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## **SUBMITTING NOTIFICATION IN ACCORDANCE WITH THE PAYMENT INSTITUTIONS ACT, WITH THE INTENTION OF PROVIDING PAYMENT SERVICES WITHOUT AUTHORISATION**

### **Background**

The Payment Services Act and Payment Institutions Act became effective on 1 May 2010. These acts enforced the European Parliament and Council directive 2007/64/EC, which harmonises legislation on payment services. The Financial Supervisory Authority supervises compliance with the Payment Institutions Act and the Payment Services Act. However, concerning the provision of payment services without authorisation, compliance with the Payment Services Act is supervised by the Consumer Ombudsman if the user of payment services is a consumer.

The following key acts are applicable to parties providing payment services:

- [Payment Institutions Act](#) (297/2010; in Finnish only)
- [Payment Services Act](#) (290/2010; in Finnish only)
- [The Act on Preventing and Clearing Money Laundering and Terrorist Financing](#) (503/2008; later Money Laundering Act)

### **Guidelines and regulations concerning parties providing payment services:**

- Standard 6.1: Operation of payment institutions and legal persons providing payment services without authorisation
- Reporting standard RA 6.1: Operation of payment institutions and legal persons providing payment services without authorisation

### **Notification in accordance with the Payment Institutions Act**

All entities providing payment services are governed by the Payment Institutions Act and the Payment Services Act, as well as the Act on Preventing and Clearing Money Laundering and Terrorist Financing.

In order to provide payment services, service providers must:

- 1) acquire authorisation for their business in line with the Payment Institutions Act
- 2) submit a notification of intention to provide payment services without authorisation. This requires that the service provider fulfils the requirements stipulated in the Payment Institutions Act applicable to the provision of payment services without authorisation.

Prior to the commencement of activity, legal persons and natural persons intending to provide payment services without authorisation must submit a notification to the Financial Supervisory Authority.<sup>1</sup> The notification must show that the service provider fulfils the requirements concerning the provision of payment services without

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<sup>1</sup> Section 8.1. of the Payment Institutions Act.



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authorisation. The requirements concern the scope of payment service, location of business and the reliability of the persons responsible.

The notification must be supplied with the following appendices:

- 1) business plan (information about the scope of activity and payment services and of the location of business)
- 2) details about the reliability of the persons responsible
- 3) a copy of the Articles of Association and an extract from the trade register
- 4) details of procedures in place for customer identification and know-your-customer procedures and for continuous risk monitoring and management.

After receiving the service provider's notification and **appendices** the Financial Supervisory Authority undertakes an inspection to ensure that the service provider meets the requirements stipulated in the Payment Institutions Act on the provision of payment services without authorisation.

The following specifies the details and documents that service providers need to append to the notification and what aspects the Financial Supervisory Authority will pay attention to when inspecting notifications regarding the provision of payment services without authorisation.

## Contents of the notification

### 1) Business plan

A business plan needs to be appended to the notification of intention to start providing payment services without authorisation. The business plan must include:

- **details of the scope of the intended business**

Payment services can be provided without authorisation provided that the total number of payment transactions effected by a legal person in the previous accounting period does not exceed EUR 3 million per month on average. Similarly, natural persons can provide payment services without authorisation provided that the total value of payment transactions carried out over the period of 12 months does not exceed EUR 50,000 per month on average.<sup>2</sup>

If the service provider has not previously been engaged in the provision of payment services, the total amount of payment transactions must be estimated. The estimate must then be based on the estimated total amount of payment transactions detailed in the business plan.<sup>3</sup>

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<sup>2</sup> Section 7.2. of the Payment Institutions Act.

<sup>3</sup> Government bill 172/2009, p. 35.



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- **details of the intended payment services**

The business plan must detail the types of payment services the service provider intends to offer. In accordance with section 1 of the Payment Institutions Act, the following are classified as payment services:

- service enabling cash deposit onto a payment account or a cash withdrawal from a payment account as well as activities related to the management and provision of a payment account (section 1)
- executing payment transactions as an account transfer, direct debit, payment card or by other means (section 2)
- issue of a payment instrument (section 3)
- credit transaction with respect to a payment transaction carried out with a payment instrument (section 4)
- transfer of money (section 5)
- payment services carried out with a technical appliance, where payers give their consent by a mobile phone, computer or similar (section 6).

The service provider must disclose in its business plan, section by section, the payment services it intends to provide.

**Example** "The company provides issuance of a payment instrument (section 3) and credit transactions with respect to a payment transaction carried out with a payment instrument (section 4)".

- **location of company head office or place of residence of natural person**

Legal persons must have their head office in Finland and natural persons providing payment services must have a permanent place of residence in Finland.<sup>4</sup>

## 2) Reliability of persons responsible

Persons contributing to the provision of payment services or persons responsible for such services must be reliable<sup>5</sup>. Further information about the reliability of persons responsible can be found in the Financial Supervisory Authority's set of guidelines and regulations, standard 6.1: Operation of payment institutions and legal persons providing payment services without authorisation.

