

7.- [Repealed].

Public register.

8.- [Repealed].

Amendments to the data submitted with an application.

9.-(1) [Repealed].

(2) Without prejudice to the general nature of subsection (1) of this section and of subsections (6) to (8) of section 13, an electronic money institution shall give prior notice, at any time during its operation, to the Competent Authority for any material amendment affecting the measures that the electronic money institution is taking for complying with the requirements of paragraph (a) of subsection (1) of section 13. The Competent Authority may particularise this subsection and the meaning of material amendment by directive.

Extension of authorisation

10. If an electronic money institution wishes to extend its authorisation to cover additional payment services the provision of which is not related to the issue of electronic money, it shall submit an application to the Competent Authority accompanied by the information, data and documents that the Competent Authority shall specify by directive. The Competent Authority shall decide on the application in accordance with the provisions of this Part.

Acquiring control of an electronic money institution.

11.-(1) Any natural or legal person deciding-

(a) to acquire or cease to have, directly or indirectly, control of an electronic money institution, or

(b) to further increase or reduce, directly or indirectly, such control so that-

(i) the proportion of its capital holding or its voting rights reaches or exceeds twenty percent (20%), thirty percent (30%) or fifty percent (50%), or

(ii) the proportion of its capital holding or its voting rights fall below twenty percent (20%), thirty percent (30%) or fifty percent (50%), or

(iii) the electronic money institution becomes its subsidiary, or

(iv) the electronic money institution ceases to be its subsidiary,

notifies its intention to the Competent Authority before it proceeds to any acquisition, release of holding, increase or reduction, respectively.

(2) The prospective buyer submits to the Competent Authority any information specifying the extend of the targeted participation and, mutatis mutandis, the information required by virtue of -

(a) subparagraph (4) of paragraph 8 of the Regulatory Decision of the Committee of the CSSDA in relation to the procedural rules and the criteria for the prudential evaluation of the acquisition, increase and reduction of participation in Cooperative Credit Institutions, when in relation to acquiring or increasing control in an electronic money institution which was established by virtue of the Cooperative Companies Laws·

(b) subsection (4) of section 17A of the Banking Laws, when in relation to acquiring or increasing control in any other electronic money institution.

(3) If the influence of a person referred to in subsection (2) could potentially be at the expense of the sound and prudent management of an electronic money institution, the Competent Authority shall express its objection and, in addition, may take one or more of the following measures:

(a) suspension of the exercise of the voting rights resulting from the shares or voting rights held by the said person

(b) issue of an injunction pursuant to which any disposal, the signing of an agreement for the disposal, any sale, exchange, lease, transfer, donation and in general any alienation of shares held by the said person shall be void·

(c) prohibition of the acquisition of shares in the electronic money institution, including the acquisition by donation or by the exercise of rights· and

(d) prohibition of any payments by the electronic money institution resulting from shares, except in the case of the dissolution of the electronic money institution.

(4)(a) In the case of natural or legal persons that are in violation of the requirement of this section for prior notification, the Competent Authority may take any of the measures referred to in subsection (3), defining the duration of the measures or that the measures will be in force until their withdrawal by the Competent Authority.

(b) An electronic money institution shall notify in accordance with section 9 any amendment that affects the accuracy of the data

submitted to the Competent Authority in connection with the identity of the persons having direct or indirect control over it.

(c) The taking of measures in accordance with this subsection does not absolve an electronic money institution from any repercussions resulting from infringement of section 9.

(5) If participation is acquired despite the objection of the Competent Authority, irrespective of whether the objection of the Competent Authority was expressed before or after the acquisition, the Competent Authority shall suspend the exercise of the voting rights arising from shares or voting rights held by the person acquiring participation and may additionally take any of the measures referred to in paragraphs (b) to (d) of subsection (3).

(6) The suspension of the exercise of voting rights pursuant to subsection (5), renders void any possible exercise of voting rights that took place after the Competent Authority expressed its objection.

(7) In a corresponding application of the provisions of sections 42 or 43, and without prejudice to subsections (4) to (6), the Competent Authority may impose an administrative fine on any person who is in violation of its obligation under the present section for prior notification, as well as any person that acquires participation despite the objection of the Competent Authority in the case of a legal person, subsection (2) of section 42 and subsection (2) of section 43 correspondingly apply to members of the Board, managers, secretaries, members of a committee, officers and employees of this person.

