



# Conformity Assessment of Directive 2009/110/EC The Netherlands

***Final Report***  
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## NATIONAL IMPLEMENTING MEASURES

### List of the national implementing measures notified to the European Commission

### General observations

**670 Wet van 22 december 2011 tot wijziging van de Wet op het financieel toezicht en enige andere wetten ter implementatie van richtlijn nr. 2009/110/EG van het Europees Parlement en de Raad betreffende de toegang tot, de uitoefening van en het prudentieel toezicht op de werkzaamheden van instellingen voor elektronisch geld, tot wijziging van de Richtlijnen 2005/60/EG en 2006/48/EG en tot intrekking van Richtlijn 2000/46/EG (PbEU L 267)**

670 Act of 22 December 2011 amending the Financial Supervision Act and other laws for the transposition of Directive 2009/110/EC of the European Parliament and the Council on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (PbEU L 267)

(Referred throughout the report as ‘Act Amending the Financial Supervision Act’)

The Act amending the Financial Supervision Act is the main secondary legislation, which was adopted on 22 December 2011, published on 28 December 2011 in the National Gazette and entered into force on 1 January 2012. The Financial Supervision Act applies to all undertakings and financial institutions in general, including electronic money institutions, payment institutions and payment service providers more specifically.

The relevance for the assessment of this Directive is that it amends the Financial Supervision Act by establishing the changes to the Financial Supervision Act for the procedures and measures relating to electronic money institutions. The Financial Supervision Act (as amended) is used for this entire assessment.

The structure and characteristics of the Financial Supervision Act is that it refers to the general procedures, principles and measures applicable to undertakings and financial institutions and to the competencies of the two supervising bodies, the Dutch Central Bank and the Authority on Financial Markets. The specifics of the procedures, principles and measures are further regulated by virtue of lower third level legislation, such as Orders of Decree.

To this effect, the Decrees Marketentry Financial Undertakings of the Financial Supervision Act; Prudential Rules of the Financial Supervision Act; Conduct Supervision Financial Undertakings of the Financial Supervision Act and Rules on Exemptions of the Financial Supervision Act, all provide for lower level generally applicable rules which are based on the competencies or procedures provided for by the Financial Supervision Act.

The most current version of the Act Amending the Financial Supervision Act can be found in Dutch on the following website:

[http://wetten.overheid.nl/BWBR0031007/geldigheidsdatum\\_07-09-2012](http://wetten.overheid.nl/BWBR0031007/geldigheidsdatum_07-09-2012)

**673 Besluit van 22 december 2011, houdende wijziging van enkele algemene maatregelen van bestuur op het gebied van het financieel toezicht in verband met de implementatie van richtlijn nr. 2009/110/EG van het Europees Parlement en de Raad van 16 september 2009 betreffende de toegang tot, de uitoefening van en het prudentieel toezicht op de werkzaamheden van instellingen voor elektronisch geld, tot wijziging van de Richtlijnen 2005/60/EG en 2006/48/EG en tot intrekking van Richtlijn 2000/46/EG (PbEU L 267)**

673 Decree of 22 December 2011 amending other Orders of Decree concerning financial supervision in connection with the transposition of Directive 2009/110/EC of the European Parliament and the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (PbEU L 267)

(Referred throughout the report as ‘Decree Amending other Orders of Decree concerning financial supervision’)

The Decree Amending other Orders of Decree concerning financial supervision is third level legislation which is adopted on 22 December 2011, published on 28 December 2011 in the National Gazette and which entered into force 1 January 2012. By virtue of this Decree, a number of other Decrees are amended in the field of financial supervision. Specifically for this assessment these are 3 Decrees:

- The Decree Marketentry Financial Undertakings of the Financial Supervision Act,
- The Decree Prudential Rules of the Financial Supervision Act; and
- The Decree Conduct Supervision Financial Undertakings of the Financial Supervision Act

The Decree Marketentry Financial Undertakings of the Financial Supervision Act provides for rules in the context of implementing the provisions of the Financial Supervision Act. These rules are aimed at (financial) undertakings entering the Dutch market. In the context of this assessment the Decree Marketentry Financial Undertakings of the Financial Supervision Act is used minimally for the administrative and procedural requirements of Financial Undertakings.

The Decree Prudential Rules of the Financial Supervision Act provides for prudential or supervisory rules for Financial Undertakings operating on the financial markets and implements the provisions of the Financial Supervision Act. In the context of this assessment the Decree Prudential Rules of the Financial Supervision Act is used frequently when detailed requirements are transposed which are too specific for regulation in the more general Financial Supervision Act.

The Decree Conduct Supervision Financial Undertakings of the Financial Supervision Act provides for rules for the supervision and the policies of financial undertakings. It implements the related provisions of the Financial Supervision Act. In the context of this assessment the Decree Conduct Supervision Financial Undertakings of the Financial Supervision Act is used minimally, in particular for the requirements where electronic money institutions outsource their activities.

The most current version of the Decree Amending other Orders of Decree concerning financial supervision can be found in Dutch on the following website:

<https://zoek.officielebekendmakingen.nl/dossier/32826/stb-2011-673?resultIndex=8&sorttype=1&sortorder=4>

The most current versions of the Decrees as amended by this Decree can be found in Dutch on the following website:

Decree Marketentry Financial Undertakings of the Financial Supervision Act

[http://wetten.overheid.nl/BWBR0020413/geldigheidsdatum\\_06-09-2012](http://wetten.overheid.nl/BWBR0020413/geldigheidsdatum_06-09-2012)

Decree Prudential Rules of the Financial Supervision Act

[http://wetten.overheid.nl/BWBR0020420/geldigheidsdatum\\_06-09-2012](http://wetten.overheid.nl/BWBR0020420/geldigheidsdatum_06-09-2012)

Decree Conduct Supervision Financial Undertakings of the Financial Supervision Act

[http://wetten.overheid.nl/BWBR0020421/geldigheidsdatum\\_06-09-2012](http://wetten.overheid.nl/BWBR0020421/geldigheidsdatum_06-09-2012)

**Besluit van 22 juni 2011 tot wijziging van het Besluit Gedragstoezicht financiële ondernemingen Wft in verband met de implementatie van titel III van richtlijn nr. 2009/110/EG van het Europees Parlement en de Raad van de Europese Unie van 16 september 2009 betreffende de toegang tot, de uitoefening van en het prudentieel toezicht op de werkzaamheden van instellingen voor elektronisch geld, tot wijziging van de richtlijnen 2005/60/EG en 2006/48/EG en tot intrekking van richtlijn 2000/46/EG (Pb EU L 267)**

Decree of 22 June 2011 amending the Decree Conduct Supervision Financial Undertakings of the Financial Supervision Act in connection with the implementation of Title III of Directive 2009/110/EC of the European Parliament and the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (PbEU L 267)

(Referred throughout the report as ‘Decree Amending Decree Conduct Supervision Financial Undertakings of the Financial Supervision Act’)

The Decree Amending Decree Conduct Supervision Financial Undertakings of the Financial Supervision Act is third level legislation which is adopted on 22 June 2011, published on 28 June 2011 in the National Gazette and which entered into force 1 July 2012.

The Decree Amending Decree Conduct Supervision Financial Undertakings of the Financial Supervision Act amends the Decree Conduct Supervision Financial Undertakings of the Financial Supervision Act. In the context of this assessment, it serves as a temporary measure for the timely transposition of Article 11(3) to 11(7) of the Directive, which is currently regulated via Article 521a of Book 7 of the Dutch Civil Code.

The most current version of the Decree Amending Decree Conduct Supervision Financial Undertakings of the Financial Supervision Act can be found in Dutch on the following website:

<https://zoek.officielebekendmakingen.nl/stb-2011-323.html>

<p><b>Wijziging van de Vrijstellingsregeling Wft in verband met de implementatie van richtlijn 2009/110/EG van het Europees Parlement en de Raad betreffende de toegang tot, de uitoefening van en het prudentieel toezicht op de werkzaamheden van instellingen voor elektronisch geld, tot wijziging van de Richtlijnen 2005/60/EG en 2006/48/EG en tot intrekking van Richtlijn 2000/46/EG (PbEU L 267)</b></p> <p>Amendment of the Rules on Exemptions of the Financial Supervision Act in connection with the transposition of Directive 2009/110/EC of the European Parliament and the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (PbEU L 267)</p> <p>(Referred throughout the report as ‘Amendment of the Rules on Exemptions of the Financial Supervision Act’)</p>	<p>The Amendment of the Rules on Exemptions of the Financial Supervision Act is third level legislation, which is published on 28 December 2011 in the National Gazette and which indicates that it entered into force when the Act Amending the Financial Supervision Act came into force (1 January 2012).</p> <p>The relevance for this assessment is that it concerns rules exempting financial undertakings in general, and more specifically electronic money institutions and payment service providers from the otherwise applicable general provisions of the Financial Supervision Act.</p> <p>In the context of the assessment of this Directive, the Rules on Exemptions of the Financial Supervision Act are used only for part of the assessment where it concerns exemptions and waivers for electronic money institutions or payment service providers.</p> <p>The most current version of the Rules on Exemptions of the Financial Supervision Act can be found in Dutch on the following website:  <a href="https://zoek.officielebekendmakingen.nl/stcrt-2011-23140.html">https://zoek.officielebekendmakingen.nl/stcrt-2011-23140.html</a></p>
<p><b>List of additional national implementing measures referred to in the conformity assessment</b></p>	<p><b>General observations</b></p>
<p><b>Boek 7 van het Burgerlijk Wetboek</b></p> <p>Book 7 of the Dutch Civil Code</p> <p>(Referred throughout the report as ‘Book 7 of the Civil Code’)</p>	<p>The Netherlands used general contractual law, specifically Article 521a of Title 7B: ‘payment transactions’ of Book 7 of the Civil Code, to transpose Article 11(3) to 11(7) on the requirements of redemption for electronic money institutions and the rights of redemption for electronic money holders.</p> <p>Article 521a of Book 7 of the Civil Code concerns almost identical transposition of the Directive requirements.</p> <p>The most current version of Book 7 of the Civil Code can be found in Dutch on the following website:  <a href="http://wetten.overheid.nl/BWBR0005290/geldigheidsdatum_08-09-2012">http://wetten.overheid.nl/BWBR0005290/geldigheidsdatum_08-09-2012</a></p>
<p><b>Algemene Wet Bestuursrecht</b></p> <p><b>Wet Openbaarheid van Bestuur</b></p> <p>General Administrative Act</p> <p>Public Administrations Act</p> <p>(Referred throughout the report as ‘General Administrative</p>	<p>The General Administrative Act and the Public Administrations Act are two Acts of general scope regulating administrative law and procedural requirements as applicable to public bodies in the Netherlands. This includes financial supervisory bodies such as the Authority on Financial Markets and the Dutch Central Bank when these take measures or decisions affecting undertakings, including electronic money institutions.</p> <p>In the context of the assessment the General Administrative Act and the Public Administrations Act were minimally used where more specific transposition in Financial Supervision legislation did not take place. Specifically it is used where there</p>

Act and Public Administrations Act <sup>3)</sup>	<p>were procedural or due care requirements concerning decisions taken by the supervisory bodies, such as the motivation of decisions or a duty to inform.</p> <p>The most current version of the General Administrative Act and the Public Administrations Act can be found in Dutch on the following website:</p> <p>General Administrative Act <a href="http://wetten.overheid.nl/BWBR0005537/geldigheidsdatum_07-09-2012">http://wetten.overheid.nl/BWBR0005537/geldigheidsdatum_07-09-2012</a></p> <p>Public Administration Act <a href="http://wetten.overheid.nl/BWBR0005252/geldigheidsdatum_07-09-2012">http://wetten.overheid.nl/BWBR0005252/geldigheidsdatum_07-09-2012</a></p>
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## SUMMARY

### 1. Executive summary

Overall, virtually all of the requirements of the Directive are correctly transposed *via* amending already existent legislation regulating electronic money institutions. Most of the Articles of the Directive are observed to be conform *via* almost identical transposition of the requirements. 7 cases partial conformity were observed due to missing minor requirements which could not be inferred in the context of overall transposition due to the strict maximum harmonisation nature for this Directive. No cases of non-conformity were observed.

