

UNOFFICIAL TRANSLATION OF LAW 81(I) OF 2012  
THE ELECTRONIC MONEY LAW OF 2012

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Last updated June 2012

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. This Law may be cited as the Electronic Money Law of 2012.

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 -

- 22 of 1985  
68 of 1987  
190 of 1989  
8 of 1992  
22(I) of 1992  
140(I) of 1999  
140(I) of 2000  
171(I) of 2000  
8(I) of 2001  
123(I) of 2003  
124(I) of 2003  
144(I) of 2003  
5(I) of 2004  
170(I) of 2004  
230(I) of 2004  
23(I) of 2005  
49(I) of 2005  
76(I) of 2005  
29(I) of 2007  
37(I) of 2007  
177(I) of 2007  
104(I) of 2009  
124(I) of 2009
- (a) the CSSDA, in relation to a legal person established by virtue of the Cooperative Companies Laws and in relation to a legal person established in a country other than the Republic by virtue of a law corresponding to the Cooperative Companies Laws, and

85(l) of 2010  
118(l) of 2011.

- (b) the Central Bank in every other case, including the case of a legal person established in a country other than the Republic and not covered by subsection (a).

“insurance undertaking” has the meaning given thereto by section 2 of the Insurance Services and Other Related Issues Law

35(l) of 2002  
141(l) of 2003  
165(l) of 2006  
69(l) of 2004  
70(l) of 2004  
136(l) of 2004  
152(l) of 2004  
153(l) of 2004  
240(l) of 2004  
17(l) of 2005  
26(l) of 2008  
105(l) of 2009  
50 (l) of 2011.

“means of control” -

Official Gazette,  
Appendix Three  
(l):  
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.  
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) TOU 2007

“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.

131(I) του 2007  
 186(I) του 2007  
 87(I) of 2008  
 41(I) of 2009  
 49(I) of 2009  
 99(I) of 2009  
 42(I) of 2010  
 60(I) of 2010  
 88(I) of 2010  
 53(I) of 2011  
 117(I) of 2001  
 145(I) of 2011  
 157(I) of 2011  
 198(I) 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(I) of 2009 “payment institution” has the meaning given thereto by section 2 of the  
 52(I) 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.

“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**

Obligation for prior authorisation for electronic money institutions.

5.-(1) Subject to section 24, a person other than the persons referred to in paragraphs (a) to (f) of subsection (4) of section 4, may issue electronic money only if -

- (a) cumulatively -
  - (i) is a legal person registered in the Republic,
  - (ii) maintains its head office in the Republic, and
  - (iii) has been authorised by the Competent Authority, or
- (b) has been authorised by the Competent Authority pursuant to subsection (2) and the directive issued by virtue of that

subsection.

(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) A person wishing to be authorised as an electronic money institution, shall submit an application to the Competent Authority accompanied with all documents and information specified by the Competent Authority by directive. The Competent Authority may at any time request an authorised electronic money institution to submit any documents and information in order to verify that the electronic money institution complies with the requirements of this Part.

(2) The Competent Authority shall not grant an authorisation if it is not fully satisfied that all conditions set out in this Law and the directives issued by virtue of this Law are satisfied. Subject to sections 34 and 35, when examining an application, the Competent Authority may at its discretion consult with any other authority in the Republic or any other country.

(3) In view of the need to ensure the correct and prudential management of an electronic money institution, no authorisation shall be granted by the Competent Authority unless the legal person requesting authorization has in place a comprehensive organizational framework for the issue of electronic money and for the provision of payment services, including an explicit organizational structure which is transparent and cohesive, and with responsibilities explicitly allocated, with effective procedures for identifying, managing, monitoring and reporting the risks undertaken, as well as internal control mechanisms, including correct and appropriate management and accounting procedures: the framework, the procedures and the mechanisms shall be as extensive and commensurate to the nature, the scale and the complexity of the issue of electronic money activities that the legal person requesting authorization intends to engage in and the payment services it intends to provide.