(8) The Competent Authority may, by directive, specify that the present section does not apply, in whole or in part, in the cases of electronic money institutions engaged in one or more of the activities falling under paragraph (d) of subsection (1) of section 15.

Chapter B – Conditions and procedure for the granting and for maintaining authorisation

Initial capital and own funds.

12.-(1) A legal person applying for authorisation shall maintain, at the time of authorisation, an initial capital of at least 350 thousand euros (€350.000).

(2) The Competent Authority shall specify by directive the composition of the initial capital.

(3) An electronic money institution shall maintain throughout its operation, own funds, the composition of which shall be specified by directive of the Competent Authority, at least equal to the sum of the amounts arising from the calculations pursuant to subsections (4) to (6) and the calculations pursuant to subsections (7) to (9).

(4) The Competent Authority shall specify for each electronic money institution, by directive which constitutes an individual administrative act and which shall be communicated to the relevant electronic money institution, the

methods for the calculation of minimum own funds in cases where payment services are provided which are not related to the issue of electronic money.

(5) The Competent Authority may amend or replace any directive referred to in subsection (4) with another directive which constitutes an individual administrative act and which is communicated to the relevant electronic money institution, for one or more of the following purposes:

- (a) to specify a different method for the calculation of minimum own funds,
- (b) to indicate the mode of application of the specified method of calculation,
- (c) following an evaluation of the risk management procedures, the data bases relating to the risk of loss and the internal control mechanisms of the electronic money institution, to increase by up to 20% or reduce by up to 20% the minimum level of own funds as calculated by each specified method.

(6) An electronic money institution shall comply with any directive referred to in subsection (4) and/or (5) which is addressed to it.

(7) The Competent Authority shall specify by directive the method for the calculation of the minimum own funds for the issue of electronic money: this method shall, without prejudice to subsection (8), be based on the value of electronic money in circulation.

(8)(a) If an electronic money institution provides one or more payment services which are not related to the issue of electronic money or is engaged in one or more of the activities referred to in paragraphs (b) to (d) of subsection (1), and subsection (2) of section 15, and the value of electronic money in circulation is not known in advance -

- (i) the electronic money institution may request the approval of the Competent Authority for the calculation of the minimum level of own funds for the issue of electronic money to be based on a representative unit which it considers that it will use for the issue of electronic money, and
 - (ii) the Competent Authority may grant such approval if it is satisfied that the designation of this representative unit is justified based on historical data.
- (b) If the electronic money institution has not been operating for a sufficient time, the minimum level of own funds is calculated on the basis of the expected electronic money in circulation as documented in the business plan, subject to any amendments to this plan requested by the Competent Authority.

(9) Subject to any conditions that the Competent Authority may impose by directive, the Competent Authority may, by derogation from subsections (3), (4) and (7), exempt from the requirement to apply a method for the calculation of own funds, electronic money institutions that are included in the consolidated supervision of their parent credit institutions in accordance, as the case may be, to the provisions of the Banking Laws or the Cooperative Companies Laws. The Competent Authority shall grant this exemption by directive which constitutes an individual administrative act and which is communicated to the electronic money institution concerned.

(10) An electronic money institution's own funds may not, at any time, fall below the level of the initial capital as provided for in subsection (1).

Safeguarding
requirements.

13.-(1) Electronic money institutions shall safeguard-

- (a) funds received in exchange for the issue of electronic money, and
- (b) funds received from payment service users or via another payment service provider for the execution of payment transactions, for the provision of payment services not connected to the issue of electronic money.

(2) When a portion of the funds received by an electronic money institution is intended to be used for future payment transactions and the remainder is intended to be used for services other than the issue of electronic money and the provision of payment services, the portion of the funds that is intended to be used for future payment transactions shall be subject to the safeguarding requirements of this section.

(3) Notwithstanding subsection (2), if the portion of the funds which is intended to be used for future payment transactions, as provided for in that subsection, is variable or is not known in advance, the Competent Authority may prescribe by directive that-

- (a) the electronic money institution in question may request approval from the Competent Authority for the safeguarding requirements to apply to a representative portion of the funds received, which portion is considered to be used as electronic money and possibly for other payment services, and
- (b) the Competent Authority shall grant such approval if it is satisfied that this representative portion of the funds may be reasonably estimated on the basis of historical data.