The Directive concerns financial supervision for electronic money institutions and in some cases very specific requirements. Therefore, transposition is achieved in a layered manner in Dutch law using general (secondary) legislation first, and then developing the more detailed requirements in more specific (third level) legislation thereafter. The main amendments are to the Financial Supervision Act which provides first for the competencies and duties of supervisory bodies on the conduct of supervision over undertakings and financial institutions, and second for rights and requirements for these institutions and undertakings themselves. For the transposition of more specific requirements, many provisions of the Financial Supervision Act refer to Orders of Decree or other Rules as third level legislation where generally binding rules may be further established for the Directive requirements.

Electronic money institutions are included in the general definition of ‘financial undertakings’ of under Article 1:1 of the Financial Supervision Act, and more specifically under paragraph (i) ‘financial service provider’, as Dutch law considers such institutions to provide a product in the form of electronic money. Also payment institutions and payment service providers are included in the definition of ‘financial undertaking’ under the same Article 1:1 of the Financial Supervision Act. Therefore, these also fall under the scope of the provisions of Dutch law that address financial undertakings.

The three Decrees used for this assessment are the Decree Prudential Rules of the Financial Supervision Act; the Decree Marketentry Financial Undertakings of the Financial Supervision Act and the Decree Conduct Supervision Financial Undertakings of the Financial Supervision Act. The Rules on Exemption of the Financial Supervision Act and Book 7 of the Dutch Civil Code are also used for Article 9 concerning exemptions and for Article 11(3) to (7) on redemptions respectively.

In the context of this assessment, the third level legislation almost always transposes the requirements of the Directive. However, in general, interpretation is required. Specifically for the Financial Supervision Act, the Decree Prudential Rules of the Financial Supervision Act and the Decree Conduct Supervision Financial Undertakings of the Financial Supervision Act, transposition is mostly not literal, in that there are some nuances and the conclusion on conformity is not evident, but has to be inferred from the context of the national provisions. For the Decree Marketentry Financial Undertakings of the Financial Supervision Act, despite that transposition is mostly not literal, there are no nuances and a conclusion on conformity can be easily reached as these rules are administrative, thus very exact and specific. Likewise, for the Rules on Exemptions of the Financial Supervision Act transposition is mostly not literal, there are some nuances but a conclusion on conformity can be easily inferred as these rules are very specific on exemptions and waivers. Article 521a of Book 7 of the Civil Code almost literally transposes the Directive provisions on contractual agreements and redemption requirements with few nuances made and only some minor clarifications needed.

All national measures used for this assessment have been notified by the Dutch Authorities, with the exception of the General Administrative Act and the Public Administrations Act, which are general Acts used for the assessment of Articles 21 and 22 of Directive 2007/64/EC on payment services where more specific transposition is not indicated.

With regard to the applicability of Articles 5 and 10 to 15, Article 17(7) and Articles 18 to 25 of Directive 2007/64/EC on payment services to electronic money institutions, 3 cases of partial conformity are observed. These are with regard to the transposition of Article 11, 12(2) and 20(5) of Directive 2007/64/EC. Considering Articles 12(2) and 20(5), only some of their elements were observed to be in partial conformity with the Directive. This shall be explained in more detail below under the legal analysis.

Directive 2007/64/EC on payment services has highly influenced electronic money institutions in most cases in Dutch law for two main reasons. First, references are frequently made to financial undertakings, which include electronic money institutions, payment institutions and payment service providers. In this regard, applicability to electronic money institutions is

ensured in Dutch law. Second, in some cases, specific reference is made to the applicability of the same provision for electronic money institutions in the relevant provisions of the lower level legislation. The General Administrations Act and the Public Administrative Act as indicated above are only used for the assessment of minor elements of Articles 21 and 22 of Directive 2007/64/EC.

There are two main supervisory bodies functioning as market surveillance authorities in the Netherlands. These are the Dutch Central Bank and the Authority on Financial Markets. The Dutch Central Bank is mostly referenced in the context of this assessment, as it is tasked with prudential supervision of financial undertakings and may grant authorisation to undertakings to operate on the financial markets. The Authority on Financial Markets is tasked with conduct supervision over financial markets and on deciding to grant financial undertakings access to these markets.

## **2. The implementation of Directive 2009/110/EC**

### **2.1. Scope**

‘Credit institutions’ as defined in point 1 of Article 4 of Directive 2006/48/EC as ‘an undertaking able to receive deposits or other repayable funds from the public and to grant credits for its own account’ is transposed *via* Article 1:1 of the Financial Supervision Act, which defines ‘banks’ as undertakings which accumulate repayable funds of other than professional market participants, and which grant credits for their own account. Therefore, banks as used under Dutch law is not identical to but coincides with the scope of ‘credit institutions’ as used under Article 1 paragraph 1 subparagraph (a) of the Directive, and does not challenge conformity with regard to scope.

The scope of ‘Electronic money institution’ as defined under Article 2 point (1) of the Directive refers to legal persons, whereas the transposition *via* Article 1:1 of the Financial Supervision Act indicates that electronic money institutions are referred to as any operating undertakings. As all undertakings are legal persons this does not challenge conformity with regard to scope.

### **2.2. Terminology**

The terminology used in the Dutch legislation for the transposition of this Directive is similar to the wording of the Directive. Some interpretation is required and minor clarifications needed to be made. No issues of discrepancies or interpretations challenging conformity were observed.

The term ‘anyone’ is used to refer to ‘any natural or legal person’ for the transposition of Article 3(3) 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> subparagraph *via* Article 3:108a of the Financial Supervision Act. However, such usage does not challenge conformity.

### **2.3. Explanatory note on the assessment**

Conformity applies to cases whereby the national provisions follow all requirements of the corresponding provision of Directive 2009/110/EC. Some requirements of the Directive provision may not be explicitly transposed. National provisions can however be considered as conform as far as the silence does not affect the proper implementation of all requirements and that the missing ones can be inferred.

Partial conformity applies to cases whereby the national provisions do not follow all the requirements of the Directive provision, or are silent about requirements, which are considered minor but necessary. In cases of partial conformity, the interpretation of the national provision does not hamper the proper implementation of the Directive provision as a whole, and, missing requirements cannot be inferred.

Non conformity applies to cases whereby the Directive provision is not transposed or the national provisions do not follow either, all requirements of the Directive provision, or, the main ones. In cases of non-conformity, the interpretation of the national provisions hamper the proper implementation of the Directive provision as a whole, and missing requirements cannot be inferred either. Also considered are additional requirements and exemptions, which hamper the proper implementation of the Directive provision.

The cases where there are no headings relate to options laid down by the Directive provision that Member States has not chosen to apply, or, to obligations resting upon the European Commission.



## **2.4. Legal analysis**

### *2.4.1. Title I – Scope and definitions*

Title I of the Directive concerning the scope and definitions is transposed in a conform manner into Dutch law.

#### 2.4.1.1. Article 1 – Subject

Article 1 is transposed in an overall conform manner into Dutch law.

The Netherlands has chosen to transpose the option of Article 1 paragraph 3 of the Directive by waiving the applicability of the provisions of Title II of the Directive to the other institutions in accordance with that provision.

#### 2.4.1.2. Article 2 – Definitions

Article 2 is transposed in an overall conform manner into Dutch law.

### *2.4.2. Title II – Requirements for the taking up, pursuit and prudential supervision of the business of electronic money institutions*

Title II of the Directive concerning the requirements for the taking up, pursuit and prudential supervision of the business of electronic money institutions is transposed in an overall partially conform manner, as there are 7 exceptions of partial conformity. These concern Articles 11, 12(2) and 20(5) of the Payment Services Directive and Articles 8 and 9 paragraphs 2 and 3 of the Directive.

#### 2.4.2.1. Article 3 – General Prudential Rules

Article 3 is transposed in an overall conform manner into Dutch law.

There are three issues of partial conformity following Articles of Directive 2007/64/EC with regard to the transposition of Article 3(1) of the Directive.

First, with regard to Article 11 of Directive 2007/64/EC where the granting or refusal of authorisation must take place within three months of receipt of application or, if it is incomplete, of all the information required for the decision. Reasons must be provided for refusal. No transposition could be located for providing reasons if such an application for authorisation is refused by the Dutch Central Bank. As this is an explicit element of Article 11 which cannot be inferred, partial conformity is observed.

Second, concerning Article 12 paragraph 2 of Directive 2007/64/EC on the requirement to provide reasoning to those concerned when withdrawing authorisation. Article 10 of the Public Administration Act only allows for specific exceptions to the general rule of motivating decisions by public bodies, whereas the Directive requires informed reasoning in all circumstances, rendering the transposition of this element in the overall context partially conform.

Third, No provisions could be located corresponding to Article 20 paragraph 5 of Directive 2007/64/EC which states that the competent authorities are not required to supervise business activities of payment institutions other than those referenced in the Annex and Article 16 paragraph 1 sub-paragraph (a) of that Directive. The Directive does not provide a positive obligation, but rather what should not be done, therefore partial conformity is observed in the overall context of transposition.

Also, with regard to Article 3 paragraph 3 of the Directive, transposition has taken place *via* Article 3:103 paragraph (a) of the Financial Supervision Act. Anyone is required to provide information to the Dutch Central Bank prior to a change of its qualified holding in another electronic money institution (a) when that undertaking increases above 20 %, 33 % or 50% or

if it becomes a subsidiary, or when (b) as a result the size of the holding decreases under the 10, 20, 33 or 50% or becomes a subsidiary. Partial conformity is observed due to the requirement representing a third or 33% under Dutch law, whereas the Directive indicates 30 %, and this hampers the proper implementation of the Directive.

The Netherlands has chosen not to apply the option of Article 3 paragraph 3, subparagraph 6 of the Directive on the waiver of acquisition obligation for hybrid electronic money institutions.

#### 2.4.2.2. Article 4 – Initial Capital

Article 4 is transposed in an overall conform manner into Dutch law.

#### 2.4.2.3. Article 5 – Own Funds

Article 5 is transposed in an overall conform manner into Dutch law.

The Netherlands has chosen to transpose the option of Article 5 paragraph 5 concerning where the evaluation of the risk management process, risk loss databases and the internal control mechanisms of the electronic money institution give reason to this, the institution may be required to hold an amount of own funds up to 20% higher than the amount which would result from the application of the relevant method of paragraph 2, or may be permitted to hold an amount of own funds up to 20% lower than would result from the application of that method.

The Netherlands has chosen to transpose the option of Article 5 paragraph 7. Dutch law provides that supervision on individual basis shall not be applicable to electronic money institutions which are subsidiaries of Dutch holding investment firms or investment banks if:

- (a) supervision on those Dutch holding investment firms or banks takes place on consolidated basis and the subsidiary is included; and
- (b) the own capital between the Dutch holding investment firm or bank and the subsidiary is adequately divided by:
  1. no practical or legal obstacle present or foreseeable which could block the immediate transfer of own capital or repayability of debts by the Dutch holding investment firm or bank;
  2. the Dutch holding investment firm or bank takes due care of a managed business policy with the subsidiary and with consent of the Dutch Central Bank takes accountability for the liabilities of the subsidiary, or the risks concerning the subsidiary which are negligible
  3. the risk assessment, meet- and control procedure of the Dutch holding investment firm or bank also include the subsidiary; and
  4. the Dutch holding investment firm or bank has assigned more than 50 % of the voting rights to the holdings in the capital of the subsidiary or has the rights to place or dismiss the majority of the persons which determine the day-to-day policy of the subsidiary;

#### 2.4.2.4. Article 6 – Activities

Article 6 is transposed in an overall conform manner into Dutch law.

#### 2.4.2.5. Article 7 – Safeguarding requirements

Article 7 is transposed in an overall conform manner into Dutch law.

Dutch law provides that all electronic money institutions shall safeguard funds received in exchange for electronic money issued at the moment these funds become available to it or at the latest within 5 business days after issuing the electronic money, in accordance with Article 9 paragraphs 1 and 2 of the Directive. The Netherlands has therefore made use of the option of Article 9 paragraph 2.

The Netherlands has made use of the option of Article 7(2) third sub-paragraph, where in exceptional circumstances and with adequate justification authorities may determine which of those assets do not constitute secure, low-risk assets. Dutch law however does not further define what is meant by 'exceptional circumstances'.