(4) When a legal person requesting authorisation or an already authorised electronic money institution intends to issue electronic money in parallel with other business activities, the Competent Authority may demand the establishment of a separate legal entity that will undertake the activities of the issue of electronic money and the provision of payment services, or for any of these activities when the other business activities either affect or there is a danger that they will affect the financial robustness of the institution or hinder the Competent Authority from monitoring the compliance of the electronic money institution with this Law, the Payment Services Laws and the directives issued there from.

The Competent Authority may demand the establishment of a separate legal entity, for any of the reasons mentioned above, consequent to the commencement of the other business activities.

(5) The Competent Authority shall not grant authorisation if, having regard to the need to ensure the correct and prudent management of an electronic money institution, is not convinced as to the suitability of the persons having direct or indirect control over it. When the person having direct or indirect control of an electronic money institution is a legal person, the suitability of the persons acting directly or indirectly as directors of that legal person, shall also be taken into consideration in the evaluation of suitability for the purposes of this subsection.

(6) If there are close links between the legal person applying for authorisation and other natural or legal persons, the Competent Authority shall grant authorisation only if these close links do not hinder the exercise of effective supervision. If one or more of the natural or legal persons having close links with the legal person applying for authorisation is subject to legal, regulatory or administrative provisions of a third country, the Competent Authority shall grant authorization only if these provisions or any difficulties in their enforcement do not hinder the exercise of effective supervision.

(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.-(1) Within three months of receiving a duly completed application for authorisation as an electronic money institution, the Competent Authority shall decide on the application and notify the legal person applying for authorisation of the approval or the rejection of the application. An application

shall be considered as being duly completed only if it is submitted with all the required information and is accompanied by all the data and documents specified in subsection (1) of section 6. Rejection of an application shall be duly justified.

(2) If a submitted application for authorisation as an electronic money institution is incomplete the Competent Authority shall notify accordingly the legal person that submitted the application.

Public Register.

8.-(1) The Central Bank shall establish and keep up to date a public register of electronic money institutions authorised by the Central Bank and by the CSSDA, as the case may be. The Central Bank shall include in this register the legal persons referred to in subsection (3) of section 5.

(2) The Central Bank shall prescribe by directive the information that needs to be entered in the register as well as the operation of the register.

(3) The CSSDA shall forward to the Central Bank all the information to be recorded in relation to an authorisation to be granted by CSSDA and shall inform the Central Bank as to the date the authorisation is granted.

Amendments to the data submitted with an application.

9.-(1) An electronic money institution shall notify the Competent Authority without undue delay and at any time during its operation, of any amendment that affects the accuracy of the information, data and documents submitted by virtue of section 6(1) or section 10.

(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.-(1) An electronic money institution shall prepare financial statements in a manner prescribed by the Competent Authority by directive. The Competent Authority may, for supervisory purposes, specify, particularise and clarify by directive every matter related to the preparation of financial statements in connection with the activities of the issue of electronic money and the provision of payment services, and in connection with any other business activities of the electronic money institution.

(2) The auditor of an electronic money institution shall promptly notify the Competent Authority of any decision or incident relating to the electronic money institution, that came to his knowledge in the course of his audit and which could potentially -

- (a) constitute a substantial breach of the legal or regulatory provisions setting the conditions for authorisation or governing the activity of the issue of electronic money;
- (b) compromise the uninterrupted operation of the electronic money institution · or
- (c) lead to a refusal to approve the financial statements or to the expression of reservations.

(3) The obligation referred to under subsection (2) applies to the auditor of an electronic money institution with regard to incidents or decisions that come to his knowledge in the course of the audit of an enterprise having close links derived from means of control of the electronic money institution.

(4) The auditor of an electronic money institution shall not be considered to be in breach of any confidentiality obligation he may be subject to, as a result of a bona fide notification of incidents or decisions referred to above to the Competent Authority. This notification shall not entail any responsibility on the part of the auditor.

