

# Finansinspektionen's Regulatory Code

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## Regulations amending Finansinspektionen's regulations and general guidelines (FFFS 2011:49) regarding institutions for electronic money and registered issuers;

**FFFS 2018:7**

Published on 23 April  
2018

decided on 17 April 2018.

Finansinspektionen prescribes<sup>1</sup> pursuant to Section 6, points 2, 9, 11 and 12 of the Electronic Money Ordinance (2011:776) with regard to Finansinspektionen's regulations and general guidelines (FFFS 2011:49) regarding institutions for electronic money and registered issuers

*in part* that Chapter 6, section 4 shall be repealed,  
*in part* that Chapter 2, Sections 2, 5, 7, 13 and 20, Chapter 4, section 1 and Chapter 7, sections 8 and 10 and the heading of Chapter 4 shall have the following wording.  
*in part* that eight new sections, Chapter 2, sections 2a, 5a, 17a and 22, Chapter 4, sections 2–4, and Chapter 10, section 4a, and a new heading with the following wording immediately preceding Chapter 2, section 22 shall be introduced.

### Chapter 2

**Section 2** In its application, an undertaking shall state its name, organisation registration number and the address of its head office. The application shall be signed by an authorised representative of the undertaking.

**Section 2a** An undertaking shall append its current articles of association or statutes to the application.

**Section 5** An undertaking shall submit in its application a forecast for the subsequent three financial years. The forecast shall include

1. a balance sheet and profit and loss account,
2. a calculation of capital requirements, and
3. a calculation of own funds.

The undertaking shall account for the assumptions on which the forecast is based. In particular, it shall state the assumptions concerning the average outstanding debts attributable to electronic money on which the forecast is based.

In the forecast, the undertaking shall provide an account of how it intends to finance its operations involving the issuance of electronic money.

<sup>1</sup> Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC.

**Section 5a** An undertaking shall append to its application documentation that shows it has initial capital that is equivalent to at least EUR 350,000.

**Section 7** An undertaking shall append to its application a business plan that is drawn up in accordance with Sections 8–22.

**Section 13** An undertaking's business plan shall state whether it intends to engage agents for the purposes of providing payment services or the distribution and redemption of electronic money.

If the undertaking intends to engage agents for the purposes of providing payment services, it shall also provide an account of how it intends to conduct inspections of the agent.

**Section 17a** An undertaking shall state in its business plan the activities that are critical in order for the undertaking to maintain the function of its operations, and the contingency plans that are in place.

**Section 20** An undertaking shall provide in a separate appendix to its business plan an account of its general risk assessment in accordance with Chapter 2, Sections 1 and 2 of the Anti Money Laundering and Terrorist Financing Act (2017:630) and Chapter 2, Section 1 of Finansinspektionen's regulations (FFFS 2017:11) regarding measures against money laundering and terrorist financing. In a separate appendix, the undertaking shall also append the internal procedures and guidelines that it must have pursuant to Chapter 2, Section 8 of the Anti Money Laundering and Terrorist Financing Act. The undertaking shall also submit information about who its central function is in matters pertaining to money laundering and the financing of terrorism.

The business plan shall state whether the undertaking's operations are encompassed by 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. If the undertaking's operations are encompassed, the plan shall state how the undertaking intends to comply with the regulation.

#### **Collection of statistical data**

**Section 22** An undertaking shall state in its business plan how it collects statistical data about operations, transactions and fraudulent proceedings.

#### **Chapter 4. Operations in other countries**

**Section 1** An institution for electronic money that intends to distribute electronic money, redeem electronic money or provide payment services via an agent in another country within the EEA shall, when it informs Finansinspektionen in accordance with Chapter 3, Section 19 of the Electronic Money Act (2011:755), use Annex III to 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.

When the institution informs Finansinspektionen of the day on which it intends to begin operating in the other country, it shall use Annex VI to the Commission Regulation.

**Section 2** An institution for electronic money that intends to issue electronic money or provide payment services via a branch in another country within the EEA shall, when it informs Finansinspektionen in accordance with Chapter 3, Section 20 of the Electronic Money Act (2011:755), use Annex II to 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.

When the institution informs Finansinspektionen of the day on which it intends to begin operating in the other country, it shall use Annex VI to the Commission Regulation.

**Section 3** An institution for electronic money that intends to issue electronic money or provide payment services via cross-border operations in another country within the EEA shall, when it informs Finansinspektionen in accordance with Chapter 3, Section 22 of the Electronic Money Act (2011:755), use Annex V to 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.

**Section 4** When an institution for electronic money informs Finansinspektionen in accordance with Sections 1–3, it shall also submit a translation of the forms into English or into an official language of the country in which the establishment is taking place.

## Chapter 7

**Section 8** In order to enable the compliance function to discharge its duties correctly, the board of directors and the managing director shall be responsible for

1. ensuring that the function has the necessary powers, resources and expertise required, as well as access to all relevant information,
2. appointing a person who is responsible for the function and all compliance reporting to senior management in accordance with the requirements set out in Section 5,
3. ensuring that the people who make up the function work independently and do not participate in the execution of the operations they are supervising, and
4. ensuring that the method for determining remuneration of the employees that make up the function does not, or is unlikely to, compromise their objectivity.

Finansinspektionen is able to grant an exemption from the requirements set out in the first paragraph, points 3 and 4 if, taking into account the nature, scope and complexity of the operations, it is not proportional for the requirements to be set and the institution's compliance function is effective, despite the requirements not being met.

**Section 10** An institution for electronic money shall have an effective risk control function that works independently. The institution shall appoint a person who is

responsible for the function and for providing reports and advice to the board of directors and the managing director in accordance with the requirements set out in Section 5.

The function shall be responsible for

1. ensuring that the instructions and procedures pursuant to Section 9 are current, adequate and effective,
2. implementing the instructions and procedures set out in Section 9,
3. monitoring the extent to which the institution, its employees and its agents are compliant with the instructions and procedures for managing risks pursuant to Section 9,
4. ensuring that the institution is taking appropriate and effective action to rectify shortcomings in instructions and procedures or in its employees' and agents' application of these.

Finansinspektionen is able to grant an exemption from the requirements set out in the first paragraph, points 3 and 4 if, taking into account the nature, scope and complexity of the operations, it is not proportional for the requirements to be set and the institution's risk control function is effective, despite the requirements not being met.

## Chapter 10

**Section 4a** Provisions concerning the reporting of serious operational incidents and security incidents by institutions for electronic money are set out in Chapter 6, Section 4 of Finansinspektionen's regulations (FFFS 2018:x) governing activities of payment service providers.

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These regulations shall enter into force on 1 May 2018.

ERIK THEDÉEN

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