The Netherlands has not transposed Article 7 paragraph 3, but has transposed Article 7 paragraph 4 via the Decree Prudential Rules of the Financial Supervision Act by indicating that authorities may determine which method shall be used by electronic money institutions to safeguard funds.

#### 2.4.2.6. Article 8 – Relations with third countries

Article 8 is transposed in an overall conform manner into Dutch law, with the exception of Article 8 paragraph 2.

Concerning Article 8 paragraph 2, no provisions could be located that the Dutch competent authorities shall notify the Commission of all authorisations for branches of electronic money institutions having their head office outside the Community, which as an explicit requirement of the Directive leads to partial conformity.

The Netherlands has not transposed the option of Article 8 paragraph 3.

#### 2.4.2.7. Article 9 – Optional exemptions

Article 9 is transposed in an overall conform manner into Dutch law, with the exception of Article 9 paragraphs 2 and 3 of the Directive.

The Netherlands has transposed the option of Article 9 paragraph 1, first subparagraph introductory wording where the application of part of the procedures and conditions may be waived.

The Netherlands has transposed the option of Article 9 paragraph 1, subparagraph 3, where the granting of optional exemption may be provided subject to additional requirement of a maximum storage amount on the payment instrument or payment account of the consumer where the money is stored, which amount in Dutch law is €150 which may be stored at any one time.

Article 9 paragraph 2 indicates that legal persons with a waiver shall be required to have their head office in the Member State in which they actually pursue their business. Dutch law specifically indicates in the Financial Supervision Act that exempted may be granted to institutions in so far as they provide payment services in the Netherlands, which strictly interpreted does not explicitly require a head office to be in the Member State of pursuing business. For example, a branch office could be used in the Netherlands. For this reason and bearing in mind the maximum harmonisation nature of the Directive, partial conformity is observed in the overall context of the assessment.

Article 9 paragraph 3 states that exempted legal persons must be treated as electronic money institutions but without application of Articles 10 paragraph 9 and 25 of Directive 2007/64/EC. In Dutch law it is not indicated that with exemptions institutions shall not not authorised to provide services in other Member States and may not exercise the right of freedom of establishment as provided by Articles 10 paragraph 9 and 25 of Directive 2007/64/EC. In the overall context of the assessment this breaches the notion that exempted institutions only benefit in the Member State of exemption, therefore only partial conformity with Article 9 paragraph 3 is observed.

The Netherlands transposed the option of Article 9 paragraph 1, first subparagraph introductory wording of the Directive, that partial or entire exemptions of the authorisation requirements for electronic money institutions may be established.

The Netherlands transposed the option of Article 9 paragraph 1, third subparagraph, providing for exemptions for authorisation of issuing electronic money, under the condition that the undertaking only issues electronic money via a payment instrument or account on which a maximum amount of €150 at any one time can be stored.

The option of Article 9 paragraph 4 is not transposed in the Netherlands.

### *2.4.3. Title III – Issuance and redeemability of electronic money*

Title III of the Directive is transposed in an overall conform manner into Dutch law.

#### *2.4.3.1. Article 10 – Prohibition from issuing electronic money*

Article 10 is transposed in an overall conform manner into Dutch law.

#### *2.4.3.2. Article 11 – Issuance and redeemability*

Article 11 is transposed in an overall conform manner into Dutch law.

#### *2.4.3.3. Article 12 – Prohibition of interest*

Article 12 is transposed in an overall conform manner into Dutch law.

#### *2.4.3.4. Article 13 – Out-of-court complaint and redress procedures for the settlement of disputes*

Article 13 is transposed in an overall conform manner into Dutch law.

### *2.4.4. Title IV – Final provisions and implementing measures*

Title IV of the Directive is transposed in an overall conform manner into Dutch law.

#### *2.4.4.1. Article 16 – Full harmonization*

Article 16 is transposed in an overall conform manner into Dutch law.

#### *2.4.4.2. Article 18 – Transitional provisions*

Article 18 is transposed in an overall conform manner into Dutch law.

The Netherlands transposed the option of Article 18 paragraph 1 that until 30 October 2001 electronic money institutions may operate on the basis of Dutch law as it applied before 29 April 2011.

The Netherlands transposed the option of Article 18 paragraph 2 that electronic money institutions may be automatically granted authorisation and entered into the register if the

authorities already have evidence that it complies with the requirements concerning authorisation.

### 3. Conclusions on conformity

#### 3.1. Cases of partial conformity

**Article 3(3), first subparagraph of the Directive**– The Directive requires anyone to provide information where the qualifying holding where the proportion of capital or voting rights increase beyond 20 % 30 % or 50 % or where the electronic money institution would become or cease to be its subsidiary, to inform the competent authorities. Dutch law identically transposes the 20 % and 50 % requirements, however it considers a third representing 33 % as the number above or below which any legal or natural person must notify the Dutch Central Bank concerning a change of the institutions size of qualified holdings. As this hampers the proper implementation of the Directive it is considered partially conform.

**Article 9(3) of the Directive of the Directive** –Article 1a paragraph 1, sub-paragraph (a) of the Rules on Exemptions of the Financial Supervision Act does not explicitly indicate that the head office must also be in the Netherlands where the activities are actually pursued. As branches could be used for business activities in the Netherlands, this could hamper the proper implementation of the Directive. Therefore, this provision can only be considered as partially conform.

**Article 9(3) of the Directive** – The Directive requires that exemptions apply to electronic money institutions as in Article 9 paragraph 1 but that Articles 10 paragraph 9 and 25 of Directive 2007/64/EC shall not apply to it. Articles 10 paragraph 9 and 25 of Directive 2007/64/EC concern authorisation to provide services in other Member State and the right to freedom of establishment. Article 1c paragraph 1 of the Rules on Exemptions of the Financial Supervision Act does not explicitly indicate that exempted institutions shall also not be authorised to provide services in other Member States and that they may not exercise the right of freedom of establishment. As this forms an explicit and essential requirement under Article 9 paragraph 3, only partial conformity can be observed in the overall context of transposition.

#### 3.2. Cases of non-conformity

No cases of non-conformity are observed in the report.

#### 3.3. Option ('May' clause)

##### 3.3.1. *The Netherlands has chosen to transpose the following options*

**Article 1(3) of the Directive** – the Netherlands waives the applicability of the provisions of Title II of the Directive to these other institutions in the Netherlands in accordance with Article 1 paragraph 3 of the Directive

**Article 5(5) of the Directive** – the Netherlands identically transposes the option that if the evaluation of risk management, risk loss databases and internal control mechanisms of an electronic money institution give reason for this, the electronic money institution is required to hold an amount of own funds which is up to 20% higher than the amount which would result from the application of the relevant method in accordance with paragraph 2 of the same Article, or permit the electronic money institution to hold an amount of own capital which is up to 20% lower than the amount which would result from the application of the relevant method.

**Article 5(7) of the Directive** – the Netherlands transposed extensively the option that the supervision on individual basis on the compliance of the obligations shall not apply to Dutch investment firms or banks which serve as subsidiaries of those investment firms or banks under specific detailed conditions, such as that supervision takes place on consolidated basis; own capital between the undertaking and its subsidiary is adequately divided: (1) by there being no practical or legal obstacles which could block immediate transfer of own capital or repayability of debts (2) the bank or investment firm takes due care of a managed business policy with the subsidiary and with consent of the Dutch Central Bank takes accountability for liabilities of the subsidiary (3) the risk assessment includes the subsidiary (4) the bank or firm has assigned more than 50% of voting rights to holdings in the capital of the subsidiary or has the right to hire or dismiss the majority of the day-to-day policy makers.

**Article 7(1) of the Directive** – the Netherlands transposed the option for Article 9 paragraph 2 of Directive 2007/64/EC by specifically indicating that when part of the own funds

designated for future transactions is unknown or variable, the institution shall be allowed to exclusively apply the first paragraph (of waiving electronic money institutions) on the basis of a representative portion assumed to be used for the payment services which must be reasonably estimated on the basis of historical data.

**Article 7(2) third para of the Directive** – the Netherlands identically transposed that in exceptional circumstances with adequate justification after evaluation of security, maturity, value or other risk elements of assets, a determination may be made which one of those assets do not constitute secure low risk assets.

**Article 7(4) of the Directive** – the Netherlands transposed the option of providing a method by financial undertakings to calculate the amount of risk based assets not included on the balance-sheet.

**Article 9(1) 1<sup>st</sup> sub-paragraph introductory wording of the Directive** – the Netherlands transposed the option that partial or entire exemptions of the authorisation requirements for electronic money institutions may be established, Dutch law provides for exceptions to authorisation in cases of small scale electronic money institutions with no criminal history of money laundering or terrorist financing, while guaranteeing confidentiality and requiring a notification to the supervisory authorities and without compromising the designation of competent authorities, professional secrecy rules, rights to apply to the courts and exchange of information as indicated by Articles 20, 22, 23 and 23 of Directive 2007/64/EC.

**Article 9(1) third sub-paragraph introductory wording of the Directive** – the Netherlands transposed the option of providing for exemptions for authorisation of issuing electronic money, under the condition that the undertaking only issues electronic money via a payment instrument or account on which a maximum amount of €150 at any one time can be stored.

**Article 18(1) first paragraph of the Directive** – the Netherlands transposed the option that until 30 October 2001 electronic money institutions may operate on the basis of Dutch law as it applied before April 29 2011.

**Article 18(2) of the Directive** – the Netherlands transposed the option that if the Dutch Central Bank has sufficient evidence that the electronic money institution meets the requirements for authorisation, it may decide to grant authorisation.

*3.3.2. The Netherlands has chosen not to transpose the following options:*

**Article 3(3) sixth paragraph of the Directive** - Waiver of acquisition obligations under Article 3(3) for hybrid electronic money institutions

**Article 7(3) of the Directive** - Possibility to cover with an insurance the funds to be safeguarded; and application of safeguarding requirements only to funds that individually exceed EUR 600

**Article 9(4) of the Directive** - Limitation on the activities carried out by entities waived under Article 9

#### **4. List of acronyms**

No acronyms were used.

Directive 2009/110/EC			National Implementing Measures			Conformity Assessment
Article No.	EN	NL	Act, Article No.	EN	NL	Observations
<b>Art. 1(1) intr. wording</b>	<p><b>TITLE I SCOPE AND DEFINITIONS</b></p> <p><i>Article 1</i> <b>Subject matter and scope</b></p> <p>1. This Directive lays down the rules for the pursuit of the activity of issuing electronic money to which end the Member States shall recognise the following categories of electronic money issuer:</p>	<p><b>TITEL I TOEPASSINGSGBIE D EN DEFINITIES</b></p> <p><i>Artikel 1</i> <b>Onderwerp en toepassingsgebied</b></p> <p>Bij deze richtlijn worden de voorschriften vastgesteld voor de beroepsmatige uitgifte van elektronisch geld, met het oog waarop de lidstaten de volgende categorieën uitgevers van elektronisch geld erkennen:</p>	N/A	N/A	N/A	<p><b>CONFORM</b></p> <p>No provisions could be identified in Dutch law, however conformity is not affected as the requirements for transposition follow.</p>
<b>Art. 1(1)(a)</b>	<p>(a) credit institutions as defined in point 1 of Article 4 of Directive 2006/48/EC including, in accordance with national law, a branch thereof within the meaning of point 3 of Article 4 of that Directive, where such a branch is located within the Community and its head office is located</p>	<p>a) kredietinstellingen als gedefinieerd in artikel 4, punt 1 van Richtlijn 2006/48/EG, met inbegrip van, in overeenstemming met de nationale wetgeving, een bijkantoor daarvan, in de zin van artikel 4, punt 3 van die richtlijn, wanneer dat bijkantoor is gevestigd binnen de Gemeenschap</p>	<p><b>Art. 1:1 Financial Supervision Act</b></p> <p><b>Art. 3:11 of the Financ</b></p>	<p><b>Article 1:1 of the Financial Supervision Act 2011</b></p> <p><b>Bank:</b> An undertaking outside a closed network the business of which is to accumulate repayable funds of other than professional market participants, and which</p>	<p><b>Artikel 1:1 Wet op het Financieel Toezicht Bank:</b> degenen die zijn bedrijf maakt van het buiten besloten kring ter beschikking verkrijgen van opvorderbare gelden van anderen dan professionele marktpartijen, en van het</p>	<p><b>CONFORM</b></p> <p>Article 1:1 and 3:11 of the Financial Supervision Act transpose the requirements of Article 1 paragraph 1 subparagraph (a) of the Directive.</p> <p>Article 1 paragraph 1 subparagraph (a) of the Directive requires ‘credit institutions’ to be defined in accordance with point 1 of Article 4 of Directive 2006/48/EC as ‘an undertaking able to receive deposits or other repayable funds from the public and to grant credits for</p>