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(l) 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.-(1) An electronic money institution authorisation shall automatically be terminated in the following circumstances:

- (a) An electronic money institution does not make use of its authorisation within 12 months of its issue:

Provided that, if an electronic money institution partly utilises an authorisation, the authorisation is terminated as for the activities for which no use of the authorisation was made:

- (b) An electronic money institution expressly renounces its authorisation:
- (c) An electronic money institution has not issued electronic money or has not provided payment services, for a period exceeding six months:

Provided that, if an electronic money institution has not engaged in some of the activities for which it was authorised, its authorisation is terminated for those activities only.

(2) An electronic money institution shall inform the Competent Authority of the termination of its authorisation.

(3)(a) Following the termination of an authorisation for the issue of electronic money, the Competent Authority shall set a deadline after which the electronic money institution authorisation shall automatically be terminated for

the provision of payment services as well:

(b) The electronic money institution may apply to the Central Bank, before the expiry of the above deadline, for a payment institution authorisation in accordance with the Payment Services Laws, to be granted simultaneously with the termination in whole of the electronic money institution authorisation.

(4) The undertaking shall continue to be subject to the supervision of the Competent Authority after the termination in whole of the authorisation pursuant to paragraph (b) of subsection (1) and subsection (3), until such time as -

- (a) The Competent Authority is satisfied that no electronic money is being issued and all relevant obligations have been settled, and
- (b) either the Competent Authority is satisfied that the provision of payment services has ceased and all relevant obligations have been settled, or the Central Bank grants a payment institution authorisation to the same legal person, in accordance with the Payment Services Laws.

(5) The termination of an electronic money institution authorisation that was granted to a cooperative company shall be without prejudice to the powers of the Commissioner and of the CSSDA pursuant to the Cooperative Companies Laws in connection to such authorisation.

Revocation of  
authorisation.  
158(l) of 1999.

17.-(1) Without prejudice to the generality of section 54 of the General Principles of Administrative Law Law, the Competent Authority may revoke in whole in part the authorisation of an electronic money institution if the electronic money institution -

- (a) secured the authorisation by false statements or any other irregular means;
- (b) does not comply with the requirements of the present Part;
- (c) would constitute a thread to the stability of the payment system by continuing to issue electronic money or to provide payment services.

(2) The Competent Authority may particularise by directive the procedure to be followed for the revocation of an electronic money institution authorisation.

(3) The revocation of an authorisation shall be duly justified, notified to the electronic money institution, entered in the register referred to in section 8 and made public.

(4)(a) Following the revocation in whole of an authorisation, the undertaking shall continue to be subject to the supervision of the Competent Authority, until such time as the Competent Authority is satisfied that the issue of electronic money and the provision of payment services have ceased and all obligations have been settled:

(b) The revocation of an authorisation granted to a cooperative company is without prejudice to the powers of the Commissioner and the CSSDA regarding this authorisation by virtue of the Cooperative Companies Laws.

Suspension of authorisation and deadline for compliance.

18. In lieu of revocation or simultaneously with the commencement of revocation procedures, the Competent Authority may suspend in part or in whole the authorisation of an electronic money institution. The Competent Authority may set a deadline for compliance, after the expiration of which, if no action is taken, it shall revoke the authorisation.

#### Chapter C – Other requirements

Agents, branches and persons via whom electronic money is issued and redeemed.

19.-(1) If an electronic money institution intends to provide payment services via an agent, it shall apply for the registration of the agent in the register referred to in section 8. The application shall be accompanied with all data and documents specified by the Competent Authority by directive.

(2) The Competent authority shall not approve the registration of an agent if it is not fully satisfied that the data and documents provided pursuant to subsection (1) are correct and that the agent fulfils the criteria specified by the Competent Authority by directive. Subject to sections 34 and 35, the Competent Authority, if it so deems necessary, may consult with any other authority in the Republic or any other country before it examines an application for the recording of an agent in the register of section 8 .

(3) The Competent Authority may revoke the approval for the registration of an agent who has ceased to comply with the criteria specified by virtue of subsection (2).