(4) The Competent Authority by directive-

- (a) may specify the method for the calculation of the funds to be safeguarded-

- (b) may restrict or extend the safeguarding requirement specifying the period for which the safeguarding requirement shall be in effect.
- (c) shall determine the safeguarding methods, including the assets in which safeguarded funds may be invested. the Competent Authority shall determine the assets in which safeguarded funds may be invested within the framework of article 7, paragraph 2, of Directive 2009/110/EC.
- (d) may specify that, in cases where an electronic money institution is dissolved or placed in liquidation, the safeguarded funds are delivered to the beneficiaries with priority against claims of other creditors of the electronic money institution.
- (e) may limit the safeguarding obligation for the provision of payment services that are not related to the issue of electronic money, by setting maximum limits for funds that may not be safeguarded for each payment service user. and
- (f) may exempt from the safeguarding requirements electronic money institutions which are not engaged in business activities other than the issue of electronic money or the provision of payment services, as far as the provision of payment services not related to the issue of electronic money is concerned.

(5) Without prejudice to the conditions that the Competent Authority may specify by directive, the Competent Authority may impose restrictions on electronic money institutions in relation to the assets in which safeguarded funds may be invested.

(6) For each electronic money institution, the Competent Authority specifies by directive, that constitutes an individual administrative act and which is notified to the electronic money institution concerned, the method or methods of safeguarding funds.

(7) The Competent Authority may amend or replace a directive referred to in subsection (6) with another directive which constitutes an individual administrative act and which is communicated to the electronic money institution concerned with a view to specify a different method or methods of safeguarding funds.

(8) An electronic money institution shall comply with a directive referred to in subsections (6) and/or (7) which is addressed to it.

Accounting and
statutory audit.

14.- [Repealed].

Activities.

15.-(1) In addition to the issue of electronic money, electronic money institutions may engage in one or more of the following activities:

- (a) provide the payment services covered in the authorisation of the electronic money institution·
- (b) provide credit in connection with the provision of the payment services of paragraphs 4, 5 and 7 of the Annex to the Payment Services Laws and which are covered by the electronic money institution authorisation, provided that any conditions set by directive of the Competent Authority are met:

106(I) of 2010.

Provided that the application of the Consumer Credit Law, of the provisions of community law and the provisions of Cyprus law which are compatible with the laws of the European Union, and which relate to the provision of credit to consumers, shall not be affected·

- (c) to operate payment systems, without prejudice to existing law, provided that they comply with a directive issued by the Central Bank pursuant to section 5 of the Payment Services Laws for the purpose of harmonisation with Article 28 of Directive 2007/64/EC·
- (d) to engage in commercial activity or business, without prejudice to existing law.

(2) Electronic money institutions may engage in operational and closely related ancillary services, which are related to the issue of electronic money or the provision of payment services, notwithstanding any requirement for prior authorisation. The Competent Authority may specify by directive the meaning of operational and closely related ancillary services, which are related to the issue of electronic money or the provision of payment services.

(3) Electronic money institutions shall not accept deposits or other repayable funds, within the meaning of sections 2 subsection (1) of section 3 of the Banking Laws or of sections 2 and subsection (1) of section 41A of the Cooperative Companies Laws:

Provided that, when an electronic money institution exchanges without delay any funds collected with electronic money, the collection of these funds does not constitute acceptance of deposits or of other repayable funds from the public.

(4) In the process of the provision of payment services not connected with the issue of electronic money, electronic money institutions shall not maintain accounts in the name of one or more payment service users that are not used exclusively for the execution of payment transactions:

Provided that, in the process of the provision of payment services not connected with the issue of electronic money, the collection by the electronic money institution of funds from payment service users for the execution of payment transaction shall neither constitute acceptance of deposits or of other repayable funds, within the meaning of sections 2 and subsection (1) of

section 3 of the Banking Laws or of sections 2 and subsection (1) of section 41A of the Cooperative Companies Laws, nor of electronic money.

