

**1/2018**  
**DECREE**  
of 19 December 2017

**on applications and notifications to perform activities pursuant to the Payment System Act**

The Czech National Bank stipulates, pursuant to Article 263 of Act No 370/2017, the Payment System Act, for the implementation of Article 10(4), Article 11(2), Article 18(6), Article 27(4), Article 28(3), Article 29(4), Article 33(5), Article 34(2), Article 38(2), Article 43(3), Article 44(2), Article 51(4), Article 52(2), Article 55(2), Article 60(3), Article 61(2), Article 69(4), Article 70(2), Article 76(6), Article 86(4), Article 87(3), Article 88(4), Article 92(5), Article 93(2), Article 96(2), Article 101(3) and Article 102(2):

Article 1  
**Subject of regulation**

- (1) This Decree regulates the details
- a) of applications to operate
    - 1. a payment institution and the expansion of this authorisation,
    - 2. a payment account information administrator,
    - 3. an electronic money institution and the expansion of this authorisation,
    - 4. a small-scale payment services provider and the expansion of this authorisation,
    - 5. a small-scale electronic money issuer and the expansion of this authorisation,
  - b) of an application by a payment institution, electronic money institution or payment account information administrator for consent to the provision of payment services in a host Member State through a branch or authorised representative,
  - c) of a notification
    - 1. of a change in data indicated in an application for consent to operate a payment institution, payment account information administrator, electronic money institution, small-scale payment services provider or small-scale electronic money issuer,
    - 2. of a change in data indicated in an application of a payment institution, electronic money institution or payment account information administrator for consent to the provision of payment services in a host Member State through a branch or an authorised representative,
    - 3. of an intention to acquire, increase, forfeit or reduce a qualifying holding in a payment institution or an electronic money institution, or to control or cease to control them,
    - 4. of an authorised representative of a payment institution or electronic money institution,
    - 5. of a change in data indicated in the notification of an authorised representative of a payment institution or electronic money institution,
    - 6. of an intention to entrust to another person the performance of some operating activities of a payment institution or an electronic money institution,
    - 7. of an intention of a payment institution, electronic money institution or payment account information administrator to perform activities in a host Member State other than through a branch or authorised representative.
- (2) This Decree further regulates the formats and other technical requisites for applications and notifications pursuant to paragraph (1).

Article 2  
**Definition of terms**

For the purposes of this Decree,

- a) a certificate of integrity issued by a foreign State means a document similar to an extract from the criminal records no older than 3 months, issued by a foreign State
  - 1. of which a natural person is a citizen, as well as by a foreign State in which this natural person was continuously resident for over 6 months in the past 3 years, or
  - 2. in which a legal person has or had its registered office in the past 3 years, as well as a foreign State in which a legal person has or had a branch of a business establishment in the past 3 years, if the legislation of that foreign State governs the criminal liability of legal persons,
- b) documents for verification of trustworthiness means a certificate of integrity issued by a foreign State, a declaration of the legal capacity of a natural person, a declaration containing information enabling the securing of an extract from the criminal records for a natural person, and data and documents about the activity of the person over the last 10 years, especially about
  - 1. the imposition of an administrative penalty in connection with employment, function, or business activity,
  - 2. a decision on bankruptcy,
  - 3. suspension or revocation of a license for business or other activity, if this was not done based on a request by the person who is the holder of such license,
  - 4. refusal by a court or administrative body to provide consent with the election of a person to functions in elected bodies of legal persons or to functions to which a person was named or otherwise appointed, or with the acquisition of a qualifying holding or the control of a person, if such consent was required, and
  - 5. exclusion from a professional chamber, club or association of persons operating on the financial market,
- c) a document associated with the acquisition of a qualifying holding means a declaration by a person who intends to acquire or increase a qualifying holding stating whether
  - 1. they will acquire interests in their own name and for their own account,
  - 2. they exercise, or will exercise, voting rights on behalf of a third party,
  - 3. they intend to transfer, based on a concluded contract or other arrangement, the voting rights to another person,
  - 4. there exists, or should exist in the future, a fact based on which they are or will become a controlled person,
  - 5. they are acting in concert with another person to whom the voting rights were transferred or who should exercise a significant influence over the management, and
  - 6. they have debts that exceed 5% of the equity or assets of the person acquiring or increasing the qualifying holding, or that may have such effect,
- d) a regulated institution means a bank, a credit union, an investment firm, an insurance undertaking, a reinsurance undertaking, a payment institution, an electronic money institution, a payment account information administrator, or another person acting on a financial market supervised by an authority supervising regulated institutions in its State of domicile,
- e) financial statements mean

1. annual reports and financial statements for the last 3 accounting periods, or for the period during which the applicant or notifier has been carrying on business if that period is less than 3 accounting periods; if the applicant or notifier is part of a consolidated group, also the consolidated annual reports and financial statements for the same period, and if, under the Accounting Act, the financial statements have to be audited, the presented financial statements must be audited, and
  2. proof of income for the last 3 years, assets and debts in the case of a natural person,
- f) a business plan means the actually intended business plan for the first 3 accounting periods, prepared in the format of the financial statements pursuant to the Act on Accounting, with a commentary that contains
1. the intentions of the person in terms of the scope and volume of the payment services provided or electronic money issued and other activities under the Payment System Act and a description of the planned method of their achievement, the characteristics of the target group of clients and business network, including foreign, and
  2. the bases and assumptions on which the business plan is based, and the justification for the interdependence of the quantitative data of the plan and the feasibility of the planned results of the activities,
- g) a strategic intent means an intent that includes
1. the period for which a qualifying holding is to be held or for which the payment institution or electronic money institution is to be controlled,
  2. anticipated changes in the size of the qualifying holding in the short and long term,
  3. the expected level of involvement in the management of the payment institution or electronic money institution,
  4. the expected support of the payment institution or an electronic money institution through its own resources, if this is necessary to develop activities or to address a worsened financial situation,
  5. information on whether an agreement has been or should be concluded on the promotion of common interests with another partner of the payment institution or electronic money institution, and
  6. anticipated changes in the activities of the payment institution or electronic money institution, in the method of financing further development, in the dividend distribution policy, in the method of distributing funds and the loss settlement policy, as well as the anticipated changes in the management and control system, in the strategic development and staffing of the management body; the strategic plan shall include this information only if the qualifying holding should exceed 20% of the interest in the registered capital or voting rights of the payment institution or electronic money institution,
- h) identification data
1. in the case of a legal person, the trading name or title, registered office and the identification number of the person, if assigned, and
  2. in the case of a natural person, the name or names, the surname, birth ID number or, if no birth ID number has been allocated, date of birth, address in the form of the street name, house number, municipality, part of municipality, postal code and state; in the case of an entrepreneur registered in the Commercial Register, also the trading name, registered office and the identification number of the person, if assigned,
- i) information about persons having close links
1. identification information for each person having close links; if a person with close links is a foreign person domiciled in another Member State, also an indication of whether they are a person authorised by the supervisory authority of another Member

- State to act as a regulated institution, or whether they are the controlling person of such a person, and
2. a description of the structure of the group and the method of interconnection, with a graphical representation of the relationships between the persons having close links with an indication of the subject of their activity,
- j) information about professional practice
1. information about the type of professional practice,
  2. identification data of the person at which the professional practice is or was performed,
  3. the job description and, if the practice is important for activity on the financial market, also a description of the activity performed, including the scope of the powers and responsibilities associated with this activity and the number of managed persons,
  4. a definition of the period for which the activity pursuant to point 3 was performed, and
  5. consent with the performance of the work required by other legislation, if such consent was necessary, and
- k) information about education
1. the name and type of educational institution, the study program, the focus of the study program, the duration of the study program, the method and date of termination of studies, potentially any academic titles obtained, and
  2. an overview of professional examinations, courses, internships, and study stays undertaken relevant for activity on the financial market, with an indication of the year in which they were undertaken and their focus.