Directive 2009/110/EC		National Implementing Measures			Conformity Assessment
outside the Community, in accordance with Article 38 of that Directive;	en het hoofdkantoor daarvan is gevestigd buiten de Gemeenschap, in overeenstemming met artikel 38 van dezelfde richtlijn;	<b>ial Supervision Act</b>	grants credits for its own account;  <b>Branch office:</b> (a) A part of a financial undertaking which is durably present in a state other than the state where the head office is located (...);  <b>Financial undertaking:</b> (a) A bank Member State:  A state as a Member of the European Union, and States which are not Members of the European Union but are parties to the Agreement on the European Economic Area (EEA);  <b>Article 3:11 of the Financial Supervision Act</b>  The Articles 3:8 3:9 and 3:10 shall apply to branches of banks located in the Netherlands and which have a seat in a State which is not a Member State.  <b>§ 3.3.2.1. Financial undertakings with a seat</b>	voor eigen rekening verrichten van kredietuitzettingen;  <b>bijkantoor:</b> a. duurzaam in een andere staat dan de staat van de zetel aanwezig onderdeel (...) van een financiële onderneming;  <b>Financiële onderneming:</b> a. een bank; lidstaat:  een staat die lid is van de Europese Unie alsmede een staat, niet zijnde een lidstaat van de Europese Unie, die partij is bij de Overeenkomst betreffende de Europese Economische Ruimte;  <b>Artikel 3:11 Wet op het Financieel Toezicht</b>  De artikelen 3:8, 3:9 en 3:10 zijn van overeenkomstige toepassing op in Nederland gelegen bijkantoren van banken met zetel in een staat die geen lidstaat is.  <b>§ 3.3.2.1. Financiële</b>	its own account'.  Article 1:1 of the Financial Supervision Act defines 'banks' as undertakings which accumulate repayable funds of other than professional market participants, and which grant credits for their own account.  Therefore, in the Netherlands banks are considered to be 'credit institutions' in accordance with the definition of Article 1 paragraph 1 subparagraph (a) of the Directive.  Conformity in this regard can be observed.  Furthermore, Article 1 paragraph 1 subparagraph (a) of the Directive states that where in accordance with national law, 'branches' within the meaning of point 3 of Article 4 of Directive 2006/48/EC should be included, where they are located within the EEA and have their head office outside the EEA in accordance with Article 38 of that Directive.  Article 1:1 of the Financial Supervision Act also defines a 'branch office' under (a) as a part of a financial undertaking which is durably present in a state other than the state where the head office is located.  Article 1:1 of the Financial Supervision Act defines banks also as 'financial undertakings', therefore branch offices of banks are included in the scope of the definition of financial undertakings.  In accordance with Article 1:1 of the Financial Supervision Act, 'Member States'



Directive 2009/110/EC			National Implementing Measures		Conformity Assessment
			<p><b>in the Netherlands</b></p> <p><b>Article 3:8</b></p> <p><b>Article 3:9</b></p> <p><b>Article 3:10</b></p>	<p><b>ondernemingen met zetel in Nederland</b></p> <p><b>Artikel 3:8</b></p> <p><b>Artikel 3:9</b></p> <p><b>Artikel 3:10</b></p>	<p>are defined as EU and EEA states, therefore the wording ‘present in another state’ as it concerns branch offices, it also includes states within the EEA agreement as required by the Directive.</p> <p>Therefore, conformity in this regard is observed with the Directive.</p> <p>Furthermore, Article 3:11 of the Financial Supervision Act indicates that the Articles 3:8, 3:9 and 3:10 concerning the requirements for banks with a seat in the Netherlands shall equally apply to banks with a branch in the Netherlands; but which have a seat in a non-Member State.</p> <p>The definition of Member State encompasses EU and EEA states as referenced above, therefore ‘non-Member States’ broadens the scope to states outside the EU and EEA for the purposes of head office locations.</p> <p>Therefore Article 3:11 of the Financial Supervision Act can be considered to meet the requirement of Article 38 of Directive 2006/48/EC, which indicates that banks with branch offices – but not their head office in the Netherlands – must not be treated less favourably than banks with their head office in the Netherlands.</p> <p>Conformity with Article 1 paragraph 1 subparagraph (a) of the Directive can be observed in this regard.</p> <p>Overall, based on the above observations, conformity with Article 1 paragraph 1 subparagraph (a) of the Directive is observed.</p>

Directive 2009/110/EC		National Implementing Measures			Conformity Assessment	
<b>Art. 1(1)(b)</b>	(b) electronic money institutions as defined in point 1 of Article 2 of this Directive including, in accordance with Article 8 of this Directive and national law, a branch thereof, where such a branch is located within the Community and its head office is located outside the Community;	b) instellingen voor elektronisch geld als gedefinieerd in punt 1 van artikel 2 van deze richtlijn, met inbegrip van, in overeenstemming met artikel 8 van deze richtlijn, en met de nationale wetgeving, een bijkantoor daarvan, wanneer dat bijkantoor is gevestigd binnen de Gemeenschap en het hoofdkantoor daarvan is gevestigd buiten de Gemeenschap;	<p><b>Art. 1:1 of the Financial Supervision Act 2011</b></p> <p><b>Art. 2:10a of the Financial Supervision Act 2011</b></p> <p><b>Art. 2:10f of the Financial Supervision Act 2011</b></p>	<p><b>Article 1:1 of the Financial Supervision Act</b></p> <p><b>Electronic money institution:</b> An undertaking operating on the basis of issuance of electronic currency.</p> <p><b>Financial service provider:</b> one who offers a financial product other than a financial instrument (...)</p> <p><b>Financial undertaking:</b> i. A financial service provider;</p> <p><b>Article 2:10a of the Financial Supervision Act</b> (1) Any person with a seat in the Netherlands is prohibited to issue electronic money without prior authorisation from the Dutch Central Bank.</p> <p><b>Article 2:10f of the Financial Supervision Act</b> (1) Any person with a seat in a non Member State is prohibited from:</p>	<p><b>Artikel 1:1 Wet op het Financieel Toezicht</b></p> <p><b>Elektronischgeldinstelling:</b> degene die zijn bedrijf maakt van de uitgifte van elektronisch geld;</p> <p><b>Financiële dienstverlener:</b> degene die een ander financieel product dan een financieel instrument aanbiedt (...)</p> <p><b>Financiële onderneming:</b> i. een financiële dienstverlener;</p> <p><b>Artikel 2:10a Wet op het Financieel Toezicht</b> (1) Het is een ieder met zetel in Nederland verboden zonder een daartoe door de Nederlandsche Bank verleende vergunning elektronisch geld uit te geven.</p> <p><b>Artikel 2:10f Wet op het Financieel Toezicht</b> (1) Het is een ieder met zetel in een staat die geen lidstaat is verboden:</p>	<p><b>CONFORM</b></p> <p>Article 1:1, 2:10a and 2:10f of the Financial Supervision Act transpose the requirements of Article 1 paragraph 1 subparagraph (b) of the Directive.</p> <p>Article 1 paragraph 1 subparagraph (b) of the Directive requires recognition of electronic money institutions as legal persons which have been granted authorisation to issue electronic money as defined according to point 1 of Article 2 of the Directive.</p> <p>According to Article 1:1 of the Financial Supervision Act, electronic money institutions are any undertakings operating on the basis of issuance of electronic currency.</p> <p>Furthermore, electronic money institutions provide a ‘financial product other than financial instruments’, i.e. electronic money, and therefore fall under ‘financial service providers’.</p> <p>Therefore, electronic money institutions also fall under the definition of ‘financial undertakings’ <i>via</i> paragraph Article 1:1 (i) of the Financial Supervision Act as: ‘financial service providers’.</p> <p>In this regard, conformity with the Directive requirements for a definition of electronic money institutions is observed.</p> <p>Article 2:10a, paragraph 1 of the Financial Supervision Act prohibits anyone with a seat in the Netherlands to issue electronic money without prior authorisation from the Dutch</p>

Directive 2009/110/EC		National Implementing Measures		Conformity Assessment
		<p>(a) Exercising an undertaking as an electronic money institution in the Netherlands</p> <p>(b) Exercising an undertaking as an electronic money institution in another Member State <i>via</i> a branch office in the Netherlands</p> <p>(2) The first paragraph does not apply to financial enterprises as banks and which have authorisation from the Dutch Central Bank (...) in so far as this authorisation allows issuance of electronic money.</p>	<p>(a) in Nederland het bedrijf van elektronischgeldinstelling uit te oefenen;</p> <p>(b) vanuit een in Nederland gelegen bijkantoor het bedrijf van elektronischgeldinstelling uit te oefenen in een andere lidstaat.</p> <p>(2) Het eerste lid is niet van toepassing op financiële ondernemingen die voor het uitoefenen van het bedrijf van bank een door de Nederlandsche Bank (...) verleende vergunning hebben, voor zover het aan hen ingevolge die vergunning is toegestaan elektronisch geld uit te geven.</p>	<p>Central Bank.</p> <p>The scope of Article 2:10a, paragraph 1 of the Financial Supervision Act therefore is consistent with the required legal persons under point 1 of Article 2 of the Directive where it concerns the authorisation requirement for electronic money issuers as undertakings.</p> <p>Conformity is thus observed.</p> <p>Furthermore, Article 1 paragraph 1 subparagraph (b) of the Directive requires, in accordance with Article 8 of the Directive and with national law, that Member States may not provide a more favourable treatment to a branch of an electronic money institution with its seat outside of the EEA.</p> <p>On the basis of Article 2:10f paragraph 1 subparagraph (a) of the Financial Supervision Act, the Netherlands prohibits electronic money institutions with a seat in a non-Member State from operating in the Netherlands.</p> <p>Article 2:10f paragraph 1 subparagraph (b) of the Financial Supervision Act also prohibits branch offices of electronic money institutions in the Netherlands from operating as such institutions in another Member State (i.e. EU and EEA states). In accordance with Article 2:10f, paragraph 2 of the Financial Supervision Act, this prohibition does not apply however to financial undertakings acting as banks (i.e. credit institutions) which have the authorisation from the Dutch Central Bank to issue electronic money.</p>

Directive 2009/110/EC			National Implementing Measures			Conformity Assessment
						<p>Therefore, the Netherlands does not provide a more favourable treatment to a branch of an electronic money institution having its seat outside of the EEA.</p> <p>Conformity in this regard is observed with Article 1 paragraph 1 subparagraph (b) in conjunction with Article 8 of the Directive.</p> <p>Overall, based on the above observations, conformity with Article 1 paragraph 1 subparagraph (b) of the Directive is observed.</p>
<b>Art. 1(1)(c)</b>	(c) post office giro institutions which are entitled under national law to issue electronic money;	c) postcheque- en girodiensten die krachtens de nationale wetgeving gemachtigd zijn om elektronisch geld uit te geven;	N/A	N/A	N/A	<p><b>CONFORM</b></p> <p>No transposition is required as post office giro institutions are not available in the Netherlands.</p>
<b>Art. 1(1)(d)</b>	(d) the European Central Bank and national central banks when not acting in their capacity as monetary authority or other public authorities;	d) de Europese Centrale Bank en nationale centrale banken wanneer zij niet handelen in hun hoedanigheid van monetaire of andere publieke autoriteit;	<b>Art. 1:2 of the Financial Supervision Act</b>	<p><b>Article 1:2 of the Financial Supervision Act</b></p> <p>(1) This Act with the exception of this section (...) shall not apply to the European Central Bank, the central banks of the Member States, national institutions of the Member States with a similar function, public institutions of Member States tasked with or involved with the management of public debt, international public</p>	<p><b>Artikel 1:2 Wet op het Financieel Toezicht</b></p> <p>(1) Deze wet, met uitzondering van dit deel, (...) is niet van toepassing op de Europese Centrale Bank, de centrale banken van de lidstaten, nationale instellingen van de lidstaten met een soortgelijke functie, overheidsinstellingen van de lidstaten die zijn belast met of betrokken bij het beheer van de overheidsschuld, internationale</p>	<p><b>CONFORM</b></p> <p>Article 1:2 of the Financial Supervision Act transposes Article 1 paragraph 1 subparagraph (d) of the Directive.</p> <p>Article 1 paragraph 1 subparagraph (d) of the Directive indicates that the European Central Bank and national central banks must be recognised as electronic money issuers when not acting in their capacity as monetary authority or other public authorities.</p> <p>Article 1:2 paragraph 1 of the Financial Supervision Act states that the remainder of the Financial Supervision Act shall not apply to the European Central Bank, the central banks of the Member States, national institutions with similar function, public</p>