Termination of authorisation. 16.- [Repealed].

Revocation of authorisation. 17.- [Repealed].
158(I) of 1999.

Suspension of authorisation and deadline for compliance. 18. [Repealed].

Chapter C – Other requirements

Representatives and agents of electronic money institutions. 19.-(1) Electronic money institutions are permitted to distribute and redeem electronic money via natural or legal persons which act on their behalf.

31(I) of 2018. (2) Where the electronic money institution distributes electronic money in another member state by hiring a natural or legal person, sections 28, 29, 30, 31 and 32, with the exception of subsection (8) of section 30, of the Provision and Use of Payment Services and Access to Payment Systems Law, shall apply to the said electronic money institution mutatis mutandis, including the delegated acts issued in accordance with Article 28, paragraph 5 and Article 29, paragraph 7 of Directive (EU) 2015/2366.

31(I) του 2018. (3) Notwithstanding the provisions of subsections (1) and (2), electronic money institutions are prohibited from issuing electronic money via agents: it is permitted to provide payment services provided for under paragraph (a) of subsection (1) of section 15 via agents subject to the conditions laid down in section 19 of the Provision and Use of Payment Services and Access to Payment Systems Law of 2018.

Outsourcing of operations to third parties. 20. [Repealed].

Responsibility 21. [Repealed].

Maintenance of records. 22. [Repealed].
188(I) of 2007
58(I) of 2010.

Chapter D – Freedom of establishment and freedom to provide services

Electronic money institutions authorised to 23.- [Repealed].

operate in the Republic.

Electronic money institution authorised in another member state.

24.- [Repealed].

PART IV ISSUE AND REDEMPTION OF ELECTRONIC MONEY

Binding character of the provisions of this Part.

25. Every contractual term between an issuer of electronic money and a holder of electronic money which is in violation of this Part is deemed to be void.

Prohibition of the issue of electronic money above or below par.

26. The issuer of electronic money shall issue electronic money of equal face value with the funds received.

Redemption of electronic money.

27.-(1) Following an application submitted by a holder of electronic money, the issuer of electronic money shall redeem, at any time and at face value, the monetary value of the electronic money in the hands of the holder.

(2) Charging for the redemption of electronic money is prohibited unless this is provided for in the contract between the issuer of electronic money and the holder of electronic money, in accordance with subsection (7) and any one of the following applies:

- (a) the redemption is requested before the termination or the expiry of the contract
- (b) the electronic money holder terminates the contract before the expiration dated provided for in the contract
- (c) the redemption request is made one year or more after the termination or expiry of the contract.

(3) For the purposes of subsection (2), any charges for the redemption of electronic money shall be proportionate and shall correspond to the actual costs incurred by the issuer of electronic money for the redemption.

(4) In case where redemption is requested before the termination or the expiry of the contract between the issuer of electronic money and the holder of electronic money, the holder of electronic money may request for the redemption of electronic money in whole or in part.

(5) In case where the redemption is requested by the holder of electronic money on the day on which the contract with the issuer of electronic money is terminated or expires or within one (1) year from that date, then -

(a) the total value of electronic money in the hands of the holder of electronic money shall be redeemed · or

(b) in the case where the electronic money institution is engaged in one or more of the operations that fall under paragraph (d) of subsection (1) of section 15 and the part of the funds to be used as electronic money is not known in advance, then the total amount requested by the holder of electronic money shall be redeemed.

(6) Notwithstanding subsections (2) to (5), the right of a person who is not a consumer and who accepts electronic money, to request the redemption of electronic money, is subject to the term of his contract with the issuer of electronic money.

(7) Subject to the provisions of the other subsections of the present section, the contract between the issuer of electronic money and the holder of electronic money shall indicate clearly the terms for redemption, including the charges for the redemption. The issuer of electronic money shall inform the holder or the potential holder of electronic money of these terms before the holder or potential holder of electronic money is bound by any offer or contract.

Prohibition of
Payment of interest.

28. No interest or other benefit shall be paid to the holder of electronic money in connection with the period for which electronic money is in his possession.

PART V

FILING OF COMPLAINTS, OUT OF COURT SETTLEMENT OF DISPUTES

Filing of
complaints

29.-(1) The pursuant to section 37 competent authority shall investigate complaints filed by holders of electronic money and other interested parties, including consumer societies, in connection with suspected infringements of Part IV.