### Article 3

#### **Details of an application to operate a payment institution**

(Re Article 10(4) of the Payment System Act)

(1) The details of an application to operate a payment institution shall include information about the applicant, information related to the activity of the payment institution and the documents that contain this information.

(2) Information about the applicant means

- a) the founding legal acts,
- b) an extract from the Commercial Register or other similar register of entrepreneurs, not over 3 months old, if an already established legal person,
- c) the actual registered office, if different from the applicant's registered office,
- d) a list of proposals for the annulment of resolutions of the General Meeting for which legal proceedings were not finally completed at the date of filing of the application, if such proposals were raised and could have a significant effect on the further functioning of the company,
- e) a list of managers, and for each such person
  1. identification data,
  2. documents for verification of trustworthiness,
  3. an overview of the functions in the elected bodies and the functions to which the manager has been named or otherwise appointed in other legal persons for the last 10 years, for each legal person identification data, designation of the function performed in another legal person, the period of performance of this function in another legal person and an indication of whether they intend to perform the said function in another legal person concurrently with the performance of the function of manager of the applicant, and
  4. the proposed function of the manager in the organisational structure of the applicant

and a brief description of the performance of this function from the point of view of the delegated powers and responsibilities,

- f) a list of the managers who actually manage activities relating to the provision of payment services, and for each such person
  - 1. information about professional practice and
  - 2. information about education,
- g) the amount of initial capital,
- h) the financial statements of the applicant, if an already established legal person,
- i) a list of persons with a qualifying holding in the applicant and a graphical illustration of the relations between these persons,
- j) for each person in the list of persons with a qualifying holding in the applicant pursuant to (i)
  - 1. identification data,
  - 2. the share in the registered capital or voting rights, expressed as a percentage and absolute value, or a description of another form of exercise of significant influence over the applicant's management,
  - 3. a strategic plan,
  - 4. documents for verification of trustworthiness ,
  - 5. an extract from the Commercial Register or other similar register of entrepreneurs, not over 3 months old, if a legal person or natural person engaged in business,
  - 6. a document associated with the acquisition of a qualifying holding,
  - 7. information about the financial and staffing links between a person with a qualifying holding and another legal person, which contains an overview of the legal persons that the person with the qualifying holding manages or controls, and for each such legal person identification data and data about the amount of the interest, or a description of a different form of exercise of significant influence over the management of this legal person, and an overview of the functions performed in the elected bodies and functions to which the person with a qualifying holding was named or otherwise appointed in other legal persons for the last 10 years, for each such legal person identification data and an indication of the functions performed and the period of their performance in that legal person,
  - 8. information about the financial and staffing relationships between the person with a qualifying holding in the applicant, and persons close to them and the applicant's management and the legal person who controls the applicant,
  - 9. the financial statements and other documents demonstrating the origin of the financial resources from which the acquisition of the qualifying holding was or should be paid, and
  - 10. the supervisory body supervising regulated entities in the State of domicile of a person with a qualifying holding if this is a person that is a regulated institution with their registered office in a State other than the Czech Republic,
- k) a list of the persons who are managers of the legal person indicated in the list of persons with a qualifying holding in the applicant pursuant to (i), and for each such person
  - 1. identification data,
  - 2. a description of the function performed,
  - 3. documents for verification of trustworthiness,
  - 4. an overview of the currently performed functions in the elected bodies and the functions to which the person was named or otherwise appointed in other legal persons, for each such legal person identification data and an indication of the function performed by the manager in this legal person, and

5. information about the financial and staffing relationships between this manager and persons close to them, and the management of the applicant and the legal person who controls the applicant,
- l) information about persons with close links; if a person with close links is a person with registered office in a State that is not a Member State, also an analysis containing a comparison of the relevant legislation to establish whether the legislation of that State and the method of its application, including its enforceability, prevents effective supervision of the applicant,
  - m) general information about the system of regulation of the State of domicile of a person with a qualifying holding in the applicant, which applies to that legal person, and information about the extent to which the regulatory system of the State of domicile of a person with a qualifying holding in the field of preventing the legalisation of the proceeds from crime and the financing of terrorism complies with recommendations of the Financial Action Task Force (FATF) if the person with a qualifying holding in the applicant listed in (i) is a regulated institution with its registered office in a non-Member State,
  - n) a description of the structure of the consolidated group to which the applicant will belong, indicating the persons in the group that will be subject to supervision on a consolidated basis, and
  - o) in the event of the establishment of control, a description of the fact based on which the person indicated in the list of persons with a qualifying holding in the applicant pursuant to letter (i) will become the person controlling the applicant.

(3) If a person with a qualifying holding in the list referred to in paragraph (2)(i) is a regulated institution with registered office in another Member State, the applicant, instead of the data and documents referred to in paragraph (2)(j) points 4, 7 to 9 and (k) and (m), may provide confirmation by that supervisory authority that it is a person subject to its supervision whose trustworthiness it has examined, and that it has no current evidence of any lack of trustworthiness.

(4) The information relating to the requested activity of the payment institution shall be

- a) a business plan; the commentary on the business plan shall also include information that contains
  1. a description of activities showing that the activity in question fulfills the characteristics of a payment service pursuant to Section 8(1) of the Payment System Act,
  2. a description of the method of performance of individual payment services pursuant to Section 8(1) of the Payment System Act and the related activities that the applicant intends to provide, taking into account the individual conditions of the applicant and the involvement of stakeholders, in particular a description of the handling of cash and cashless payment instruments, the course of a payment transaction including the receipt and execution of payment orders, the issuance of payment instruments and the provision of credit,
  3. an indication of whether users' funds will be entrusted to the applicant,
  4. a draft framework agreement on payment services,
  5. the estimated number of employees divided into the relevant organisational units,
  6. a description of the intended use of authorised representatives and branches or the provision of activities by other persons,
  7. a description of the applicant's participation in national or international payment systems,