Directive 2009/110/EC		National Implementing Measures		Conformity Assessment
		<p>institutions in which one or more Member States take part and institutions as in Article 2 of the revised Directive on Banks.</p> <p>(2) In deviation of paragraph 1, this section and Section 4 ‘conduct supervision of financial undertakings’ applies to providing payment services and to the issuance of electronic money by:</p> <p>(a) The European Central Bank and the central banks of the Member States;</p>	<p>publiekrechtelijke instellingen waarin of waaraan een of meer lidstaten deelnemen en instellingen als bedoeld in artikel 2 van de herziene richtlijn banken.</p> <p>(2) In afwijking van het eerste lid zijn dit deel en het deel Gedragstoezicht financiële ondernemingen van toepassing op het verlenen van betaaldiensten en de uitgifte van elektronisch geld door:</p> <p>(a) de Europese Centrale Bank en de centrale banken van de lidstaten;</p>	<p>institutions tasked with or involved with the management of public debt, international public institutions in which one or more Member States take part and institutions as in Article 2 of the revised Directive on Banks.</p> <p>Therefore, Dutch law exempts the European Central Bank and national central banks from the Financial Supervision Act when they are acting in their capacity as authorities from the scope of the Directive, in accordance with Article 1 paragraph 1 subparagraph (d) of the Directive.</p> <p>In this regard, conformity is observed.</p> <p>Furthermore, Article 1:2 paragraph 2 of the Financial Supervision Act provides for an exception to paragraph 1 and indicates the non-applicability of the Section on conduct supervision of financial undertakings to payment services and to the issuance of electronic money by (a) the European Central Bank and the central banks of the Member States.</p> <p>As the exemption of the European Central Bank and the central banks of the Member States applies to providing payment services and to the issuance of electronic money, conformity with Article 1 paragraph 1 subparagraph (d) of the Directive can also be observed in this regard.</p> <p>Overall, based on the above observations, conformity with Article 1 paragraph 1 subparagraph (d) of the Directive is observed.</p>

Directive 2009/110/EC			National Implementing Measures			Conformity Assessment
<b>Art. 1(1)(e)</b>	(e) Member States or their regional or local authorities when acting in their capacity as public authorities.	e) de lidstaten en hun regionale en lokale overheden wanneer zij handelen in hun hoedanigheid van overheidsinstantie.	<b>Art. 1:2 of the Financial Supervision Act</b>	<p><b>Article 1:2 of the Financial Supervision Act</b></p> <p>(1) This Act with the exception of this section (...) shall not apply to the European Central Bank, the central banks of the Member States, national institutions of the Member States with a similar function, public institutions of Member States tasked with or involved with the management of public debt, international public institutions in which one or more Member States take part and institutions as in Article 2 of the revised Directive on Banks.</p> <p>(2) In deviation of paragraph 1, this section and Section 4 ‘conduct supervision of financial undertakings’ applies to providing payment services and to the issuance of electronic money by:</p> <p>(b) Member States and the regional or local governments of the</p>	<p><b>Artikel 1:2 Wet op het Financieel Toezicht</b></p> <p>(1) Deze wet, met uitzondering van dit deel, (...) is niet van toepassing op de Europese Centrale Bank, de centrale banken van de lidstaten, nationale instellingen van de lidstaten met een soortgelijke functie, overheidsinstellingen van de lidstaten die zijn belast met of betrokken bij het beheer van de overheidsschuld, internationale publiekrechtelijke instellingen waaraan een of meer lidstaten deelnemen en instellingen als bedoeld in artikel 2 van de herziene richtlijn banken.</p> <p>(2) In afwijking van het eerste lid zijn dit deel en het deel Gedragstoezicht financiële ondernemingen van toepassing op het verlenen van betaaldiensten en de uitgifte van elektronisch geld door:</p> <p>(b) lidstaten alsmede de regionale of lokale</p>	<p><b>CONFORM</b></p> <p>Article 1:2 of the Financial Supervision Act transposes Article 1 paragraph 1 subparagraph (e) of the Directive.</p> <p>Article 1:2 paragraph 2 of the Financial Supervision Act provides for an exception to paragraph 1 of Article 1:2 of the Financial Supervision Act by indicating the non-applicability of Section 4 on conduct supervision of financial undertakings to (b) Member States and their regional and local governments.</p> <p>As this exemption applies to providing payment services and to the issuance of electronic money, conformity with Article 1 paragraph 1 subparagraph (e) of the Directive can be observed.</p> <p>Overall, based on the above observations, conformity with Article 1 paragraph 1 subparagraph (e) of the Directive is observed.</p>

Directive 2009/110/EC			National Implementing Measures			Conformity Assessment
				Member States;	overheden van de lidstaten.	
<b>Art. 1(2)</b>	2. Title II of this Directive lays down the rules for the taking up, the pursuit and the prudential supervision of the business of electronic money institutions.	2. In titel II van deze richtlijn worden voorschriften vastgesteld voor de toegang tot, de uitoefening van en het prudentiële toezicht op de werkzaamheden van instellingen voor elektronisch geld.	N/A	N/A	N/A	<b>CONFORM</b>  Title II of the Directive concerning prudential supervision is transposed in Section 4, Conduct Supervision of Financial Undertakings of the Financial Supervision Act (Articles 4:1 – 4:104) in Dutch law.
<b>Art. 1(3)</b>	3. Member States may waive the application of all or part of the provisions of Title II of this Directive to the institutions referred to in Article 2 of Directive 2006/48/EC, with the exception of those referred to in the first and second indents of that Article.	3. De lidstaten kunnen geheel of gedeeltelijk ontheffing verlenen van de toepassing van titel II van deze richtlijn op de instellingen bedoeld in artikel 2 van Richtlijn 2006/48/EG, met uitzondering van de instellingen bedoeld in het eerste en het tweede streepje van dat artikel.	<b>Art. 1:2 of the Financial Supervision Act</b>	<b>Article 1:2 of the Financial Supervision Act</b>  (1) This Act with the exception of this section (...) shall not apply to the European Central Bank, the central banks of the Member States, national institutions of the Member States with a similar function, public institutions of Member States tasked with or involved with the management of public debt, international public institutions in which one or more Member States take part and institutions as in Article 2 of the revised Directive on	<b>Artikel 1:2 Wet op het Financieel Toezicht</b>  (1) Deze wet, met uitzondering van dit deel, (...) is niet van toepassing op de Europese Centrale Bank, de centrale banken van de lidstaten, nationale instellingen van de lidstaten met een soortgelijke functie, overheidsinstellingen van de lidstaten die zijn belast met of betrokken bij het beheer van de overheidsschuld, internationale publiekrechtelijke instellingen waarin of waaraan een of meer lidstaten deelnemen en instellingen als bedoeld in artikel 2 van de herziene	<b>CONFORM</b>  Article 1(3) of the Directive sets out an option, which the Netherlands chose to apply.  Article 1:2 of the Financial Supervision Act indicates the institutions which shall not be subject to the Financial Supervision Act or specifically to Section 4 on conduct supervision of the Financial Supervision Act.  Article 1:2, paragraph 1 of the Financial Supervision Act indicates that the Financial Supervision Act shall not apply to the central banks of the Member States.  Article 1:2, paragraph 2 subparagraph (a) of the Financial Supervision Act further states that, as an exception to paragraph 1, the central banks of the Member States shall not be excluded from the scope of applicability of Section 4 on conduct supervision of financial undertakings of the Financial Supervision Act.  Section 4 of the Financial Supervision Act

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				<p>Banks.</p> <p>(2) In deviation of paragraph 1, this section and Section 4 ‘conduct supervision of financial undertakings’ applies to providing payment services and to the issuance of electronic money by:</p> <p>(a) The European Central Bank and the central banks of the Member States;</p>	<p>richtlijn banken.</p> <p>(2) In afwijking van het eerste lid zijn dit deel en het deel Gedragstoezicht financiële ondernemingen van toepassing op het verlenen van betaaldiensten en de uitgifte van elektronisch geld door:</p> <p>(a) de Europese Centrale Bank en de centrale banken van de lidstaten;</p>	<p>includes the provisions on conduct supervision and concerns Title II of the Directive on prudential supervision.</p> <p>Therefore, the Netherlands has not waived the application of Title II to the central banks of Member States, which is in accordance with Article 1 paragraph 3 of the Directive.</p> <p>Conformity is thus observed.</p> <p>Furthermore, the remaining institutions for the Netherlands as referenced under Article 2 of Directive 2006/48/EC are explicitly indicated under Article 1:2, paragraph 1 of the Financial Supervision Act and not under the exception of paragraph 2 of the Financial Supervision Act. As a result, these institutions fall outside the scope of application of the Financial Supervision Act.</p> <p>Therefore, the Netherlands has waived the applicability of the provisions of Title II of the Directive to these other institutions in the Netherlands in accordance with Article 1 paragraph 3 of the Directive.</p>
<b>Art. 1(4)</b>	4. This Directive does not apply to monetary value stored on instruments exempted as specified in Article 3(k) of Directive 2007/64/EC.	Deze richtlijn is niet van toepassing op monetaire waarde die is opgeslagen op instrumenten die zijn vrijgesteld krachtens artikel 3, onder k), van Richtlijn 2007/64/EG.	<b>Art. 1:5 of the Financial Supervision Act</b> <b>Art. 1:5a of the</b>	<p><b>Article 1:5 of the Financial Supervision Act</b></p> <p>This Act shall not apply to:</p> <p>(a) the issuance of payment instruments as indicated by Article 1:5a, second paragraph, subparagraph k</p>	<p><b>Artikel 1:5 Wet op het Financieel Toezicht</b></p> <p>Deze wet is niet van toepassing op:</p> <p>(a) de uitgifte van betaalinstrumenten als bedoeld in artikel 1:5a, tweede lid, onderdeel k;</p> <p><b>Artikel 1:5a Wet op het Financieel Toezicht</b></p>	<p><b>CONFORM</b></p> <p>Article 1:5 and 1:5a of the Financial Supervision Act transpose Article 1 paragraph 4 of the Directive.</p> <p>Article 1:5 of the Financial Supervision Act indicates that the Act shall not apply to (a) the issuance of payment instruments as indicated by Article 1:5a, second paragraph, subparagraph (k) of the Financial Supervision Act.</p>