The notification shall include details about the reliability and propriety of the natural persons that will contribute to or be responsible for the provision of payment services. The details shall be given using the designated fit & proper form M, available on the Financial Supervisory Authority's website.<sup>6</sup>

Natural persons shall submit to the Financial Supervisory Authority the original assessment of fitness and propriety, complemented by a notification by the management of the supervised entity. The form must be completed in full and the form

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<sup>4</sup> Section 7.1. of the Payment Institutions Act.

<sup>5</sup> Section 7.4. of the Payment Institutions Act.

<sup>6</sup> [www.finanssivalvonta.fi](http://www.finanssivalvonta.fi)



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must be signed properly. It should be noted that a natural person cannot submit details on himself/herself in a notification by the management of the supervised entity.

### **3) A copy of the Articles of Association and an extract from the trade register**

Prior to a decision under section 8, subsection 2 of the Payment Institutions Act, on whether the natural person fulfils the conditions stipulated for the intended business, Articles of Association fulfilling the requirements applicable to a payment institution cannot be registered in the trade register. The entity may however commence preparations for the amendment of the trade register details already during the processing of the notification, as referred to in the Payment Institutions Act, and complete the registration once it has been granted the decision on the fulfillment of the requirements.

After being granted the decision on the fulfilment of the requirements, the entity may not commence payment service business subject to notification, as referred to in the Payment Institutions Act, until it has submitted an amended extract from the trade register concerning the provision of payment services to the Financial Supervisory Authority.

### **4) Details of arrangements made in protection of customer assets**

All payment service providers without authorisation must have in place arrangements to protect customer assets. Service providers must then protect assets that are received for the execution of payment transactions from the payment service users or from other payment service providers.<sup>7</sup> Service providers must thus ensure that the assets of payment service users are not mixed with other assets.

### **5) Customer identification and know-your-customer procedures and procedures for continuous risk monitoring and management**

The Financial Supervisory Authority must ensure that providers of payment services comply with regulations against money laundering and terrorism financing. Customer identification and know-your-customer (KYC) refer to procedures employed by supervised entities to assure themselves of the customer's true identity and of the fact that they know the customer's activities and background to such an extent as required by the customer relationship.

Further information about customer identification and KYC procedures and about the prevention of money laundering and terrorism financing can be found in the Money Laundering Act and in the Financial Supervisory Authority's standard [2.4 Customer identification and customer due diligence; Prevention of money laundering, terrorism financing and market abuse](#). The standard provides regulations and instructions on customer identification and risk management.

Service providers must provide information such as the following:

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<sup>7</sup> Section 7.5. of the Payment Institutions Act.



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- **details about and internal instructions, approved by senior management, on customer identification and the continuous monitoring and risk management of customer relations and business activities**

Information must be provided on how the service provider has ensured it has appropriate procedures in place, as stipulated in the Money Laundering Act, for customer identification and for complying with the know-your-customer principles and the obligation of providing information. Service providers must also arrange adequate monitoring commensurate with the type, scope and risk of the customer's activity.

Information must be provided on the following:

- how the customer is identified and their ID established
    - identification of customer and customer representative (identification)
    - identification of customer ID (verification)
    - authentication of customer representative's ID, if necessary
    - identification of the actual recipient and authentication of their ID, if necessary
  - acquisition of information on the scope and type of customer relationship (acquisition of information on customer relationship)
  - documentation and safe keeping of information for the required time
  - continuous monitoring of business activities (use of payment services by the customer)
  - compliance with KYC principles (procedures for the detection of suspicious transactions) and reporting requirements.
- **information on risk management procedures**

Service providers must provide information on the risk management procedures they have in place with respect to money laundering and terrorism financing. In evaluating risks, such aspects as customer base, line of business and impact of the type of payment services on the service provider must be taken into account.

- **information about the storage of identification documents, persons responsible for the service and staff training programme**

In the notification, service providers must specify what information they will obtain about the customer and how they are stored. KYC details must be stored for five years from the execution of the transaction or the closure of customer relationship. In addition, the notification must show arrangements to comply with the staff training and protection obligation.

## In conclusion

The Financial Supervisory Authority shall, within one month of receipt of the notification, decide whether the service provider fulfils the conditions stipulated for the intended business. In the event that the Financial Supervisory Authority has requested



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supplementary information, the one-month period for inspecting the notification begins when the service provider has submitted the necessary documents and information.

The Financial Supervisory Authority charges a processing fee (EUR1,500) for a decision regarding the provision of payment services without authorisation. In addition, entrepreneurs are liable to pay an annual supervision fee (legal person EUR 1,000 and natural person EUR 200).

Service providers that have started provision of payment services prior to the entry into force of the Payment Institutions Act and that have submitted their notification to the Financial Supervisory Authority regarding continuation of their business by 1 July 2010 will be governed by transitional provision. According to the transitional provision, these service providers shall submit their notification about the provision of payment services without authorisation by no later than 31 October 2012 or discontinue the provision of such services by the same date. Service providers may also apply for authorisation from the Financial Supervisory Authority, if they fail to meet the requirements for providing the service without authorisation.

The notification and the appendices shall be sent to the Financial Supervisory Authority at:

Financial Supervisory Authority  
P.O. Box 103  
00101 Helsinki

For further information, please contact:

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