

Translation of Liechtenstein Law

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Electronic Money Ordinance (EGV)
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Pursuant to Article 6(2), Article 10(9), Article 11(3), Article 13(4), Article 38(6), Article 39(4), Article 41(1), Article 47(1) and (6), and Article 50a of the Electronic Money Act (EGG) of 17 March 2011, LGBL 2011 No. 151, as amended, the Government issues the following Ordinance:¹

I. General provisions

Article 1

Object and purpose

1) This Ordinance governs in particular:

- a) the information and materials required for the application for licensing as an electronic money institution;
- b) the methods for calculating own funds;
- c) the safeguarding requirements;
- d) the outsourcing of functions;
- d^{bis}) the periodic reporting of information to the FMA;²
- e) the audit offices and the audit report;
- f) the extrajudicial conciliation board.

2) It serves to transpose 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

¹ Preamble amended by LGBL 2019 No. 234.

² Article 1(1)(dbis) inserted by LGBL 2019 No. 234.

institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (EEA Compendium of Laws: Annex IX - 15.01).

Article 2

Designations

The designations used in this Ordinance to denote persons and functions include persons of male and female gender.

II. Licensing of electronic money institutions

Article 3

Application materials

1) The following information and materials shall be submitted with the application referred to in Article 6 of the Act:

- a) a programme of operations setting out in particular the type of electronic money services envisaged;
- b) a business plan including a forecast budget calculation for the first 3 financial years which demonstrates that the applicant is able to employ the appropriate and proportionate systems, resources and procedures to operate soundly;
- c) evidence that the electronic money institution holds initial capital as provided for in Article 8 of the Act;
- d) a description of the measures taken for safeguarding customers' funds in accordance with Article 5;
- e) a description of the applicant's governance arrangements and internal control mechanisms, including administrative, risk management and accounting procedures, which demonstrates that those governance arrangements, control mechanisms and procedures are proportionate, appropriate, sound and adequate;
- f) a description of the internal control mechanisms which the applicant has established in order to comply with the obligations of due diligence legislation, including Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on

information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1);³

- g) a description of the applicant's structural organisation, including, where applicable, a description of the intended use of agents and branches, as well as a description of outsourcing arrangements, and of its participation in a national or international payment system;
- h) the identity of persons holding in the applicant, directly or indirectly, qualifying holdings within the meaning of Article 3a(1)(8) of the Banking Act, the size of their holdings and evidence of their suitability taking into account the need to ensure the sound and prudent management of an electronic money institution;
- i) the identity of general managers and persons responsible for the general management of the electronic money institution and, where relevant, persons responsible for the management of the electronic money business of the electronic money institution, as well as evidence that they are of good repute and possess appropriate knowledge and experience to perform electronic money services;
- k) the name of the audit office for the purposes of the Act and Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts (EEA Compendium of Laws: Annex XXII - 10f.01);⁴
- l) the applicant's legal form and articles of association; and
- m) the registered office and address of the applicant's head office.

2) For the purposes of paragraph 1(d), (e), and (g), the applicant shall provide a description of its audit arrangements and the organisational arrangements it has set up with a view to taking all reasonable steps to protect the interests of its users and to ensure continuity and reliability in the performance of electronic money services.

³ Article 3(1)(f) amended by LGBL 2017 No. 219.

⁴ Article 3(1)(k) amended by LGBL 2015 No. 19.

III. Performance of business activities

Article 4⁵

Methods for calculating own funds

Articles 18 and 19 of the Payment Services Act shall apply *mutatis mutandis* to the methods for calculating the own funds of electronic money institutions in accordance with Article 10(4) of the Act, to the extent that the electronic money institution is not included in the consolidated supervision of the parent company in accordance with Regulation (EU) No. 575/2013.

Article 5⁶

Safeguarding requirements

Article 20 of the Payment Services Act shall apply *mutatis mutandis* to the safeguarding of funds received from customers pursuant to Article 11 of the Act.

Article 6

Outsourcing of functions

Article 35 of the Banking Ordinance shall apply *mutatis mutandis* to the outsourcing of functions.

Article 6a⁷

Periodic reporting of information to the FMA

Article 5 of the Payment Services Ordinance shall apply *mutatis mutandis* to the periodic reporting of information by the electronic money institutions to the FMA.

⁵ Article 4 amended by LGBL 2019 No. 234.

⁶ Article 5 amended by LGBL 2019 No. 234.

⁷ Article 6a inserted by LGBL 2019 No. 234.

IV. Audit offices

Article 7⁸

Licensing and duties of audit offices

1) Subject to paragraph 2, the provisions of Articles 39 to 43 and 43b of the Banking Ordinance shall apply *mutatis mutandis* to the licensing and duties of the audit offices of electronic money institutions.

2) Audit offices of banks or investment firms which hold a licence pursuant to Article 37 of the Banking Act do not require an additional licence pursuant to Article 38 of the Act as audit offices of electronic money institutions. The audit office must notify the FMA in advance and in writing of the performance for the first time of its auditing duties under the Act.

Article 8⁹

Audit report

Article 44 of the Banking Ordinance shall apply *mutatis mutandis* to the audit report.

V. Extrajudicial conciliation board

Article 9

Principle

The provisions of the Ordinance on the Financial Services Conciliation Board shall apply to the extrajudicial conciliation board.

⁸ Article 7 amended by LGBl. 2015 No. 19.

⁹ Article 8 amended by LGBl. 2015 No. 19.

VI. Final provision

Article 10

Entry into force

This Ordinance shall enter into force at the same time as the Electronic Money Act of 17 March 2011.

The Government:
signed *Dr. Klaus Tschütscher*
Prime Minister