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			<b>Financial Supervision Act</b>  <b>Article 1:5a of the Financial Supervision Act</b>  (2) Providing of payment services under this Act shall not be understood as:  (k) the execution of payment transactions for the purchase of goods or services which are performed with payment instruments that provide a specific need and can exclusively be used:  1°. on the premises of the issuing institution;  2°. or under a commercial agreement with the issuer either within a limited network of service providers;  3°. or for a limited range of goods or services;	(2) Onder het verlenen van betaaldiensten in de zin van deze wet wordt niet verstaan:  (k) het verrichten van betalingstransacties ten behoeve van de aankoop van goederen of diensten die worden uitgevoerd met betaalinstrumenten die voorzien in een welbepaalde behoefte en die uitsluitend kunnen worden gebruikt:  1°. hetzij in door de uitgevende instelling gebruikte bedrijfsgebouwen;  2°. hetzij op grond van een handelsovereenkomst met de uitgevende instelling binnen een beperkt netwerk van dienstverleners;  3°. hetzij voor een beperkte reeks goederen dan wel diensten;	Article 1:5a, paragraph 2, subparagraph (k) of the Financial Supervision Act transposes identically the requirements of Article 3, paragraph (k) of Directive 2007/64/EC, by indicating that payment services under the Financial Supervision Act shall be exempted when the execution of payment transactions for purchasing goods or services provide a specific need and are exclusively used: 1) on the premises of the issuing institution; 2) or under a commercial agreement with the issuer either within a limited network of service providers; 3) or for a limited range of goods or services.  Article 1:5a, paragraph 2, subparagraph (k) of the Financial Supervision Act is therefore in accordance with the exception of application of the monetary value stored on instruments as specified in Article 3 paragraph (k) of Directive 2007/64/EC. Conformity in this regard is thus observed.  Overall, based on the above observations, conformity with Article 1 paragraph 4 of the Directive is observed.	
<b>Art. 1(5)</b>	5. This Directive does not apply to monetary value that is used to make payment transactions exempted as specified in Article 3(1) of Directive	Deze richtlijn is niet van toepassing op monetaire waarde die wordt gebruikt om betalingstransacties te verrichten die zijn vrijgesteld krachtens artikel 3, onder 1), van	<b>Art. 1:5 of the Financial Supervision Act</b>  <b>Article 1:5 of the Financial Supervision Act</b>  This Act shall not apply to:  (a) the issuance of	<b>Artikel 1:5 Wet op het Financieel Toezicht</b>  Deze wet is niet van toepassing op:  (a) de uitgifte van betaalinstrumenten als	<b>CONFORM</b>  Article 1:5 and 1:5a of the Financial Supervision Act transpose Article 1 paragraph 5 of the Directive.  Article 1 paragraph 5 of the Directive indicates that this Directive shall not apply to	

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2007/64/EC.	Richtlijn 2007/64/EG.	<b>Act</b> <b>Art. 1:5a of the Financial Supervision Act</b>	<p>monetary credit used to make payment transactions as indicated by Article 1:5a, second paragraph, subparagraph 1;</p> <p><b>Article 1:5a of the Financial Supervision Act</b></p> <p>(2) Providing of payment services under this Act shall not be understood as:</p> <p>(1) payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services;</p>	<p>bedoeld in artikel 1:5a, tweede lid, onderdeel k;</p> <p><b>Artikel 1:5a Wet op het Financieel Toezicht</b></p> <p>(2) Onder het verlenen van betaaldiensten in de zin van deze wet wordt niet verstaan:</p> <p>(1) het verrichten van betalingstransacties ten behoeve van de aankoop van goederen of diensten die worden uitgevoerd via een telecommunicatie-instrument, digitaal instrument of informatietechnologie-instrument, mits de aanbieder van dit instrument niet uitsluitend als tussenpersoon optreedt tussen de betaaldienstgebruiker en de leverancier van de gekochte goederen en diensten en voor zover de gekochte goederen of diensten geleverd worden aan en gebruikt moeten worden via een van de bedoelde instrumenten;</p>	<p>monetary value used to make payment transactions exempted under Article 3 paragraph (1) of Directive 2007/64/EC, which concerns: 1) payment transactions of any telecommunication, digital or IT device, where goods or services purchased are delivered and are to be used through a telecommunication, digital or IT device; 2) provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services.</p> <p>Article 1:5 of the Financial Supervision Act exempts that Act from situations of (a) the issuance of payment instruments as indicated by Article 1:5a, second paragraph, subparagraph (1) of the Financial Supervision Act.</p> <p>Article 1:5a, paragraph 2, subparagraph (1) of the Financial Supervision Act indicates the exemption as: 1) payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, 2) provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services.</p> <p>Article 1:5a, paragraph 2, subparagraph (1) of the Financial Supervision Act is therefore identical to the exception of application of the</p>

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						<p>monetary value used to make payment transactions exempted as specified in Article 3(1) of Directive 2007/64/EC.</p> <p>Conformity with Article 3(1) of Directive 2007/64/EC is thus observed. Conformity with Article 1 paragraph 5 of the Directive is also observed.</p>
<b>Art. 2 intr. wording</b>	<p><i>Article 2</i> <b>Definitions</b></p> <p>For the purposes of this Directive, the following definitions shall apply:</p>	<p><i>Artikel 2</i> <b>Definities</b></p> <p>Voor de toepassing van deze richtlijn wordt verstaan onder:</p>	N/A	N/A	N/A	<p><b>CONFORM</b></p> <p>Due to the different structure of the NIMs no such provision could be located, however conformity is not affected.</p>
<b>Art. 2 pt (1)</b>	<p>1. "electronic money institution" means a legal person that has been granted authorisation under Title II to issue electronic money;</p>	<p>1. „instelling voor elektronisch geld”: een rechtspersoon die uit hoofde van titel II een vergunning heeft gekregen om elektronisch geld uit te geven;</p>	<p><b>Art. 1:1 of the Financial Supervision Act</b></p> <p><b>Art. 2:10a of the Financial Supervision Act</b></p>	<p><b>Article 1:1 of the Financial Supervision Act</b></p> <p><b>Electronic money institution:</b></p> <p>An undertaking operating on the basis of issuance of electronic currency;</p> <p><b>Financial service provider:</b></p> <p>one who offers a financial product other than a financial instrument (...)</p> <p><b>Financial undertaking:</b></p> <p>i. a financial services provider;</p> <p><b>Article 2:10a of the Financial Supervision Act</b></p>	<p><b>Artikel 1:1 Wet op het Financieel Toezicht</b></p> <p><b>Elektronischgeldinstelling:</b></p> <p>degene die zijn bedrijf maakt van de uitgifte van elektronisch geld;</p> <p><b>Financiële dienstverlener:</b></p> <p>degene die een ander financieel product dan een financieel instrument aanbiedt (...)</p> <p><b>Financiële onderneming:</b></p> <p>i. een financiële dienstverlener;</p> <p><b>Artikel 2:10a Wet op het Financieel Toezicht</b></p>	<p><b>CONFORM</b></p> <p>Article 1:1 of the Financial Supervision Act transposes the requirements of Article 2 point (1) of the Directive.</p> <p>Article 2 introductory wording of the Directive requires recognition of electronic money institutions as legal persons which have been granted authorisation to issue electronic money under Title II of the Directive.</p> <p>According to Article 1:1 of the Financial Supervision Act 2011 electronic money institutions are any undertakings operating on the basis of issuance of electronic currency.</p> <p>Furthermore, according to Article 1:1 of the Financial Supervision Act, electronic money institutions fall under the category ‘financial service providers’ as these offer electronic money, and are therefore legal persons</p>

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				<p style="text-align: center;"><b>Act</b></p> <p>(1) Any person with a seat in the Netherlands is prohibited to issue electronic money without prior authorisation from the Dutch Central Bank.</p>	<p>(1) Het is een ieder met zetel in Nederland verboden zonder een daartoe door de Nederlandsche Bank verleende vergunning elektronisch geld uit te geven.</p>	<p>qualified as ‘financial undertakings’.</p> <p>Conformity with Article 2 point (1) of the Directive is thus observed, concerning the requirement for legal persons as electronic money issuers.</p> <p>Furthermore, Article 2:10a, paragraph 1 of the Financial Supervision Act prohibits anyone with a seat in the Netherlands to issue electronic money without prior authorisation from the Dutch Central Bank.</p> <p>Conformity with Article 2 point (1) of the Directive is observed concerning the authorisation requirement for electronic money issuers.</p> <p>Dutch law can also be considered in accordance with recital 25 of the Directive which requires electronic money institutions not to be considered as credit institutions.</p> <p>Therefore, conformity with Article 2 point (1) of the Directive is observed.</p>
<b>Art. 2 pt (2)</b>	2. "electronic money" means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions as defined in point 5 of Article 4 of Directive 2007/64/EC, and which is accepted by a natural or	2. „elektronisch geld”: elektronisch, met inbegrip van magnetisch, opgeslagen monetaire waarde vertegenwoordigd door een vordering op de uitgever, welke is uitgegeven in ruil voor ontvangen geld om betalingstransacties als gedefinieerd in artikel 4, punt 5, van Richtlijn 2007/64/EG te verrichten,	<b>Art. 1:1 of the Financial Supervision Act</b>	<p style="text-align: center;"><b>Article 1:1 of the Financial Supervision Act</b></p> <p>Electronic money: Monetary value electronically or magnetically stored and which represents a claim on the issuer given in exchange for received funds and in order to make payment transactions as</p>	<p style="text-align: center;"><b>Artikel 1:1 Wet op het Financieel Toezicht</b></p> <p>elektronisch geld: geldswaarde die elektronisch of magnetisch is opgeslagen die een vordering op de uitgever vertegenwoordigt, die is uitgegeven in ruil voor ontvangen geld om betalingstransacties te verrichten als bedoeld in</p>	<p><b>CONFORM</b></p> <p>Article 1:1 of the Financial Supervision Act transposes the requirements of Article 2 point (2) of the Directive.</p> <p>Article 2 point (2) of the Directive requires the definition of ‘electronic money’ to include: electronically and magnetically stored monetary value, represented by a claim on the issuer which is stored on receipt of funds for the purpose of making payment transactions as defined in point 5 of Article 4 of Directive 2007/64/EC and which is</p>

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	legal person other than the electronic money issuer;	en welke wordt aanvaard door een andere natuurlijke of rechtspersoon dan de uitgever van elektronisch geld;	indicated by Article 4, point 5 of the Directive on payment services, and with which payments can be executed by a person other than the issuer;	<p>artikel 4, punt 5, van de richtlijn betaaldiensten, en waarmee betalingen kunnen worden verricht aan een andere persoon dan de uitgever;</p> <p>accepted by a natural or legal person other than the e-money issuer.</p> <p>Article 1:1 of the Financial Supervision Act states the definition of ‘electronic money’ to include: electronic or magnetically stored monetary value which represents a claim on the issuer given in exchange for received funds in order to make payment transactions as indicated by Article 4, point 5 of the Directive on payment services and with which payments can be executed by persons other than the issuer.</p> <p>The wording ‘persons other than the issuer’ in Dutch law can be considered to include both natural and legal persons as required by Article 2 point (2) of the Directive.</p> <p>Therefore, Article 1:1 of the Financial Supervision Act identically transposes all requirements of Article 2 point (2) of the Directive.</p> <p>Conformity in this regard is thus observed.</p> <p>Furthermore, Article 1:1 of the Financial Supervision Act can be considered to cover a clear, broad and technically neutral definition of electronic money in accordance with recital 7 of the Directive.</p> <p>Electronic money under Article 1:1 of the Financial Supervision Act also indicates that payments can be made by persons other than the issuer, which can be considered to cover all situations where the payment service provider issues a pre-paid stored value in exchange for funds, which can be accepted by</p>

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						<p>third persons as payment.</p> <p>Furthermore, electronic money can be stored on electronic or magnetic devices, and therefore Dutch law in this regard can be considered sufficiently broad to include situations of storage on payment devices or remote storage on servers managed by the holder through accounts.</p> <p>Therefore, Dutch law can be considered in accordance with recital 8 of the Directive also in this regard.</p> <p>Overall, taking into account the above observations, conformity with Article 2 point. 2 of the Directive is observed.</p>
<b>Art. 2 pt (3)</b>	3. "electronic money issuer" means entities referred to in Article 1(1), institutions benefiting from the waiver under Article 1(3) and legal persons benefiting from a waiver under Article 9;	3. „uitgever van elektronisch geld”: de in artikel 1, lid 1, bedoelde entiteiten, instellingen die vrijgesteld zijn krachtens artikel 1, lid 3, en rechtspersonen die vrijgesteld zijn krachtens artikel 9;	<b>Art. 1:1 of the Financial Supervision Act 2011</b>  <b>Art. 2:10a of the Financial Supervision Act 2011</b>  <b>Art.</b>	<b>Article 1:1 of the Financial Supervision Act</b>  <b>Electronic money institution:</b> An undertaking operating on the basis of issuance of electronic currency.  <b>Financial service provider:</b> one who offers a financial product other than a financial instrument (...)  <b>Financial undertaking:</b> i. A financial service provider;  <b>Article 2:10a of the</b>	<b>Artikel 1:1 Wet op het Financieel Toezicht</b>  <b>Elektronischgeldinstelling:</b> degenen die zijn bedrijf maakt van de uitgifte van elektronisch geld;  <b>Financiële dienstverlener:</b> : degenen die een ander financieel product dan een financieel instrument aanbiedt (...)  <b>Financiële onderneming:</b> i. een financiële dienstverlener;  <b>Artikel 2:10a Wet op het</b>	<b>CONFORM</b>  There is no specific definition for an electronic money issuer, nevertheless from the national provision it can be implied that only an electronic money institution that complies with the national rules can issue electronic money.