84(l) of 2010.

(2) The competent authority may regulate by directive the procedure for the submission and investigation of complaints. The competent authority shall indicate to the complainant the existence of the Financial Ombudsman established pursuant to the Financial Ombudsman Law or shall inform him of the existence of the out of court settlement of disputes procedure pursuant to section 30, as the case may be.

(3) Every competent authority shall receive complaints filed by holders of electronic money and other interested parties, including consumer societies, in connection with suspected infringements of Part IV by issuers of electronic money issuing electronic money in the Republic under the freedom to provide services, and forward such complaints to the competent authority of the home member state.

Out of court
settlement of

30.-(1) The competent supervisory authority pursuant to section 37 shall organise a procedure for the out of court settlement of disputes in connection

disputes. with the rights and obligations derived from Part IV and which do not come under the responsibility of the Financial Ombudsman:

Provided that every competent authority shall deal with any dispute arising from the issue of electronic money for which it is the competent authority by virtue of section 37.

(2) In the case of cross border disputes, every competent authority shall cooperate with the competent authorities of the other member states.

(3) In the case of issuers of electronic money who are cooperative companies, the present section applies without prejudice to section 52 of the Cooperative Companies Laws.

PART VI COMPETENT AUTHORITIES

Supervisory authority. 31.-(1) The Competent Authority is responsible for the application of the provisions of Part III of the present Law and the application of measures enacted by the European Commission pursuant to Article 14 of Directive 2009/110/EC, to the extend that these apply to persons for which it is the competent authority.

(2) The Competent Authority is responsible for the application in the Republic of any agreements within the meaning of Article 8, paragraph 3, of Directive 2009/110/EC, including any application measures enacted by the European Commission pursuant to article 14 of Directive 2009/110/EC, to the extend that these apply to persons for which it is the competent authority.

Supervision and inspection of electronic money institutions. 32.- [Repealed].

Cooperation between Competent Authorities. 33. [Repealed].

Professional secrecy 34.- [Repealed].

Exchange of information. 35.- [Repealed].

Cooperation between the authorities of a home member state and the authorities of a host member state. 36.- [Repealed].

Part IV of this Law.

37.-(1) The Central Bank is the supervisory authority for the application of the provisions of Part IV, including any measures enacted by the European Union pursuant to Article 14 of Directive 2009/110/EC, in relation to-

- (a) the issue of electronic money by a bank in the Republic or in a country which is not a member state
- (b) the issue of electronic money in the Republic or in a country which is not a member state by an electronic money institution authorised by the Central Bank
- (c) the issue of electronic money in the Republic by a branch of bank licensed in another member state
- (d) the distribution and redemption of electronic money in the Republic via natural or legal persons by a bank licensed in another member state
- (e) the issue of electronic money in the Republic, via a branch, by an electronic money institution for which the Central Bank is the competent authority by virtue of section 24
- (f) the distribution and redemption of electronic money in the Republic via natural or legal persons by electronic money institutions for which the Central Bank is the competent authority by virtue of section 24
- (g) the issue of electronic money in another member state by a bank under the freedom to provide services and
- (h) the issue of electronic money in another member state under the freedom to provide services by an electronic money institution authorised by the Central Bank.

(2) The CSSDA is the supervisory authority for the application of the provisions of Part IV, including any provisions enacted by the European Union pursuant to Article 14 of Directive 2009/110/EC, in relation to -

- (a) the issue of electronic money in the Republic or in a country which is not a member state, by cooperative credit society authorised by the Commissioner of the CSSDA
- (b) for the issue of electronic money in the Republic or in country which is not a member state, by an electronic money institution authorised by the Commissioner of the CSSDA
- (c) the issue of electronic money in the Republic via a branch by a cooperative credit society licensed in another member state

- (d) the distribution and redemption of electronic money in the Republic via natural or legal persons by a cooperative credit society licensed in another member state
- (e) the issue of electronic money in the Republic via a branch by an electronic money institution for which the CSSDA is the competent authority by virtue of section 24
- (f) the distribution and redemption of electronic money in the Republic via natural or legal persons by an electronic money institution for which the CSSDA is the competent authority by virtue of section 24
- (g) the issue of electronic money in another member state under the freedom to provide services by a cooperative credit society licensed by the Commissioner of the CSSDA and
- (h) the issue of electronic money in another member state under the freedom to provide services by an electronic money institution licensed by the Commissioner of the CSSDA.