8. an indication of what amount of payment services quantified by the volume of payment transactions, the number of clients or potentially another quantitative indicator, will be operated in the Czech Republic if payment services are to be provided in another State,
- b) information as to whether the applicant performs or intends to perform another business activity than the provision of payment services, and an indication of such other business activities, including the scope and method of performance,
- c) a description of the management and control system pursuant to Section 20(1) of the Payment System Act, and the decrees governing certain conditions for the performance of the activities of persons authorised pursuant to the Payment System Act and drafts of internal regulations, which shall include in particular
  1. procedures for the recognition, assessment, measurement, monitoring, reporting and reduction of risks, the internal control system and sound administrative and accounting procedures,
  2. procedures for monitoring and resolving security incidents and client complaints, in particular organisational measures and tools to prevent fraud, the person in the applicant's organisational structure responsible for assisting customers in the event of the detection of fraud or technical problems, fraud reporting methods, customer contact points, monitoring tools used, and follow-up measures and procedures to mitigate these security risks,
  3. procedures for submitting, monitoring and recording sensitive data about payments, including the classification of and access to sensitive data,
  4. measures to ensure the continuous operation of the company, based on an analysis of the potential impacts of disruption and restoration of operation, a description of the recovery method, test plans, measures to mitigate the impacts of disruption of operation, a description of the preparation of contingency plans and their periodic review and an assessment of their adequacy and effectiveness,
  5. the principles of the security policy, including an assessment of the risks associated with the activity of the payment institution, including the risk of fraud, security controls, measures for the mitigation of risk and for the effective protection of users from the risks identified and a description of the information system,
  6. the system of internal control mechanisms to meet the obligations related to measures aimed at preventing the legalisation of proceeds from crime and the financing of terrorism, and
  7. a description of the principles and definitions used to effectively collect statistical data related to the performed activity, transactions and detected frauds, including in particular the type of data collected by client, the type of payment service, the scope of data collected, the purpose and periodicity of data collection, and a description of the operation of the data collection system and the ensuring of the protection of personal data,
- d) an insurance contract or a draft of an insurance contract or other document of a similar nature about the provision of a guarantee pursuant to Section 9(1)(d) and Article 17(1) and (2) of the Payment System Act, where the authorisation for the activity of a payment institution should relate to the indirect payment order service or to the payment account information service, a calculation of the minimum limit of the insurance settlement from professional liability insurance or the minimum amount of comparable collateral pursuant to the decree governing certain conditions for the performance of activities of persons authorised under the Payment System Act,
- e) the method chosen for the protection of the funds entrusted for the performance of a

payment transaction; depending on the chosen method of protection pursuant to Section 22(1) or (2) of the Payment System Act, and

1. procedures for ensuring the proper and separate recording of funds entrusted through their deposit on a separate account at a bank, credit union, a foreign bank with registered office in a Member State or a foreign bank with registered office in a non-Member State that is subject to supervision comparable to that of the Czech National Bank (“credit institution”) or through their investment, a contract with a credit institution or a draft agreement with the promise of its conclusion by a credit institution, an indication of the person in the organisational arrangement of the applicant who will have the right to access that account, and
  2. the rules for investing entrusted funds in safe and liquid assets, and the method of ensuring the protection of the entrusted funds from claims of other creditors of the applicant, in particular in the event of insolvency, or
  3. a draft insurance contract or other document on the provision of comparable collateral together with a confirmation from the person pursuant to Article 22(3) or (4) of the Payment System Act that if authorisation to operate a payment institution is issued, the contract will be concluded,
- f) a draft of the approach exercised by the payment institution for the calculation of capital adequacy, and justification for the proposed approach, the data used for capital adequacy calculations and capital adequacy calculations according to all approaches structured according to the payment institution’s capital report provided for in the Decree on Information Obligations of Certain Persons pursuant to the Payment System Act.

(5) If the applicant intends to entrust the performance of certain operating activities relating to the provision of payment services to another person, they shall also submit

- a) a description of the principles of the performance of the activity by another person and their selection, and an indication of the operating activities whose performance is to be entrusted to another person, potentially the scope of the activities entrusted to them,
- b) identification data of the person to be entrusted with the performance of certain operating activities, if such data are known at the time of the application,
- c) a draft model contract between the payment institution and the person to be entrusted with the performance of the operating activities,
- d) a description of the staffing, technical and organisational security of the applicant's activity, taking into account the entrusting of the performance of some operating activities to another person,
- e) the method of management, control and security of operations whose performance has been entrusted to another person, and
- f) an indication of the section in the organisational structure of the applicant and the functional classification of the person directly responsible for the management and control of the operating activities entrusted to another person.

(6) If the applicant intends to use an authorised representative, they shall also submit

- a) information about
  1. the method of ensuring control over compliance of the authorised representative's activities with the applicable legislation and the authorisation to operate a payment institution, the method of ensuring quality control over the payment services provided by the authorised representative, and compliance with obligations aimed at preventing the legalisation of proceeds from crime and the financing of terrorism,
  2. the method and periodicity of the provision of documents by the authorised



- representative for the performance of the information obligation of the payment institution towards the Czech National Bank,
3. the method of performing an authorised representative's training to ensure the required quality of the payment services provided and compliance with the applicable legislation,
  4. the selected criteria for assessing the trustworthiness, professional competence and sufficient experience of the authorised representative, if they are a natural person, and of the manager of the authorised representative, with the list of documents that the applicant will require for these purposes from the authorised representative,
  5. the method of continuous verification of the trustworthiness, professional competence and sufficient experience of each person pursuant to point 4, and
  6. the method for keeping, recording and updating the data about each person referred to in point 4, and
- b) a draft model contract between the payment institution and the authorised representative.

#### Article 4

### **Details of a notification of a change in information indicated in an application to operate a payment institution**

(Re Article 11(2) of the Payment System Act)

The details of a notification of a change in information given in an application to operate a payment institution means a specification of the information that will be changed, supplemented depending on the nature of the change with updated information pursuant to Article 3(2) to (4) or, where applicable, paragraphs (5) and (6).

#### Article 5

### **Details of an application to expand the scope of payment services of a payment institution**

(Re Article 14 of the Payment System Act)

The details of an application by a payment institution to expand the scope of payment services means an indication of the activity that is the subject of the application, supplemented with updated information pursuant to Article 3(2) and (4), which are impacted by the change in the scope of activity.

#### Article 6

### **Details of an application to operate a payment account information administrator**

(Re Article 43(3) of the Payment System Act)

(1) The details of an application to operate a payment account information administrator shall include information about the applicant, information related to the performance of the activity of the payment account information administrator, and the documents that contain this information.

(2) Information about the applicant means

- a) the founding legal acts,
- b) an extract from the Commercial Register or other similar register of entrepreneurs, not over 3 months old, if a legal person or natural person already engaged in business,
- c) the actual registered office, if different from the applicant's registered office,
- d) a list of proposals for the annulment of resolutions of the General Meeting for which legal proceedings were not finally completed at the date of filing of the application, if such proposals were raised and could have a significant effect on the further functioning of the

company,

- e) the applicant's financial statements,
- f) data necessary to acquire an extract from the Criminal Register, if a natural person,
- g) a statement by the applicant that there is no evidence of any obstacle to the pursuit of the trade under the legislation governing the conduct of trade license business,
- h) a certificate of integrity issued by a foreign State,
- i) a certificate of legal capacity if the applicant is a natural person,
- j) a list of managers, and for each such person
  1. identification data, and
  2. documents for verification of trustworthiness,
- k) a list of the managers who actually manage activities in the field of the provision of a payment account information service, and for each such person
  1. information about professional experience, and
  2. information about education.