(4) Without prejudice to the other subsections of this section, if an electronic money institution wishes to provide payment services in another member state via an agent -

- (a) it shall follow the procedures specified in subsections (1) to (4) of section 23, mutatis mutandis, and
- (b) the Competent Authority shall not approve the registration of the agent before it consults with the competent authorities of the host



member state and take their opinion into consideration particularly as regards to whether with the intended engagement of the agent the financing of terrorist acts or the legalisation of proceeds from illegal acts is intended to or has been intended to be committed or has been committed and, in this regard, the engagement of the agent may potentially increase the danger of the funding of terrorism or the legalisation of proceeds from illegal acts.

(5) Subject to subsection (6), electronic money institutions shall not issue electronic money via agents.

(6)(a) Electronic money institutions may distribute and redeem electronic money via natural or legal persons acting on their behalf and which fulfil the criteria that may be specified by the Competent Authority by directive.

(b) Any distribution or redemption of electronic money via natural or legal persons shall constitute part of the organisational framework for the issue of electronic money.

(7)(a) Without prejudice to the other subsections of this section, if the electronic money institution wishes to distribute or redeem electronic money in another member state via natural or legal person acting on its behalf, subsections (1) to (4) of section 23 shall apply, mutatis mutandis.

(b) The Competent Authority may consult with the competent authorities of the host member state and take into consideration their opinion as to the suitability of the persons via which the electronic money institution intends to distribute and redeem electronic money.

(8) Electronic money institutions shall ensure that their branches, their agents and any other persons acting on their behalf inform accordingly the payment service users and the holders or potential holders of electronic money before providing any services to them.

(9) Electronic money institutions shall not provide payment services via persons not recorded in the register of section 8 or persons that have been stricken off this register. Electronic money institutions shall not distribute or redeem electronic money via persons for the suitability of whom the Competent Authority is not convinced or which do not fulfil or have ceased to fulfil the criteria specified by virtue of subsection (6).

Outsourcing of operations to third parties.

20. If an electronic money institution intends to outsource any operational activities in connection with the issue of electronic money or the provision of payment services, to third parties in or outside the Republic, it shall notify accordingly the Competent Authority. The Competent Authority shall particularise by directive the meaning of operational activities and specify the conditions under which such activities may be outsourced.

- Responsibility 21. An electronic money institution is fully and unconditionally responsible -
- (a) for the acts and omissions of its employees in the course of the performance of their duties,
  - (b) for the acts and omissions of its agents, when they act on behalf of the electronic money institution,
  - (c) for the acts and omissions of the persons referred to in subsection (6) of section 19, when they act on behalf of the electronic money institution,
  - (d) of the acts and omissions of its branches, and
  - (e) of the acts and omissions of third parties to which operational activities have been outsourced, in the course of engaging in such activities.
- Maintenance of records.  
188(l) of 2007  
58(l) of 2010.
22. Without prejudice to the Prevention and Suppression of Money Laundering Activities Laws and any other relevant legislation, an electronic money institution shall maintain records for the purposes of the present Part, for at least five years.

#### Chapter D – Freedom of establishment and freedom to provide services

- Electronic money institutions authorised to operate in the Republic.
- 23.-(1)(a) An electronic money institution established in the Republic and wishing to issue electronic money or provide payment services in another member state, either under the freedom of establishment or under the freedom to provide services, shall notify its intention to the Competent Authority providing any information that the Competent Authority may stipulate by directive.
- (b) An electronic money institution shall not provide in another member state any payment services not covered by its authorisation.
- (2) The Competent Authority shall notify the competent authorities of the host member state of the following information, within one month of receiving it:
- (a) the name and address of the electronic money institution ·
  - (b) the names of the persons responsible for the management of the branch in the host member state ·
  - (c) the organisational structure of the branch in the host member state · and

- (d) the nature of the operations that the electronic money institution intends to engage in, in the host member state.