Supervision and examination of issuers of electronic money.

38.-(1) Every issuer of electronic money, when requested by the competent authority as this is specified in section 37, shall place at its disposal for examination its liquid and other assets, books, records and any other documents.

(2) The competent authority, as this is specified in section 37, may contact on-the-spot examinations at issuers of electronic money under its supervision, as well as at any:

- (a) agent, branch and natural or legal person via which the issuer of electronic money carries out operations
- (b) any external entity to which the issuer of electronic money has outsourced operational activities.

Expenses.

39.-(1) The Competent Authority may demand that legal persons applying for authorisation pay to it all costs relating to the examination of their application.

(2) The Competent Authority may demand that electronic money institutions pay to it all expenses relating to their supervision and the application of Part III of the present Law and to their supervision and application in the Republic of any agreements within the meaning of Article 8, paragraph 3, of Directive 2009/110/EC.

(3) The competent authority, as this is specified in section 37, may demand that the persons under its supervision pay to it all costs relating to their supervision and application of Parts IV and V.

Responsibility of Authorities.

40. Any competent authority and any member of the board, officer or employee or member of the CSSDA shall not be liable for any damages resulting from any act or omission in the course of the performance of their duties pursuant to the present Law, unless it is proven that such act or omission was not in good faith or was the result of gross negligence.

PART VII CIVIL AND CRIMINAL LIABILITY AND ADMINISTRATIVE FINES

Criminal offence and civil liability.

41.-(1) Infringement of subsections (1) or (2) of section 4 shall constitute a criminal offence punishable by imprisonment not exceeding two (2) years or by a fine not exceeding eighty five thousand euros (€85.000) or by both.

(2) Infringement of the measures referred to in paragraph (c) of subsection (3) of section 11, which are taken by the Competent Authority pursuant to subsections (3), (4) or (5) of the same section, shall constitute an offence punishable by imprisonment not exceeding two (2) years or by a fine not exceeding eighty five thousand euros (€85.000) or by both.

(3) If any of the offences of the preceding subsections are committed by a legal person, any member of the board of directors, of the management, or the supervisory or auditing bodies who authorised or knowingly allowed such infringement to be committed, shall be guilty of an offence and if convicted shall be subject to the punishment referred to in subsection (1) or subsection (2), as the case may be.

(4) Persons who under subsection (3) are criminally liable for the offences committed by the legal person shall be jointly and / or severally liable with the legal person for all losses incurred by third parties as a result of the act or omission constituting the offence.

Administrative fines (Central Bank).

42.- [Repealed].

Administrative fines (CSSDA).

43.- [Repealed].

PART VIII FINAL AND TRANSITIONAL PROVISIONS

Other laws not affected.

44.-(1) [Repealed].

(2) The present Law shall be without prejudice to the powers of the Central Bank to issue directive pursuant to other provisions, particularly subsection (2) of section 41 of the Banking Laws.

(3) The present Law shall be without prejudice to the powers of the CSSDA to issue decisions and directives pursuant to the Cooperative Companies Laws or any other law.

Issue of directives. 45. Without prejudice to the other provisions of the present Law, that provide for the issue of directives, the Central Bank and the CSSDA may issue jointly or severally, each as to the persons for which is the competent authority, general or specific directives for the regulation of any other issue in the present Law, that needs or is receptive of regulation. Such directives are communicated in any way specified by the competent authorities.

Provided that the Central Bank and the CSSDA act within the framework of the European Union acts in force in the Republic when issuing directives by virtue of the present Law.

Continuation of electronic money institution activities. 86(l) of 2004.

46.-(1) The Competent Authority may grant authorisation to an electronic money institution, without prior application, to persons authorised to issue electronic money by virtue of the Electronic Money Institutions Law and who commenced their activities prior to 30 April 2011, provided the following conditions are met:

- (a) the authorisation for the issue of electronic money has not been withdrawn and there are no reasons justifying withdrawal, and
- (b) the Competent Authority has proof that the conditions for the granting of authorisation to operate as an electronic money institution by virtue of the present Law are met.