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		<p><b>2:10f of the Financial Supervision Act 2011</b></p>	<p><b>Financial Supervision Act</b></p> <p>(1) Any person with a seat in the Netherlands is prohibited to issue electronic money without prior authorisation from the Dutch Central Bank.</p> <p><b>Article 2:10f of the Financial Supervision Act</b></p> <p>(1) Any person with a seat in a non Member State is prohibited from:</p> <p>(a) Exercising an undertaking as an electronic money institution in the Netherlands</p> <p>(b) Exercising an undertaking as an electronic money institution in another Member State <i>via</i> a branch office in the Netherlands</p> <p>(2) The first paragraph does not apply to financial enterprises as banks and which have authorisation from the Dutch Central Bank (...) in so far as this authorisation allows issuance of electronic</p>	<p><b>Financieel Toezicht</b></p> <p>(1) Het is een ieder met zetel in Nederland verboden zonder een daartoe door de Nederlandsche Bank verleende vergunning elektronisch geld uit te geven.</p> <p><b>Artikel 2:10f Wet op het Financieel Toezicht</b></p> <p>(1) Het is een ieder met zetel in een staat die geen lidstaat is verboden:</p> <p>(a) in Nederland het bedrijf van elektronischgeldinstelling uit te oefenen;</p> <p>(b) vanuit een in Nederland gelegen bureau het bedrijf van elektronischgeldinstelling uit te oefenen in een andere lidstaat.</p> <p>(2) Het eerste lid is niet van toepassing op financiële ondernemingen die voor het uitoefenen van het bedrijf van bank een door de Nederlandsche Bank (...) verleende vergunning hebben, voor zover het aan hen ingevolge die</p>	

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				money.	vergunning is toegestaan elektronisch geld uit te geven.	
<b>Art. 2 pt (4)</b>	4. "average outstanding electronic money" means the average total amount of financial liabilities related to electronic money in issue at the end of each calendar day over the preceding six calendar months, calculated on the first calendar day of each calendar month and applied for that calendar month.	4. „gemiddeld uitstaand elektronisch geld”: het gemiddelde totale bedrag van de met elektronisch geld verband houdende financiële verplichtingen dat op het eind van elke kalenderdag in omloop is gedurende de zes voorafgaande kalendermaanden, berekend op de eerste kalenderdag van elke kalendermaand en toegepast voor die kalendermaand.	<b>Art. 1f of the Decisio n Prude ntial Rules of the Financ ial Superv ision Act</b>	<b>Article 1f of the Decree Prudential Rules of the Financial Supervision Act</b>  <b>average outstanding electronic money:</b>  The average total amount of the preceding six calendar months of the financial liabilities in connection with electronic money which are in circulation at the end of each calendar day based on the first calendar day of each calendar month and applied to that calendar month.	<b>Artikel 1f Besluit Prudentiele Regels van de Wet op het Financieel Toezicht</b>  <b>gemiddeld uitstaand elektronisch geld:</b>  het gemiddelde totale bedrag gedurende de zes voorafgaande kalendermaanden van de met elektronisch geld verband houdende financiële verplichtingen dat op het eind van elke kalenderdag in omloop is, berekend op de eerste kalenderdag van elke kalendermaand en toegepast voor die kalendermaand.	<b>CONFORM</b>  Article 1f of the Decision Prudential Rules of the Financial Supervision Act transposes the requirements of Article 2 point (4) of the Directive.  Article 2 point (4) of the Directive requires the definition of “average outstanding electronic money” to mean: the average total amount of financial liabilities related to electronic money in issue at the end of each calendar day over the preceding six calendar months calculated on the first calendar day of each calendar month and applied for that calendar month.  According to Article 1f of the Decision Prudential Rules of the Financial Supervision Act, the definition of ‘average outstanding electronic money’ means: the average total amount of financial liabilities of the preceding six calendar months in connection with electronic money which are in circulation at the end of each calendar day based on the first calendar day of each calendar month and applied to that calendar month.  Therefore, Article 1f of the Decision Prudential Rules of the Financial Supervision Act identically transposes all requirements of Article 2 point (4) of the Directive.  Conformity in this regard is thus observed



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					with Article 2 point (4) of the Directive.	
Art. 3(1)	<p><b>TITLE II REQUIREMENTS FOR THE TAKING UP, PURSUIT AND PRUDENTIAL SUPERVISION OF THE BUSINESS OF ELECTRONIC MONEY INSTITUTIONS</b></p> <p><i>Article 3</i> <b>General prudential rules</b></p> <p>1. Without prejudice to this Directive, Articles 5 and 10 to 15, Article 17(7) and Articles 18 to 25 of Directive 2007/64/EC shall apply to electronic money institutions <i>mutatis mutandis</i>.</p>	<p><b>TITEL II VOORWAARDEN VOOR DE TOEGANG TOT, DE UITOEFENING VAN EN HET PRUDENTIEEL TOEZICHT OP DE WERKZAAMHEDEN VAN INSTELLINGEN VOOR ELEKTRONISCH GELD</b></p> <p><i>Artikel 3</i> <b>Algemene prudentiële bepalingen</b></p> <p>1. Onverminderd deze richtlijn, zijn de artikelen 5 en 10 tot en met 15, artikel 17, lid 7, en de artikelen 18 tot en met 25 van Richtlijn 2007/64/EG van overeenkomstige toepassing op instellingen voor elektronisch geld.</p>	<p><b>Art. 2:10a of the Financ ial Superv ision Act</b></p> <p><b>Art. 3:8 of the Financ ial Superv ision Act</b></p> <p><b>Art. 2:3a of the Financ ial Superv ision Act</b></p> <p><b>Art. 2:3b of the Financ ial Superv ision Act</b></p>	<p><b>Article 2:3a of the Financial Supervision Act</b></p> <p>(1) Any person with a seat in the Netherlands is prohibited to exercise an undertaking as a payment service provider without prior authorisation from the Dutch Central Bank.</p> <p><b>Article 2:10a of the Financial Supervision Act</b></p> <p>(1) Any person with a seat in the Netherlands is prohibited to issue electronic money without prior authorisation from the Dutch Central Bank.</p> <p><b>Article 2:3b of the Financial Supervision Act</b></p> <p>(1) Upon request the Dutch Central Bank provides authorisation for exercising an undertaking as a payment service provider if the applicant demonstrates that the following conditions shall be met:</p>	<p><b>Artikel 2:3a Wet op het Financieel Toezicht</b></p> <p>(1) Het is een ieder met zetel in Nederland verboden zonder een daartoe door de Nederlandsche Bank verleende vergunning het bedrijf uit te oefenen van betaaldienstverlener.</p> <p><b>Artikel 2:10a Wet op het Financieel Toezicht</b></p> <p>(1) Het is een ieder met zetel in Nederland verboden zonder een daartoe door de Nederlandsche Bank verleende vergunning elektronisch geld uit te geven.</p> <p><b>Artikel 2:3b Wet op het Financieel Toezicht</b></p> <p>(1) De Nederlandsche Bank verleent op aanvraag een vergunning voor het uitoefenen van het bedrijf van betaaldienstverlener indien de aanvrager aantoont dat zal worden voldaan aan het bepaalde ingevolge:</p>	<p><b>PARTIALLY CONFORM</b></p> <p>Article 3 paragraph 1 of the Directive makes reference of the application <i>mutatis mutandis</i> of Articles 5 and 10-15, 17 paragraph 7, and 18-25 of Directive 2007/64/EC to electronic money institutions. The relevant provisions in Dutch law which are used for the assessment of Article 3(1) of the Directive usually apply identically to both electronic money institutions as to payment service providers.</p> <p>Article 5 and 10 of Directive 2007/64/EC are transposed in a conform manner by Article 3a paragraphs 1, 2 and 3b of the Decree Marketentry Financial Undertakings and Article 2:3a paragraph 1 of the Financial Supervision Act.</p> <p>Article 5 paragraphs (a) to (l) and paragraph 2 are transposed in a conform manner by Article 3a paragraphs 1, 2 and 3b of the Decree Marketentry Financial Undertakings, which applies <i>via</i> heading § 2.0 titled "exercise of undertaking of payment service provider or electronic money institution" to both payment service providers and electronic money institutions. For the requirement that payment service providers must have authorisation, Article 2:3a paragraph 1 of the Financial Supervision Act indicates that any person as a payment service provider must have authorisation.</p> <p>Article 10 paragraphs 1 and 2 of Directive 2007/64/EC are transposed in a conform</p>

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		<p><b>Art. 2:10b of the Financial Supervision Act</b></p> <p><b>Art. 3:39 of the Financial Supervision Act</b></p> <p><b>Art. 3:7 General Administrative Act</b></p> <p><b>Art. 10 of the Public Administration Act</b></p> <p><b>Art. 1:107 of the Financial Supervision Act</b></p>	<p>(a) article 3:8 concerning the adequacy of the persons;</p> <p>(b) article 3:9 concerning the reliability of the persons determining or also determining policy;</p> <p>(c) article 3:10, first and second paragraph, on the policy concerning integrity of undertakings;</p> <p>(d) article 3:15, first and second paragraph, concerning the minimum number of persons as policy makers, and the location of exercising these activities;</p> <p>(e) article 3:16, first and second paragraph, concerning the control structure;</p> <p>(f) article 3:17, first and second paragraph, concerning the establishment of the undertaking;</p> <p style="text-align: center;"><b>Article 2:10b of the Financial Supervision Act</b></p> <p><i>Idem for electronic money institutions</i></p> <p style="text-align: center;"><b>Article 3:29b of the</b></p>	<p>(a) artikel 3:8 met betrekking tot de geschiktheid van de in dat artikel bedoelde personen;</p> <p>(b) artikel 3:9 met betrekking tot de betrouwbaarheid van de personen die het beleid bepalen of mede bepalen;</p> <p>(c) artikel 3:10, eerste en tweede lid, met betrekking tot het beleid met betrekking tot de integere bedrijfsuitoefening;</p> <p>(d) artikel 3:15, eerste en tweede lid, met betrekking tot het minimum aantal personen dat het dagelijks beleid bepaalt en de plaats van waaruit zij hun werkzaamheden verrichten;</p> <p>(e) artikel 3:16, eerste en tweede lid, met betrekking tot de zeggenschapsstructuur;</p> <p>(f) artikel 3:17, eerste en tweede lid, met betrekking tot de inrichting van de bedrijfsvoering;</p> <p style="text-align: center;"><b>Artikel 2:10b Wet op het Financieel Toezicht</b></p> <p><i>Idem voor elektronisch</i></p>	<p>manner by Articles 2:3b and 2:10b of the Financial Supervision Act</p> <p>Articles 2:3b and 2:10b of the Financial Supervision Act refer to identical authorisation requirements for respectively payment service institutions and electronic money institutions.</p> <p>Article 10 paragraphs 2 to 8 of Directive 2007/64/EC, with the exception of paragraphs 4 and 5, are transposed in a conform manner by Articles 2:3b and 2:10b of the Financial Supervision Act.</p> <p>Articles 2:3b and 2:10b of the Financial Supervision Act refer specifically to Articles 3:8, 3:9, 3:10 first and second paragraph, 3:15 first and second paragraph, 3:16 first and second paragraph and 3:17 first and second paragraphs of that Act.</p> <p>Article 10 paragraph 4 of Directive 2007/64/EC is transposed in a conform manner by Articles 10 paragraph 1, 11 paragraph 1, 12 paragraph 1, 13 paragraph 1 and 17 paragraph 1 of the Decree Marktentry Financial Undertakings. The above provisions all indicate applicability to both payment service providers and electronic money institutions.</p> <p>Article 10 paragraph 5 of Directive 2007/64/EC is transposed in a conform manner by Article 3:29b of the Financial Supervision Act.</p> <p>Article 3:29b of the Financial Supervision Act indicates that for both payment institutions and electronic money institutions</p>