(3) The Competent Authority shall not approve the setting up of a branch in the host member state before it consults the competent authorities of the host member state and take into consideration their opinion, particularly as regards to whether with the intended setting up of the branch the financing of terrorist acts or the legalisation of proceeds from illegal acts is intended or has been intended to be committed or has been committed and, in this regard, the setting up of the branch may potentially increase the danger of the funding of terrorism or the legalisation of proceeds from illegal acts. the Competent Authority shall not approve the setting up of a branch in the host member state if the criteria specified by the Competent Authority by directive are not fulfilled.

(4) An electronic money institution shall not commence operations in the host member state before notification pursuant to subsection (2) and, in the case of the setting up of a branch in the host member state, before the registration of the branch in the register of section 8:

Provided that the Competent Authority may pursuant to subsection (3) of section 32 prohibit the issue of electronic money or the provision of payment services in another member state by an electronic money institution.

(5) An electronic money institution established in the Republic that wishes to issue electronic money or provide payment services in a country which is not a member state, shall submit an application to the Competent Authority .

(6) The Competent Authority decides on an application referred to in subsection (5) applying mutatis mutandis the criteria specified by virtue of section 19 and subsection (3) of the present section and after taking into consideration the legal, regulatory and administrative provisions of that third country and any difficulties stemming from their application.

(7)(a) The Competent Authority may approve an application submitted pursuant to subsection (5) subject to any terms it may deem necessary and, subsequent to its approval, to amend or revoke such terms or impose new terms:

(b) The Competent Authority may, pursuant to subsection (3) of section 32, prohibit the issue of electronic money or the provision of payment services in a country which is not a member state by an electronic money institution.

Electronic  
money  
institution  
authorised in

24.-(1) An electronic money institution that has obtained and maintains an authorisation from the competent authorities of another member state other than the Republic in accordance with the provisions established by that home

another member state.

member state for the purposes of harmonisation with Articles 3 to 7 of Directive 2009/110/EC, may issue electronic money and provide payment services in the Republic either under the freedom of establishment or under the freedom to provide services, to the extent that the issue of electronic money and the provision of payment services are covered by its authorisation:

(2) The competent authorities of the home member state shall notify the CSSDA, if the electronic money institution is a company established under legislation which corresponds to the Cooperative Companies Laws, or the Central Bank in any other case, of the following information:

- (a) the name and address of the electronic money institution ·
- (b) the names of the persons responsible for the management of the branch in the Republic ·
- (c) the organisational structure of the branch in the Republic ·
- (d) the nature of the activities that the electronic money institution intends to engage in in the Republic · and
- (e) mutatis mutandis, the information referred to in the previous paragraphs in relation to agents via whom the electronic money institution intends to provide payment services in the Republic and in relation to persons via whom the electronic money institution intends to distribute and redeem electronic money in the Republic.

(3) An electronic money institution referred to in this section:

- (a) shall not commence the issue of electronic money or the provision of payment services in the Republic prior to the notification provided for in subsection (2),
- (b) Shall not continue the provision of payment services in the Republic through an agent the registration of whom from the corresponding public register in the home member state has been withdrawn,
- (c) Shall not continue the issue of electronic money or the provision of payment services in the Republic through a branch the registration of which in the corresponding public register of the home member state has been withdrawn, and
- (d) Shall not commence or continue the distribution or redemption of electronic money in the Republic through a person for whom the competent authority of the home member state has expressed its objection.

(4) Sections 6 to 23 shall not apply to electronic money institutions of this section, with the exception of subsections (2) to (4) of section 15 and section 21. The Central Bank may enter in the register of section 8 information about electronic money institutions for which the procedure of the present section is applied. The CSSDA shall inform the Central Bank of all cases where the procedure of the present section is applied for electronic money institutions under the competence of the CSSDA.

#### **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 interest. of 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. of 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 disputes.

30.-(1) The pursuant to section 37 competent authority shall organise a procedure for the out of court settlement of disputes in connection 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.-(1) Every authorised electronic money institution shall, when so requested by the Competent Authority, put at its disposal for examination its liquid and other assets, books, files, and any other documents.