(3) Information related to the performance of the activity of a payment account information administrator means

- a) a business plan; the commentary on the business plan shall also include information that contains
  1. a description of the activity showing that the activity in question complies with the nature of a payment account information service,
  2. a description of the method of providing the activity pursuant to point 1 and the related activities that the applicant intends to provide, taking into account the individual conditions of the applicant and the conditions and rules for the provision of the payment account information service, including the processing time,
  3. a declaration by the applicant that users' funds will not be entrusted to the applicant,
  4. a draft contract between the stakeholders related to the payment account information service provided,
  5. the estimated number of employees divided into the relevant organisational units,
  6. a description of the intended use of authorised representatives and branches or the provision of activities by other persons, and
  7. a draft model contract between the payment account information administrator and the person to be entrusted with the execution of the operating activities, if the applicant intends to transfer any operating activity to another person,
- b) a description of the management and control system pursuant to Section 48(1) of the Payment System Act and the decrees governing certain conditions for the performance of the activities of persons authorised pursuant to the Payment System Act and drafts of internal regulations, which shall include in particular
  1. procedures for the recognition, assessment, measurement, monitoring, reporting and reduction of risks, the internal control system and sound administrative and accounting procedures,
  2. procedures for monitoring and resolving security incidents and client complaints, in particular organisational measures and tools to prevent fraud, the person in the applicant's organisational structure responsible for assisting customers in the event of the detection of fraud or technical problems, fraud reporting methods, customer contact points, monitoring tools used, and follow-up measures and procedures to mitigate these security risks,
  3. procedures for submitting, monitoring and recording sensitive data about payments, including the classification of and access to sensitive data,

4. measures to ensure the continuous operation of the company, based on an analysis of the potential impacts of disruption and restoration of operation, a description of the recovery method, test plans, measures to mitigate the impacts of disruption of operation, a description of the preparation of contingency plans and their periodic review and an assessment of their adequacy and effectiveness,
  5. the principles of the security policy, including an assessment of the risks associated with the activity of the payment account information administrator, including the risk of fraud, security controls, measures for the mitigation of risk and for the effective protection of users from the risks identified, and a description of the information system,
- c) an insurance contract or a draft of an insurance contract or other document of a similar nature about the provision of a guarantee pursuant to Section 42(1)(c) and Article 46(1) of the Payment System Act, and a calculation of the minimum limit of the insurance settlement from professional liability insurance or minimum amount of comparable collateral pursuant to the decree governing certain conditions for the performance of activities of persons authorised under the Payment System Act,
- d) information as to whether the applicant performs or intends to perform another business activity than the payment account information service, and an indication of such other business activity, including the scope and method of performance,

(4) If the applicant intends to use an authorised representative in the host Member State, they shall also submit

- a) information about
1. the method of verifying the internal control mechanisms of the authorised representative from the perspective of compliance with the obligations aimed at preventing the legalisation of proceeds from crime and the financing of terrorism,
  2. the method and periodicity of the provision of documents by the authorised representative to comply with the information obligation of the payment account information administrator towards the Czech National Bank,
  3. the selected criteria for assessing the trustworthiness, professional competence and sufficient experience of the authorised representative, if they are a natural person, and a manager of the authorised representative, with the list of documents that the applicant shall request for these purposes from the authorised representative,
  4. the method of continuous verification of the trustworthiness, professional competence and sufficient experience of each person pursuant to point 3, and
  5. the method for keeping, recording and updating the data about each person referred to in point 3, and
- b) a draft model contract between the payment account information administrator and the authorised representative.

#### Article 7

#### **Details of a notification of a change in information indicated in an application for authorisation**

(Re Article 44(2) of the Payment System Act)

The details of a notification of a change in information given in an application to operate a payment account information administrator means a specification of the information that will be changed, supplemented depending on the nature of the change with updated information pursuant to Article 6 impacted by the change.

## Article 8

### **Details of an application to operate an electronic money institution**

(Re Article 69(4) of the Payment System Act)

(1) The details of an application to operate an electronic money institution shall include information about the applicant, information related to the activity of the electronic money institution and the documents that contain this information.

(2) Information about the applicant means

- a) the founding legal acts,
- b) an extract from the Commercial Register or other similar register of entrepreneurs, not over 3 months old, if an already established legal person,
- c) the actual registered office, if different from the applicant's registered office,
- d) a list of proposals for the annulment of resolutions of the General Meeting for which legal proceedings were not finally completed at the date of filing of the application, if such proposals were raised and could have a significant effect on the further functioning of the company,
- e) a list of managers, and for each such person
  1. identification data,
  2. documents for verification of trustworthiness,
  3. an overview of the functions in the elected bodies and the functions to which the manager has been named or otherwise appointed in other legal persons for the last 10 years, for each legal person identification data, designation of the function performed in another legal person, the period of performance of this function in another legal person and an indication of whether they intend to perform the said function in another legal person concurrently with the performance of the function of manager of the applicant, and
  4. the proposed function of the manager in the organisational structure of the applicant and a brief description of the performance of this function from the point of view of the delegated powers and responsibilities,
- f) a list of the managers who actually manage activities in the field of the issuing of electronic money and the provision of payment services, and for each such person
  1. information about professional practice and
  2. information about education,
- g) the amount of initial capital,
- h) the financial statements of the applicant, if an already established legal person,
- i) a list of persons with a qualifying holding in the applicant and a graphical illustration of the relations between these persons,
- j) for each person in the list of persons with a qualifying holding in the applicant pursuant to (i)
  1. identification data,
  2. the share in the registered capital or voting rights, expressed as a percentage and the absolute value, or a description of another form of exercise of significant influence over the applicant's management,
  3. a strategic plan,
  4. documents for verification of trustworthiness,
  5. an extract from the Commercial Register or other similar register of entrepreneurs, not over 3 months old, if a legal person or natural person engaged in business,
  6. a document associated with the acquisition of a qualifying holding,

7. information about the financial and staffing links between a person with a qualifying holding and another legal person, which contains an overview of the legal persons that the person with the qualifying holding manages or controls, and for each such legal person identification data and data about the interest, or a description of a different form of exercise of significant influence over the management of this legal person, and an overview of the functions performed in the elected bodies and functions to which the person with a qualifying holding was named or otherwise appointed in other legal persons for the last 10 years, for each such legal person identification data and an indication of the functions performed and the period of their performance in that legal person,
  8. information about the financial and staffing relationships between the person with a qualifying holding in the applicant, and persons close to them and the applicant's management and the legal person who controls the applicant,
  9. the financial statements and other documents demonstrating the origin of the financial resources from which the acquisition of the qualifying holding was or should be paid, and
  10. the supervisory body supervising regulated entities in the State of domicile of a person with a qualifying holding if this is a person that is a regulated institution with its registered office in a State other than the Czech Republic,
- k) a list of the persons who are managers of the legal person indicated in the list of persons with a qualifying holding in the applicant pursuant to (i), and for each such person
    1. identification data,
    2. a description of the function performed,
    3. documents for verification of trustworthiness,
    4. an overview of the currently performed functions in the elected bodies and the functions to which the person was named or otherwise appointed in other legal persons, for each such legal person identification data and an indication of the function performed by the manager in this legal person, and
    5. information about the financial and staffing relationships between this manager and persons close to them and the management of the applicant and the legal person who controls the applicant,
  - l) information about persons with close links; if a person with a close link is a person with registered office in a State that is not a Member State, also an analysis containing a comparison of the relevant legislation to establish whether the legislation of that State and the method of its application, including its enforceability, prevents effective supervision of the applicant,
  - m) general information about the system of regulation of the State of domicile of a person with a qualifying holding in the applicant, which applies to that legal person, and information about the scope to which the regulatory system of the State of domicile of a person with qualifying holding in the field of preventing the legalisation of the proceeds from crime and the financing of terrorism complies with recommendations of the Financial Action Task Force (FATF) if the person with a qualifying holding in the applicant listed in (i) is a regulated institution with its registered office in a non-Member State,
  - n) a description of the structure of the consolidated group to which the applicant will belong, indicating the persons in the group that will be subject to supervision on a consolidated basis, and
  - o) in the event of the establishment of control, a description of the fact based on which the person indicated in the list of persons with a qualifying holding in the applicant pursuant

to letter (i) will become the person controlling the applicant.