(2) As to the persons referred to in subsection (1), the Competent Authority may set deadlines within which to fully comply with the conditions for the granting of authorisation, with the penalty for not meeting these deadlines being the withdrawal of authorisation for the issue of electronic money.

(3) The Competent Authority shall notify the persons referred to in subsection (1) before the granting of authorisation to operate as an electronic money institution.

(4) Persons that have been granted exemption by virtue of subsection (1) of section 23 of the Electronic Money Institutions Law and which commenced engaging in the issue of electronic money prior to 30 April 2011, may continue to engage in this activity provided that, by 30 April 2012 -

- (a) are authorised by the Competent Authority to operate as electronic money institutions, if they fall under section 5 and all other conditions of the present Law are met, or
- (b) are authorised as electronic money institutions by a competent authority of a member state and the procedure specified in section 24 is followed.

(5) The persons referred to in subsections (1) to (4), shall continue to be subject to the conditions included in their authorisation and to the prudential supervision rules in force in the Republic before the present Law entered into

force, for as long as they continue to legally exercise their activities without an authorisation as electronic money institutions.

(6) The persons referred to in subsections (1) to (4) shall comply with the provisions of Parts IV to V as from the date the present Law enters into force. For the purposes of the application of Parts IV and V, these persons shall be deemed to be electronic money institutions and be subject to the supervision of the Competent Authority as specified in section 37, applying sections 38, 39, 40 and, as the case may be, of section 42 or 43.

(7) (a) Electronic money institutions, for which the Republic is their home country and have taken up activities in the Republic before 13 January 2018, in accordance to the provisions of this Law and the Payment Services Law, shall be allowed to continue such services in the Republic until 13 July 2018, without being required to obtain authorisation in accordance with Chapter A of Part III, and without being required to comply with other requirements laid down or referred to in the harmonising provisions.

128(I) of 2009
52(I) of 2010.

(b) Electronic Money Institutions, with home country other than the Republic and which have taken up activities before 13 January 2018 in their home member state in accordance with Directive 2009/110/EC and Directive 2007/64/EC, are permitted to continue such activities in the Republic until 13 July 2018, without being required to obtain authorisation in accordance with Article 3 of Directive 2009/110/EC and without being required to comply with other requirements laid down or referred to in Title II of Directive 2009/110/EC.

(8) Electronic money institutions referred to in paragraph (a) of subsection (7) shall submit all the related information to the Central Bank in order to allow the Central Bank to assess, by 13 July 2018, whether the said electronic money institutions comply with the requirements of the harmonising provisions and, if not, determine which measures need to be taken in order to ensure their compliance or whether the authorisation must be withdrawn.

(9) Electronic money institutions mentioned in paragraph (a) of subsection (7), which, following the assessment by the Central Bank, comply with the requirements laid down in the harmonising provisions, shall be granted authorisation and shall be recorded in the register:

It is provided that where the said institutions do not comply with the requirements laid down in the harmonising provisions by 13 July 2018, they shall be prohibited from issuing electronic money.

(10) For the purposes of subsections (7), (8) and (9), “harmonising provisions” means the following provisions of the Cypriot law that correspond to the provisions of Title II of Directive 2009/110/EC:

(a) sections 5(2), 9(2), 11(1) to (6), 12, 13, 15 and 19 of this Law.

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Appendix Three (I):
26.6.20142

(b) paragraphs 6, 7, 8, 9, 10, 11, 12 and 14 of the Electronic Money Directive of 2012.

Existing contracts
between issuer of
electronic money
and holder of
electronic money

47.-(1) The present Law shall apply to all contracts entered into between an issuer of electronic money and a holder of electronic money before it entered into force. Any term in such contract which is contrary to any provision of the present Law is deemed to be void.

(2) Redemption of electronic money that took place before the present Law entered into force is not affected by subsection (1) and continues to be covered by the provisions of the Electronic Money Institutions Law of 2004.

Annulment of the
Electronic Money
Institutions Law of
2004.

48. The Electronic Money Institutions Law of 2004 is repealed as from the date the present Law comes into force.