(2) The Competent Authority may contact on-the-spot examinations of electronic money institutions, of any agent via whom the institution provides or intends to provide services, of any branch via which the institution operates or intends to operate, of any natural or legal person via whom the institution engages or intends to engage in activities, including the distribution and redemption of electronic money, and of any external entity to which

operations in connection to the issue of electronic money or the provision of payment services have been, or are intended to be, outsourced.

(3) In the event that the electronic money institution fails to comply with any of the provisions of Part III of the present Law, or any directive issued pursuant to the present Law, including any directive that constitutes a personal administrative notice or with the terms of its authorisation, or if there is a risk that the ability of the electronic money institution to meet promptly its obligations may be impaired, the Competent Authority may demand that the electronic money institution immediately takes such steps as the Competent Authority may stipulate to remedy the situation, including restricting the activities of the electronic money institution, removing any director, chief executive officer, manager, member of the supervisory body or of the board of the institution, secretary or other officer or employee of the electronic money institution, and/or impose an obligation to maintain own funds in excess of the minimum level referred to under section 12.

Cooperation  
between  
Competent  
Authorities.

33. The Central Bank and the CSSDA cooperate among them so as to fulfil effectively the duties assigned to them by the present Law.

Professional  
secrecy.

34.-(1) Subject to the following subsections, all persons acting or having acted on behalf of the Central Bank or the CSDDA, as well as any auditors or experts commissioned by the Central Bank or the CSSDA, are bound to observe professional secrecy.

(2) No confidential information coming to the knowledge of any person referred to in subsection (1), during the exercise of their professional duties, shall be notified to any person or authority, except -

- (a) in a summary or aggregate form, so that the identity of the specific electronic money institution is not identifiable, subject to any cases falling under the penal code, or
- (b) in accordance with section 35.

(3) As regards an electronic money institution under liquidation or similar procedure, any confidential information not concerning third parties involved in its rescue efforts, may be disclosed in the framework of civil or commercial law proceedings.

Exchange of  
information.

35.-(1) The Central Bank and the CSSDA may exchange information between them which they obtain during the exercise of their responsibilities pursuant to subsections (8) or (9) of section 4, of Part III, of Part V, of section 31 or section 32. The Central Bank and the CSSDA may disclose information obtained during the exercise of their responsibilities-



- (a) to the European Central Bank, to a central bank of a member state or a country which is not a member state, to an organisation of a similar mandate and to a public authority responsible for the oversight of payment and security settlement systems· the Central Bank or the CSSDA disclose information to the authorities mentioned above in the context of the exercise of their duties ·
- (b) to an authority responsible -
  - (i) for the licensing or supervision of electronic money institutions,
  - (ii) for the licensing or supervision of credit institutions,
  - (iii) for the licensing or supervision of insurance undertakings,
  - (iv) for the licensing or supervision of companies providing investment services,
  - (v) for the licensing or supervision of finance institutions, within the meaning of the term “finance institution” given by section 2 of the Banking Laws,
  - (vi) for the licensing or supervision of capital markets, either in a member state or a country which is not a member state,
  - (vii) in connection with provisions of community law or the law of a member state which apply to payment service providers,

in order for the Central Bank or the CSSDA to assist this authority in the exercise of its responsibilities or in order for the Central Bank or the CSSDA to make possible the effective exercise of its own responsibilities·

138(l) of 2001  
37(l) of 2003.

- (c) to the Commissioner for Personal Data Protection who is appointed pursuant to the Processing of Personal Data (Protection of the Individual) Laws, to a corresponding authority of a member state other than the Republic and to a corresponding authority of the European Union, provided that the information disclosed is to be used for the purposes of these authorities ·
- (d) to the Anti Money Laundering Unit established by virtue of Prevention and Suppression of Money Laundering Activities Law, to a corresponding authority of a member state other than the Republic and to a corresponding authority of the European Union, on condition that the information disclosed is intended to be used for the purposes of the mission of such authority ·
- (e) to a body of a member state which participates in the liquidation of an electronic money institution, or in any other related procedure or to an auditor who is responsible for the audit of the financial statements of an electronic money institution, in order to make possible the effective exercise of the competences of the Central Bank or of the CSSDA ·