(3) If a person with a qualifying holding included in the list referred to in paragraph (2)(i) is a regulated institution with registered office in another Member State, the applicant, instead of the data and documents referred to in paragraph (2)(j) points 4, 7 to 9 and (k) and (m), may provide confirmation by that supervisory authority that it is a person subject to its supervision whose trustworthiness it has examined, and that it has no current evidence of any lack of trustworthiness.

(4) The information relating to the requested activity of the electronic money institution shall be

- a) a business plan; the commentary on the business plan shall also include information that contains
  1. a description of activities pursuant to Section 67(1) of the Payment System Act,
  2. a description of the method of performance of individual activities pursuant to Section 67(1) of the Payment System Act and the related activities that the applicant intends to provide, taking into account the individual conditions of the applicant and the involvement of the stakeholders, in particular a description of the issuing and storage of electronic money and the performance of payment transactions with it, including their redemption, the handling of cash and cash-free payment means, the course of a payment transaction including the receipt and execution of payment orders, the issuance of payment instruments and the provision of credit,
  3. a draft contract between the electronic money issuer and the electronic money holder,
  4. the estimated number of employees divided into the relevant organisational units,
  5. a description of the intended use of authorised representatives and branches or the provision of activities by other persons, and
  6. a description indicating that the activity complies with the characteristics of a payment service pursuant to Section 8(1) of the Payment System Act if the applicant intends to provide payment services, as well as an indication as to whether the applicant will be entrusted with the funds of the users, a description of the applicant's participation in the national or international payment systems, and a proposal for a framework agreement on payment services, as well as an indication of which part of the payment services quantified by the volume of payment transactions, the number of clients or other quantitative indicator will be operated in the Czech Republic if the payment services are also to be provided in another State,
- b) information as to whether the applicant performs or intends to perform another business activity than the issue of electronic money or the provision of payment services, if it intends to provide them, and an indication of such other business activity, including the scope and method of performance,
- c) a description of the management and control system pursuant to Section 78(1) of the Payment System Act, and the decrees governing certain conditions for the performance of the activities of persons authorised pursuant to the Payment System Act and drafts of internal regulations, which shall include in particular
  1. procedures for the recognition, assessment, measurement, monitoring, reporting and reduction of risks, the internal control system and sound administrative and accounting procedures,
  2. procedures for monitoring and resolving security incidents and client complaints, in particular organisational measures and tools to prevent fraud, the person in the applicant's organisational structure responsible for assisting customers in the event of the detection of fraud or technical problems, fraud reporting methods, customer contact points, and monitoring tools used, and follow-up measures and procedures to

- mitigate these security risks,
3. procedures for submitting, monitoring and recording sensitive data about payments, including the classification of and access to sensitive data,
  4. measures to ensure the continuous operation of the company, based on an analysis of the potential impacts of disruption and restoration of operation, a description of the recovery method, test plans, measures to mitigate the impacts of disruption of operation, a description of the preparation of contingency plans and their periodic review and an assessment of their adequacy and effectiveness,
  5. the principles of the security policy, including an assessment of the risks associated with the activity of the payment institution, including the risk of fraud, security controls, measures for the mitigation of risk and for the effective protection of users from the risks identified and a description of the information system,
  6. the system of internal control mechanisms to meet the obligations related to measures aimed at preventing the legalisation of proceeds from crime and the financing of terrorism, and
  7. a description of the principles and definitions used to effectively collect statistical data related to the performed activity, transactions and detected frauds, including in particular the type of data collected by client, the type of payment service, the scope of data collected, the purpose and periodicity of data collection, and a description of the operation of the data collection system and the ensuring of the protection of personal data,
- d) an insurance contract or a draft of an insurance contract or other document of a similar nature about the provision of a guarantee pursuant to Section 68(1)(d) and Article 75(1) and (2) of the Payment System Act, where the authorisation for the activity of a payment institution should relate to the indirect payment order service or to the payment account information service, a calculation of the minimum limit of the insurance settlement from the professional liability insurance or minimum amount of comparable collateral pursuant to the decree governing certain conditions for the performance of activities of persons authorised under the Payment System Act,
- e) the chosen method of protection of funds pursuant to Article 80(1) or (2) of the Payment System Act in the case of funds against the receipt of which electronic money is to be issued, or which the users have entrusted for the performance of a payment transaction not related to electronic money; depending on the method of protection chosen, also
1. procedures for ensuring the proper and separate recording of funds entrusted through their deposit on a separate account at a credit institution or through their investment, a contract with a credit institution or a draft agreement with the promise of its conclusion by a credit institution, an indication of the person in the organisational arrangement of the applicant who will have the right to access that account, and
  2. the rules for investing entrusted funds in safe and liquid assets, and the method of ensuring the protection of the entrusted funds from claims of other creditors of the applicant, in particular in the event of insolvency, or
  3. a draft insurance contract or other document on the provision of comparable collateral together with a confirmation of the person pursuant to Article 80(3) or (4) of the Payment System Act that if authorisation to operate an electronic money institution is issued, the contract will be concluded,
- f) a draft of the approach exercised by the electronic money institution for the calculation of capital adequacy to cover the risks associated with the provision of payment services that do not apply to electronic money, including justification for the proposed approach, the data used for capital adequacy calculations and the capital adequacy calculations according to all approaches structured according to the electronic money institution's

capital report provided for in the Decree on Information Obligations of Certain Persons Pursuant to the Payment System Act.

(5) If the applicant intends to entrust the performance of certain operating activities relating to the issuing of electronic money to another person, they shall also submit

- a) a description of the principles of the performance of the activity by another person and their selection, and an indication of the operating activities whose performance is to be entrusted to another person, potentially the scope of the activities entrusted to them,
- b) identification data of the person to be entrusted with the performance of certain operating activities, if such data are known at the time of the application,
- c) a draft model contract between the electronic money institution and the person to be entrusted with the performance of the operating activities,
- d) a description of the staffing, technical and organisational security of the applicant's activity, taking into account the entrusting of the performance of some operating activities to another person,
- e) the method of management, control and security of operations whose performance has been entrusted to another person, and
- f) an indication of the section in the organisational structure of the applicant and the functional classification of the person directly responsible for the management and control of the operating activities entrusted to another person.

(6) If the applicant intends to use an authorised representative, they shall also submit

- a) information about
  1. the method of ensuring control over compliance of the authorised representative's activities with the applicable legislation and the authorisation to operate an electronic money institution, the method of ensuring quality control over the provided payment services by the authorised representative, and compliance with obligations aimed at preventing the legalisation of proceeds from crime and the financing of terrorism,
  2. the method and periodicity of the provision of documents by the authorised representative for the performance of the information obligation of the electronic money institution towards the Czech National Bank,
  3. the method of performing an authorised representative's training to ensure the required quality of the payment services provided and compliance with the applicable legislation,
  4. the selected criteria for assessing the trustworthiness, professional competence and sufficient experience of the authorised representative, if they are a natural person, and of the manager of the authorised representative, with a list of documents that the applicant will require for these purposes from the authorised representative,
  5. the method of continuous verification of the trustworthiness, professional competence and sufficient experience of each person pursuant to point 4, and
  6. the method for keeping, recording and updating the data about each person referred to in point 4, and
- b) a draft model contract between the electronic money institution and the authorised representative.