- (f) to any authority responsible for the supervision of a body or auditor referred to in paragraph (e), provided that the disclosed information are intended to be used for the purposes of the mission of such authority .
- (g) to an authority responsible for identifying infringements of the legislation relating to companies and for the investigation of such infringements, on condition that the information disclosed is intended to be used for the purposes of the mission of this authority .
- (h) to persons who, due to special qualifications, are empowered by the authority referred to in paragraph (g) above to identify infringements of legislation relating to companies and to investigate such infringements, on condition that the information disclosed is intended to be used for the purposes of the mission of the authority referred to in paragraph (g) and that this authority announces the identity and the exact contents of the terms of reference of the persons to whom the information is to be disclosed.

(2) Each of the Central Bank and the CSSDA may disclose information to a liquidation undertaking or to a settlement of payment transactions institution if it considers that such disclosure is necessary for safeguarding the smooth operation of such an organisation in relation to a potential default by an electronic money institution.

(3) Any disclosure of information by the Central Bank or the CSSDA, as the case may be, shall be made only if the Central Bank or the CSSDA is satisfied that the information disclosed is subject to the same rules of confidentiality by the receiving authority or person as applied respectively by the Central Bank or the CSSDA.

(4) If the Central Bank or the CSSDA, as the case may be, has obtained the information to be disclosed from another authority, the disclosure shall be made only after the explicit approval of the authority providing the information and, if the approval was given for a specific purpose, for that purpose only .

(5) Any of the authorities or persons referred to in subsection (1) which are authorities of the Republic or act by virtue of Cyprus law shall be obliged, without prejudice to any other provisions that impose obligations to disclose information, to disclose information to the Central Bank or the CSSDA, as the case may be, that is in their possession and which the Central Bank or the CSSDA consider useful for the performance of their competences pursuant to the provisions of the present Law.

Cooperation between the authorities of a home member state and the authorities of a host member state.

36.-(1) Without prejudice to the generality of section 35, the Central Bank or the CSSDA, as the case may -

- (a) shall cooperate with the competent authorities of the host member state for the purposes of the application of the provisions of section 32 on an electronic money institution authorised by the Competent Authority which issues electronic money or provides payment services in another member state.
- (b) shall cooperate with the competent authorities of the home member state for the purpose of enabling those competent authorities to exercise supervision over an electronic money institution engaged in operations in the Republic pursuant to section 24.
- (c) shall provide to the competent authorities of the home member state, host member state or intending host member state, any significant information, and any information requested, in relation to an electronic money institution, its branches, its agents, the persons via whom the electronic money institution distributes or redeems electronic money and any third parties to whom the electronic money institution has outsourced operational activities. the Central Bank or the CSSDA, as the case may be, may provide to the above authorities any information on any alleged infringement of legal or regulatory provisions by an electronic money institution and to utilise any information received from these authorities.
- (d) inform accordingly the competent authorities of the home member state, if it has grounds for suspecting that, in relation to the intended recruitment in the Republic of an agent by an electronic money institution for which the Republic is the host member state or in relation to the intended setting up of a branch in the Republic by an electronic money institution for which the Republic is the host member state, the financing of terrorism or the legalisation of proceeds from illegal acts within the meaning of Prevention and Suppression of Money Laundering Activities Law is attempted or has been committed or has been attempted or that the recruitment of the agent or the setting up of the branch could potentially increase the danger for the financing of terrorism or the legalisation of proceeds from illegal acts.

(2) For the purposes of contacting on-the-spot examinations, pursuant to

subsection (2) of section 32, in an authorised electronic money institution issuing electronic money or providing payment services in another member state, the Competent Authority may -

- (a) contact on-the-spot examinations in the host member state after informing the competent authorities of the host member state of its intention.
- (b) assign the contact of on-the-spot examinations in the host member state, to the competent authorities of the host member state following an agreement with these authorities.

(3) For the purposes of the application of the provisions enacted by a home member state in harmonisation with Title II of Directive 2009/110/EC -

- (a) the competent authorities of the home member state may contact on-the-spot examinations in the Republic at any electronic money institution referred to in section 24, after notifying the Central Bank or the CSSDA, as the case may be.
- (b) Following an agreement with, and acting on the instructions of the competent authorities of the home member state, the Central Bank or the CSSDA, as the case may be, may contact on-the-spot examinations at any electronic money institution referred to in section 24.

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 έκδοση ηλεκτρονικού χρήματος στη Δημοκρατία ·
- (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 o 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.-(1) If the Central Bank establishes that an issuer of electronic money under its supervision is in breach of or has failed to comply with any provision of this Law or any directive, circular and/or notice issued by the Central Bank pursuant to this Law, including directives which constitutes personal administrative notices, the Central Bank, after inviting the issuer of electronic money to file its defence, may impose an administrative fine for every infringement ranging from one thousand euro (€1.000) up to eighty thousand euro (€80.000), depending on the severity of the infringement and, in the event of a continuing infringement, the Central Bank have further powers to impose an administrative fine, depending on the severity of the infringement, ranging from one hundred euro (€100) up to eight thousand euro (€8.000) for every day that the infringement.

(2) If the infringement referred to in subsection (1) can be ascribed to fault on the part of a member of the board of directors, the chief executive officer or a manager of the issuer of electronic money, the Central Bank, after inviting the said person to file his defence, may impose an administrative fine for every infringement ranging from one thousand euro (€1.000) up to twenty thousand euro (€20.000), depending on the severity of the infringement and, in the event of a continuing infringement, the Central Bank have further powers to impose an administrative fine, depending on the severity of the infringement, ranging from one hundred euro (€100) up to one thousand euro (€1.000) for every day that the infringement continues.

Administrative  
fines  
(CSSDA).

43.-(1) If the CSSDA establishes that an issuer of electronic money under its supervision is in breach or has failed to comply with any provision under this Law or any directive, circular and/or notice of the CSSDA pursuant to this Law, including directives constituting individual administrative notices, the Commissioner of the CSSDA, after inviting the issuer of electronic money to file its defence, may impose an administrative fine for every infringement ranging from one thousand euro (€1.000) up to eighty thousand euro (€8.000), depending on the severity of the infringement and, in the event of a continuing infringement, the Commissioner of the CSSDA has further powers to impose an administrative fine, depending on the severity of the

infringement, ranging from one hundred euro (€100) up to eight thousand euro (€8.000) for every day that the infringement continues.

(2) If the infringement referred to in subsection (1) can be ascribed to fault on the part of the chief executive officer, the secretary, member of the committee or the Board or other officer or employee the issuer of electronic money, the Commissioner of the CSSDA, after inviting the said person to file his defence, may impose an administrative fine for every infringement ranging from one thousand euro (€1.000) up to twenty thousand euro (€20.000), depending on the severity of the offence and, in the event of a continuing infringement, the Commissioner of the CSSDA has further powers to impose an administrative fine, depending on the severity of the infringement, ranging from one hundred euro (€100) up to one thousand euro (€1.000) for every day that the infringement continues.

(3) Section 41K of the Cooperative Companies Laws applies, *mutatis mutandis*, with regard to administrative fines imposed pursuant to subsection (1) or subsection (2).

## **PART VIII FINAL AND TRANSITIONAL PROVISIONS**

Other laws not affected.

44.-(1) Sections 23, 24 and 36 shall be without prejudice to the powers of the Central Bank and of the CSSDA pursuant to -

- (a) the Prevention and Suppression of Money Laundering Activities Law, and
- (b) The act of the European Community entitled "Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds" as this may be amended or replaced from time to time.

Official Journal of the EU: L345, 8.12.2006, p. 1.

(2) The present Law shall be without prejudice to the powers of the Central Bank to issue directive pursuant to other provisions, particularly subsection (3) 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 -

- (α) 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
- (β) 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.

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.