#### Article 9

#### **Details of a notification of a change in information indicated in an application to operate an electronic money institution**

(Re Article 70(2) of the Payment System Act)



The details of a notification of a change in information given in an application to operate an electronic money institution means a specification of the information that will be changed, supplemented depending on the nature of the change with updated information pursuant to Article 8(2) to (4) or, where applicable, paragraphs (5) and (6), impacted by the change.

#### Article 10

### **Details of an application to expand the scope of payment services of an electronic money institution**

(Re Article 73 of the Payment System Act)

The details of an application by an electronic money institution to expand the scope of payment services that do not relate to electronic money means an indication of the activity that is the subject of the application for expansion, supplemented with updated information pursuant to Article 8(2) and (4), which are impacted by the change in the scope of activity.

#### Article 11

### **Details of an application to operate a small-scale payment services provider**

(Re Article 60(3) of the Payment System Act)

(1) The details of an application to operate a small-scale payment services provider shall include information about the applicant, information related to the performance of the required activity, and the documents that contain this information.

(2) Information about the applicant means

- a) the founding legal acts,
- b) an extract from the Commercial Register or other similar register of entrepreneurs, not over 3 months old, if a legal person or natural person engaged in business,
- c) the actual registered office, if different from the applicant's registered office,
- d) data necessary to acquire an extract from the Criminal Register, if a natural person,
- e) a statement by the applicant that there is no evidence of any obstacle to the pursuit of the trade under the legislation governing the conduct of trade license business,
- f) a certificate of integrity issued by a foreign State,
- g) a certificate of legal capacity if the applicant is a natural person,
- h) a list of managers, and for each such person
  1. identification data,
  2. data necessary to acquire an extract from the Criminal Register, and
  3. a certificate of integrity issued by a foreign State,
- i) a list of persons with a qualifying holding in the applicant and a graphical illustration of the relations between these persons,
- j) for each person with a qualifying holding in the applicant indicated in the list pursuant to (i)
  1. identification data,
  2. data necessary to acquire an extract from the Criminal Register, if they are a natural person,
  3. an extract from the Commercial Register or other similar register of entrepreneurs, not over 3 months old,
  4. a certificate of integrity issued by a foreign State,
  5. the share in the registered capital or voting rights, expressed as a percentage and the absolute value, or a description of another form of exercise of significant influence over the applicant's management, and

k) if the applicant is a member of a group that includes another small-scale payment services provider whose payment transactions will be counted in the limit under Section 58(2) of the Payment System Act, identification data for that other small-scale payment services provider, a description of the group structure and the method of interlinking with a graphical representation of relationships between the individual members of the group.

(3) The information related to the operation of a small-scale payment services provider shall be

a) a business plan

1. in which the applicant also assesses compliance with the limits pursuant to Article 58(2) of the Payment System Act, while a plan for the first 12 months of the operation of the required activities is sufficient; if the applicant is a member of a group that includes another small-scale payment services provider whose payment transactions will be counted in the limit under Section 58(2) of the Payment System Act, the applicant shall submit the expected volume of payment transactions for the applicant and other small-scale payment services providers belonging to the group, as well as data on the current volume of payment transactions made by other small-scale payment services providers belonging to the group for the past 12 months, and
2. will attach information to this that includes an indication of the activity pursuant to Section 8(1) of the Payment System Act and a description of the method of performing the individual payment services pursuant to Section 8(1) of the Payment System Act the related activities that the applicant intends to provide, taking into account the individual conditions of the applicant, in particular a description of the handling of cash and cashless payment instruments, the course of a payment transaction including the receipt and execution of payment orders, the issuance of payment instruments and the provision of credit,

b) the method chosen for the protection of the funds entrusted for the performance of a payment transaction; depending on the chosen method of protection pursuant to Section 22(1) or (2) of the Payment System Act, and

1. procedures for ensuring the proper and separate recording of funds entrusted through their deposit on a separate account at a credit institution or through their investment, a contract with a credit institution or a draft agreement with the promise of its conclusion by a credit institution, an indication of the person in the organisational arrangement of the applicant who will have the right to access that account,
2. the rules for investing entrusted funds in safe and liquid assets, and the method of ensuring the protection of the entrusted funds from claims of other creditors of the applicant, in particular in the event of insolvency, or
3. a draft insurance contract or other document on the provision of comparable collateral together with a confirmation by the person pursuant to Article 22(3) or (4) of the Payment System Act that if authorisation to operate a small-scale payment services provider is issued, the contract will be concluded,

c) a description of the security and operational risk management system, including the risk management rules reflected in an internal regulation of the applicant, and

d) a description of the complaints and claims settlement system, including the rules for dealing with complaints and claims reflected in an internal regulation of the applicant.

(4) If the applicant intends, as part of activities pursuant to Section 8(1)(b) of the Payment System Act, to provide consumer credit under the Consumer Credit Act, they must also attach

documents about the amount of initial capital<sup>1)</sup> and documents demonstrating the origin of the applicant's financial resources.

#### Article 12

##### **Details of a notification of a change in information indicated in an application to grant authorisation to operate a small-scale payment services provider**

(Re Article 61(2) of the Payment System Act)

The details of a notification of a change in information given in an application to operate a small-scale payment services provider means a specification of the information that will be changed, supplemented depending on the nature of the change with updated information pursuant to Article 11(2) to (4), which are impacted by the change.

#### Article 13

##### **Details of an application to expand the scope of payment services of a small-scale payment services provider**

(Re Article 64 of the Payment System Act)

The details of an application by a small-scale payment services provider to expand the scope of payment services means an indication of the activity that is the subject of the application, supplemented with updated information pursuant to Article 11(3) and (4), which are impacted by the change in the scope of activity.

#### Article 14

##### **Details of an application to operate a small-scale electronic money issuer**

(Re Article 101(3) of the Payment System Act)

(1) The details of an application to operate a small-scale electronic money issuer shall include information about the applicant, information related to the performance of the required activity, and the documents that contain this information.

(2) Information about the applicant means

- a) the founding legal acts,
- b) an extract from the Commercial Register or other similar register of entrepreneurs, not over 3 months old,
- c) the actual registered office, if different from the applicant's registered office,
- d) a statement by the applicant that there is no evidence of any obstacle to the pursuit of the trade under the legislation governing the conduct of trade license business,
- e) a certificate of integrity issued by a foreign State,
- f) a list of managers, and for each such person
  1. identification data,
  2. data necessary to acquire an extract from the Criminal Register, and
  3. a certificate of integrity issued by a foreign State,
- g) a list of persons with a qualifying holding in the applicant and a graphical illustration of the relations between these persons,
- h) for each person with a qualifying holding indicated in the list pursuant to letter (g)

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<sup>1)</sup> Article 3(1)(k) of Act No 257/2016, on consumer credit.

1. identification data,
  2. data necessary to acquire an extract from the Criminal Register, if a natural person,
  3. an extract from the Commercial Register or other similar register of entrepreneurs, not over 3 months old,
  4. a certificate of integrity issued by a foreign State, and
  5. information about the share in the registered capital or voting rights, expressed as a percentage and the absolute value, or an indication and description of another form of exercise of significant influence over the applicant's management, and
- i) if the applicant is a member of a group that includes another small-scale electronic money issuer whose payment transactions will be counted in the limit under Section 99(3) of the Payment System Act, identification data for that other small-scale electronic money issuer, a description of the group structure and the method of interlinking with a graphical representation of relationships between the individual members of the group.

(3) The information related to the operation of a small-scale electronic money issuer shall be

- a) a business plan,
1. in which the applicant also assesses compliance with the limits pursuant to Article 99(2) of the Payment System Act, potentially pursuant to Article 99(3) of the Payment System Act, while a plan for the first 12 months of the operation of the required activities is sufficient; if the applicant is a member of a group that includes another small-scale electronic money issuer whose payment transactions will be counted in the limit under Section 99(3) of the Payment System Act, the applicant shall submit the expected volume of payment transactions for the applicant and other small-scale electronic money issuers, as well as data on the current volume of payment transactions made by other small-scale electronic money issuers belonging to the group for the past 12 months, and
  2. will attach information to this whose content is an indication of the activity pursuant to Section 67(1) of the Payment System Act and a description of the method of performing the individual payment services pursuant to Section 67(1) of the Payment System Act and the related activities that the applicant intends to provide, taking into account the individual conditions of the applicant, in particular a description of the issuing and keeping of the electronic money and the performance of payment transactions with it, including their exchange, the handling of cash and non-cash means of payment, the course of a payment transaction including the receipt and execution of payment orders, the issuance of means of payment and the provision of credit,
- b) the chosen method of protection of funds pursuant to Article 80(1) or (2) of the Payment System Act in the case of funds against the receipt of which electronic money is to be issued, or which have been entrusted for the performance of a payment transaction not related to electronic money; depending on the method of protection chosen, also
1. procedures for ensuring the proper and separate recording of funds entrusted through their deposit on a separate account at a credit institution or through their investment, a contract with a credit institution or a draft agreement with the promise of its conclusion by a credit institution, an indication of the person in the organisational arrangement of the applicant who will have the right to access that account,
  2. the rules for investing entrusted funds in safe and liquid assets, and the method of ensuring the protection of the entrusted funds from claims of other creditors of the applicant, in particular in the event of insolvency, or
  3. a draft insurance contract or other document on the provision of comparable collateral

together with a confirmation of the person pursuant to Article 80(3) or (4) of the Payment System Act that if authorisation to operate a small-scale electronic money issuer is issued, the contract will be concluded,

- c) a description of the security and operational risk management system, including the risk management rules reflected in an internal regulation of the applicant, and
- d) a description of the complaints and claims settlement system, including the rules for dealing with complaints and claims reflected in an internal regulation of the applicant.

(4) If the applicant intends, as part of activities pursuant to Section 67(1)(d) of the Payment System Act, to provide consumer credit under the Consumer Credit Act, they must also attach documents about the amount of initial capital<sup>1)</sup> and documents demonstrating the origin of the applicant's financial resources.

#### Article 15

##### **Details of a notification of a change in information indicated in an application to operate a small-scale electronic money issuer**

(Re Article 102(2) of the Payment System Act)

The details of a notification of a change in information given in an application to operate a small-scale electronic money issuer means a specification of the information that will be changed, supplemented depending on the nature of the change with updated information pursuant to Article 14(2) to (4), which are impacted by the change.

#### Article 16

##### **Details of an application to expand the scope of payment services of a small-scale electronic money issuer**

(Re Article 105 of the Payment System Act)

The details of an application to expand the scope of payment services that do not relate to electronic money means an indication of the activity that is the subject of the application for expansion, supplemented with updated information pursuant to Article 14(3) and (4), which are impacted by the change in the scope of activity.

#### Article 17

##### **The details of a notification of an intention to acquire or increase a qualifying holding in a payment institution or an electronic money institution, or to control it**

(Re Article 18(6) and Article 76(6) of the Payment System Act)

(1) The details of a notification of an intention of a person or persons acting in concert to acquire or increase a qualifying holding in a payment institution or an electronic money institution or to control it (the “acquirer”) shall be

- a) identification data about the person regarding whom the qualifying holding is to be acquired or increased, or that should be controlled,
- b) an indication of the existing, newly acquired and resulting interest in the registered capital or voting rights expressed as a percentage and absolute value,
- c) a strategic plan,
- d) documents for verification of trustworthiness of the acquirer,

- e) an extract from the Commercial Register or other similar register of entrepreneurs, not over 3 months old, if the acquirer is a legal person or natural person engaged in business,
- f) the financial statements of the acquirer and other documents demonstrating the origin of the financial resources from which the acquisition or increase in the qualifying holding should be paid,
- g) a document associated with the acquisition of a qualifying holding by the acquirer,
- h) information about the financial and staffing relationships of the acquirer and persons close to them to the payment institution's or electronic money institution's management and the legal person that controls the payment institution or electronic money institution,
- i) information about the financial and staffing links of the acquirer and other legal person, which contains an overview
  1. of the legal persons the acquirer manages or controls, for each legal person the identification data and the amount of the interest, or a description of another form of exercise of significant influence over the management of that legal person, and
  2. functions in the elected bodies and functions to which the acquirer has been named or otherwise appointed in other legal persons for the last 10 years, for each such legal person the identification data about the person, indicating the function performed by the acquirer and the period of office in this legal person,
- j) a list of persons who, acting in concert, have, will acquire, or will increase a qualifying holding in the payment institution or electronic money institution, or that control it, with graphically illustrated relations between such persons and for each such person
  1. identification data,
  2. data on the amount of the interest in the payment institution or electronic money institution for the individual persons acting in concert and the total for these persons,
  3. a description of the facts based on which concerted action takes place,
- k) a list of the managers of the acquirer, if the acquirer is a legal person, and for each such person
  1. identification data,
  2. a description of the function performed,
  3. documents for verification of trustworthiness,
  4. an overview of the currently performed functions in elected bodies and the functions to which the manager was named or otherwise appointed, in other legal persons, for each such legal person identification data and an indication of the function performed, and
  5. information about the financial and staffing relationships of the acquirer and persons close to them to the management of the payment institution or electronic money institution and the legal person that controls the payment institution or electronic money institution,
- l) data on persons with close links that make up a group of which the payment institution or electronic money institution should become part after the acquisition or increase in the qualifying holding by the acquirer; if a person with a close link is a person with registered office in a State that is not a Member State, also an analysis of whether the legislation of that State and the method of its application, including the enforceability of the law, prevents effective supervision over the payment institution or electronic money institution,
- m) a supervisory body supervising regulated entities in the State of domicile of the acquirer, if this is a person that is a regulated institution with its registered office in a State other than the Czech Republic,
- n) general information on the regulatory system in the State of domicile of the acquirer that

applies to it, and information about the scope to which the system of the State of domicile of the acquirer - in terms of the prevention of the legalisation of proceeds from crime and the financing of terrorism - is in line with Financial Action Task Force (FATF) recommendations if the acquirer is a regulated institution with registered office in a State that is not a Member State,

- o) a description of the structure of the consolidated group of which the payment institution or electronic money institution will be part after the acquisition of a qualifying holding or control, indicating the persons within the group that will be subject to the supervision on a consolidated basis, and
- p) a description of the fact based on which the domestic payment institution or electronic money institution is controlled, if such control is to take place, and a document demonstrating the origin of the funds that should be used to purchase the interest of a shareholder that is not a controlling person,

(2) If the acquirer is a legal person with registered office in another Member State, and is a regulated institution, and if this person is subject to supervision by a body supervising regulated institutions, the acquirer, instead of the data and documents referred to in paragraph (1)(d)(h)(i)(k) and (n), may provide confirmation by that supervisory authority that it is a person subject to its supervision whose trustworthiness it has examined, and that it has no current evidence of any lack of trustworthiness.

(3) If, in connection with the acquisition or increase of a qualifying holding in a payment institution or an electronic money institution, or its control, a change to the management of the payment institution or an electronic money institution occurs, the notification shall also include

- a) identification data of the person proposed to the management, indicating the function to be performed,
- b) information as to whether there will be a change in the number of persons with management functions or the replacement of an existing person with a management function; in the event of a change in the number of persons with management functions, information as to whether and to what scope the proposed change is associated with a change in powers and responsibilities; in the event of the replacement of an existing person with a management function, then also an indication of the person with a management function being replaced,
- c) the updated organisational structure, if it is changed in relation to a change in the number of managers or a change in powers and responsibilities, and
- d) for the proposed manager
  1. documents for verification of trustworthiness,
  2. an overview of the functions in the elected bodies and the functions to which the manager has been named or otherwise appointed in other legal persons for the last 10 years, for each legal person identification data, designation of the function performed in another legal person, the period of performance of this function in another legal person and an indication of whether they intend to perform the said function in another legal person concurrently with the performance of the function of manager of the applicant, and
  3. a concise description of the function of the manager in the organisational structure of the payment institution or electronic money institution from the point of view of the delegated powers and responsibilities.

## Article 18

### **The details of a notification of an intention to forfeit or reduce a qualifying holding in a payment institution or an electronic money institution, or an intention to cease controlling such institution**

(Re Article 18(6) and Article 76(6) of the Payment System Act)

The details of a notification of an intention to forfeit or reduce a qualifying holding in a payment institution or an electronic money institution, or an intention to cease controlling such institution shall be

- a) identification data about the person regarding whom the qualifying holding is to be forfeit or reduced, or that should no longer be controlled,
- b) an indication of the existing and resulting interest in the registered capital or voting rights expressed as a percentage and absolute value,
- c) details of the person to whom the interest is to be transferred, if this information is known, and
- d) the date on which the forfeit or reduction of a qualifying holding is to take place or on which it will cease to control a payment institution or electronic money institution, if that information is known at the time of the notification.

## Article 19

### **Details of a notification of an authorised representative of a payment institution or electronic money institution and notification of a change in data indicated in the notification of an authorised representative**

(Re Article 27(4), Article 28(3) and Article 86(4) and Article 87(3) of the Payment System Act)

(1) The details of a notification of an authorised representative of a payment institution or electronic money institution shall be

- a) the identification data of the authorised representative and for each manager of the authorised representative,
- b) the payment services to be provided by the authorised representative for a payment institution or an electronic money institution, and
- c) a declaration by the payment institution or an electronic money institution that
  1. the internal control mechanisms of the authorised representative are appropriate from the perspective of compliance with the obligations related to measures aimed at preventing the legalisation of proceeds from crime and the financing of terrorism, and
  2. the authorised representative, if a natural person, and the manager of the authorised representative under point (a) are persons who are trustworthy, professionally competent and have sufficient experience with regard to the sound and prudent provision of payment services.

(2) Details of a notification of a change in data indicated in the notification of an authorised representative of a payment institution or electronic money institution shall be

- a) a specification of the change in the data about the authorised representative containing the existing data entered in the relevant list kept by the Czech National Bank and the data that should be entered in the list, unless the data should be deleted without



- replacement, and
- b) the change in the scope of the activities that the authorised representative is to provide for the notifier, if there is to be a change in the scope of activities.

#### Article 20

##### **Details of a notification of a payment institution or electronic money institution regarding the intention to entrust to another person the performance of some operating activities**

(Re Article 29(4) and Article 88(4) of the Payment System Act)

The details of a notification of a payment institution or electronic money institution regarding the intention to entrust to another person the performance of some operating activities relating to the provision of payment services or the issuing and electronic money shall be

- a) the decision to entrust the performance of certain operating activities to such another person,
- b) identification data for the person to be entrusted with the performance of certain operating activities,
- c) a description of the operating activities whose performance is to be entrusted to another person, or the scope of such operating activities; if the performance of significant operating activities is to be entrusted, also the expected impacts on the functioning of the management and control system, the possibility of performing supervision, and the responsibility of the persons conducting the business management of the payment institution or electronic money institution,
- d) a draft model contract between the payment institution or electronic money institution and the person to be entrusted with the performance of the arranged activities,
- e) a description of the modified concept of the management and control system incorporating changes related to entrusting the performance of operating activities to another person and a description of the control exercised over such person,
- f) a description of the changes in the organisational arrangements of the payment institution or electronic money institution related to the staffing, technical and organisational performance of activities following the entrusting of the performance of operating activities to another person, and
- g) the section in the organisational structure of the payment institution or electronic money institution and the functional classification of the person directly responsible for the management and control of the entrusted performance of operating activities to such other person.

#### Article 21

##### **Details of applications and notifications related to the performance of the activity in the host Member State**

(Re Article 33(5), Article 34(2), Article 38(2), Article 51(4), Article 52(2), Article 55(2), Article 92(5), Article 93(2) and Article 96(2) of the Payment System Act)

(1) Details of an application or notification of a payment institution, electronic money institution, or payment account information administrator for the provision of payment services in a host Member State shall be

- a) the method of provision of the payment services in the host Member State, depending on

whether payment services in the host Member State are to be provided through a branch, through an authorised representative or otherwise than through a branch or an authorised representative,

- b) the host Member State,
- c) the list of payment services to be provided in the host Member State, and
- d) information relating to the execution of payment services in the host Member State to the scope of the information provided to the host Member State supervisory authority as set out in the annexes of directly applicable European Union legislation relating to cooperation and the exchange of information between competent authorities in relation to the exercise of the right to freedom of establishment and freedom to provide services<sup>2)</sup>.

(2) Details of a notification of a change in the data specified in an application or notification pursuant to paragraph (1) shall be the data and documents referred to in paragraph (1)(a) to (d), which are subject to the change.

## Article 22

### **Formats and other technical requisites of an application and notification**

Applications and notifications shall be submitted in Portable Document Format (pdf extension) or in another data format commonly used in electronic communications.

## Article 23

### **Common provisions**

(1) If the nature of the matter excludes the submission of data or a document relating to an application or notification required by this Decree, and unless it is sufficiently clear from the application or notification, the applicant or notifier shall justify failure to submit the data or document in a separate annex to the application or notification and, if possible, shall provide evidence of this justification.

(2) If the applicant does not, in their application, demonstrate compliance with some conditions for the granting of authorisation due to the preferential use of an international treaty that is part of the Czech legal order, they shall indicate this international treaty and its provisions they are invoking.

## Article 24

### **Effect**

This Decree shall come into effect on 13 January 2018.

Governor:

Rusnok

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<sup>2)</sup> Commission Delegated Regulation (EU) 2017/2055 of 23 June 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for the cooperation and exchange of information between competent authorities relating to the exercise of the right of establishment and the freedom to provide services of payment institutions.