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		<p><b>Financial Supervision Act</b></p> <p><b>Art. 3:29 of the Financial Supervision Act</b></p> <p><b>Art. 32b of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p><b>Art. 34 of the Decree Prudential Rules of the Financial Supervision Act</b></p>	<p><b>Financial Supervision Act</b></p> <p>If a payment institution or electronic money institution with a seat in the Netherlands also exercises activities unrelated to the providing of payment services or electronic money issuing, the Dutch Central Bank can require the payment service institution or electronic money institution to perform those activities <i>via</i> a separate legal person, if these activities violate or could imminently violate:</p> <p>(a) the financial solidarity of the institution; or</p> <p>(b) the supervision concerning the compliance with this Act.</p> <p><b>Article 2:10b of the Financial Supervision Act</b></p> <p>(3) The Central Dutch Bank decides upon the application (...) within three months after receipt of the application, or, if the request is incomplete, within three months after</p>	<p><i>geld instellingen</i></p> <p><b>Artikel 3:29b Wet op het Financieel Toezicht</b></p> <p>Indien een betaalinstantelling of elektronischgeldinstelling met zetel in Nederland tevens werkzaamheden verricht die geen verband houden met het verlenen van betaaldiensten onderscheidenlijk het uitgeven van elektronisch geld, kan de Nederlandsche Bank de betaalinstantelling of elektronischgeldinstelling verplichten die werkzaamheden te doen verrichten door een aparte rechtspersoon indien het verrichten van die werkzaamheden afbreuk doet of dreigt te doen aan:</p> <p>(a) de financiële soliditeit van de betaalinstantelling of de elektronischgeldinstelling, of</p> <p>(b) het toezicht op de naleving van deze wet.</p> <p><b>Artikel 2:10b Wet op het Financieel Toezicht</b></p> <p>(3) De Nederlandsche</p>	<p>activities unrelated to the providing of their respective services, the Dutch Central Bank can require the relevant institution to exercise those activities through a separate legal person if those activities violate (a) the financial solidarity of the institution; or (b) the supervision concerning compliance with this Act.</p> <p>Article 10 paragraph 9 of Directive 2007/64/EC requires no transposition to have effect in Dutch law in order to be conform.</p> <p>Article 11 of Directive 2007/64/EC is transposed by Article 2:10a and 2:10b of the Financial Supervision Act. The transposing provisions are partially conform, as Dutch law does not indicate specifically that reasons must be provided if the application is refused. The remaining authorisation requirements of Article 11 of Directive 2007/64/EC are conform <i>via</i> the transposing provisions of Articles 2:10a and 2:10b of the Financial Supervision Act, which apply to payment service providers and electronic money institutions respectively.</p> <p>Article 11 of Directive 2007/64/EC requires informing the applicant on whether the authorisation has been granted or refused within three months of receipt of application or, if it is incomplete, of all the information required for the decision. If the application is refused, reasons shall be provided. Article 2:10a and 2:10b of the Financial Supervision Act concern the requirements for authorisation for both payment service providers and electronic money institutions.</p>

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		<p><b>Art. 35 of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p><b>Art. 3:71 of the Financial Supervision Act</b></p> <p><b>Art. 129 of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p><b>Art. 3:74 of</b></p>	<p>receipt of all the data required to take the decision.</p> <p><b>Article 3:7 General Administrative Act</b></p> <p>(2) Article 10 of the Public Administration Act applies <i>mutatis mutandis</i>.</p> <p><b>Article 10 of the Public Administration Act</b></p> <p>The providing of information in accordance with this Act shall not commence in so far as this:</p> <p>(a) could endanger the Crown;</p> <p>(b) risk the safety of the State;</p> <p>(c) concern corporate information which is provided to the government by natural or legal persons in confidentiality;</p> <p>(d) concerns personal data (...)</p> <p><b>Article 1:107 of the Financial Supervision Act</b></p> <p>(1) There is a public register kept by the</p>	<p>Bank beslist op de aanvraag (...) binnen drie maanden na ontvangst van de aanvraag, of, indien de aanvraag onvolledig is, binnen drie maanden na ontvangst van alle voor het nemen van de beslissing benodigde gegevens.</p> <p><b>Artikel 3:7 Algemene Wet Bestuursrecht</b></p> <p>(2) Artikel 10 van de Wet openbaarheid van bestuur is van overeenkomstige toepassing.</p> <p><b>Artikel 10 Wet Openbaarheid van Bestuur</b></p> <p>Het verstrekken van informatie ingevolge deze wet blijft achterwege voor zover dit:</p> <p>(a) de eenheid van de Kroon in gevaar zou kunnen brengen;</p> <p>(b) de veiligheid van de Staat zou kunnen schaden;</p> <p>(c) bedrijfs- en fabricagegegevens betreft, die door natuurlijke personen of rechtspersonen</p>	<p>Furthermore, Article 2:10b of the Financial Supervision Act indicates that the Dutch Central Bank decides upon applications within three months after receipt, or, if the request is incomplete, within three months after receipt of all the data required to take the decision.</p> <p>Article 12 paragraph 1 subparagraphs (a) to (e) of Directive 2007/64/EC are transposed in a literal manner by Article 1:104 paragraph 1 subparagraphs (e) (b) (d) and (l) of the Financial Supervision Act.</p> <p>Article 1:104 paragraph 1 subparagraphs (e) (b) (d) and (1) of the Financial Supervision Act applies to institutions requiring an authorisation, which concerns payment institutions and electronic money institutions.</p> <p>Article 12 paragraph 2 of Directive 2007/64/EC is transposed by Article 3:7 paragraph 2 of the General Administrative Act. The transposing provision however presents an issue of partial conformity, as it refers to the applicability of Article 10 of the Public Administration Act, which provides for exceptions to the general rule for public administrative bodies to motivate decisions.</p> <p>However, Article 10 of the Public Administration Act in this regard only allows for exceptions in situations of protection of public health; danger to the Crown; corporate information provided confidentially to the government or personal data information. As Article 12 paragraph 2 of Directive 2007/64/EC requires the provision of an informed reasoning in all circumstances by</p>

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		<p><b>the Financial Supervision Act</b></p> <p><b>Art. 4:27 of the Financial Supervision Act</b></p> <p><b>Art. 3:18 of the Financial Supervision Act</b></p> <p><b>Art. 32a of the Decree Prudential Rules of the Financial Supervision Act</b></p>	<p>registrar and in any event is published on a suitable website. The registrar is responsible for the proper functioning of the register and the registrations and annulments in order to trace the activities and from which time the registered financial institutions could perform their activities, including any given limitations and the State of its seat.</p> <p>(2) The registrar takes immediately care of the registration of:</p> <p>(a) the financial undertakings:</p> <p>1°. to which an authorisation or a waiver on the basis of this Act (...) has been granted</p> <p>(3) Notwithstanding paragraph 1, the supervisor takes due care of the registration of:</p> <p>(h) the financial products of the authorisation the registered financial service provider has to provide such services, including the nature of such services;</p>	<p>vertrouwelijk aan de overheid zijn meegedeeld;</p> <p>(d) persoonsgegevens betreft (...)</p> <p><b>Artikel 1:107 Wet op het Financieel Toezicht</b></p> <p>(1) Er is een openbaar register dat wordt gehouden door de registerhouder en in ieder geval wordt gepubliceerd op een daartoe geschikte website. De registerhouder draagt zorg voor het goed functioneren van het register en verricht de inschrijving en doorhaling daarin op zodanige wijze dat uit het register is op te maken vanaf welk tijdstip, welke activiteiten de ingeschreven financiële ondernemingen mogen verrichten, met inbegrip van de eventueel gestelde beperkingen, alsmede de staat van de zetel.</p> <p>(2) De registerhouder draagt onverwijld zorg voor de inschrijving van:</p> <p>(a) financiële ondernemingen:</p> <p>1°. waaraan een vergunning ingevolge</p>	<p>the public authority, the transposing provision can only be considered partially conform.</p> <p>Article 12 paragraph 3 of Directive 2007/64/EC is transposed in a conform manner by Article 1:107 paragraph 1 of the Financial Supervision Act.</p> <p>Article 12 paragraph 3 of Directive 2007/64/EC concerns making the withdrawal of an authorisation public and Article 1:107 paragraph 1 of the Financial Supervision Act requires keeping a public registry which records authorisations and withdrawals of activities which the registered financial undertakings may undertake. Financial undertakings in Dutch law encompass both payment service providers and electronic money institutions.</p> <p>Article 13 first paragraph of Directive 2007/64/EC is transposed in a conform manner by Article 1:107 paragraph 1 of the Financial Supervision Act.</p> <p>Article 13 first paragraph of Directive 2007/64/EC concerns the requirements of registration and keeping a public registrar for the authorisations and waivers granted to payment institutions, and Article 1:107 paragraph 1 of the Financial Supervision Act requires keeping a public registry which records authorisations and waivers of activities that the registered financial undertakings may undertake. Financial undertakings in Dutch law encompass both payment institutions and electronic money institutions.</p>

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		<p><b>Art. 27 of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p><b>Art. 38j of the Decree Conduct Supervision Financial Undertakings</b></p> <p><b>Art. 37 of the Decree Conduct Supervision Financial Undertakings</b></p>	<p><b>Article 3:29 of the Financial Supervision Act</b></p> <p>(3) <i>Via</i> Decrees (...) it shall be determined for which amendments notification is given, which data is provided and, if applicable, under which conditions such changes are executed.</p> <p><b>Article 32b of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p>(1) A payment service institution or electronic money institution shall give written notice to the Dutch Central Bank of changes in the data provided on the basis of Article 2:3b, second paragraph and 2:10b second paragraph of the Act concerning:</p> <p><b>Article 34 of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p>(1) A payment service institution (...) electronic money institution (...) shall give written notice to</p>	<p>deze wet of een ontheffing (...) is verleend</p> <p>(3) Onverminderd het eerste lid draagt de toezichthouder onverwijld zorg voor de inschrijving van:</p> <p>(h) de financiële producten ten aanzien waarvan een ingeschreven financiële dienstverlener ingevolge deze wet diensten mag verlenen, alsmede de aard van de desbetreffende diensten;</p> <p><b>Artikel 3:29 Wet op het Financieel Toezicht</b></p> <p>(3) Bij of krachtens algemene maatregel van bestuur wordt, (...) bepaald van welke wijzigingen kennis wordt gegeven, welke gegevens daarbij worden verstrekt en, indien van toepassing, onder welke voorwaarden de wijzigingen ten uitvoer mogen worden gelegd.</p> <p><b>Artikel 32b Besluit Prudentiele regels Wet Financieel Toezicht</b></p> <p>(1) Een betaalinstantelling of elektronisch geldinstelling geeft onverwijld</p>	<p>Article 13 second paragraph of Directive 2007/64/EC is transposed in a conform manner by Article 1:107 paragraph 3 of the Financial Supervision Act.</p> <p>Article 13 second paragraph of Directive 2007/64/EC specifically requires the registration of the payment services for which authorisation was provided to the payment institution. Article 1:107 paragraph 3 subparagraph (h) indicates that the financial products of payment institutions authorised in accordance with this Act as well as the nature of the services should be registered. Electronic money and credit also fall under this provision as they concern financial products in the form of electronic money.</p> <p>Article 14 of Directive 2007/64/EC is transposed in a conform manner by Article 3:29 paragraph 3 of the Financial Supervision Act and Article 32b paragraph 1, 34 and 35 of the Decree Prudential Rules of the Financial Supervision Act.</p> <p>Article 14 of Directive 2007/64/EC provides requirements for the maintenance of authorisation in accordance with the requirements of Article 5 of Directive 2007/64/EC.</p> <p>Article 3:29 paragraph 3 of the Financial Supervision Act provides the basis for the notification of changes in the maintenance of authorisation as laid down in the Decree Prudential Rules of the Financial Supervision Act.</p> <p>Article 32b paragraph 1, 34 and 35 of the</p>

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		<p><b>Art. 38k of the Decree Conduct Supervision Financial Undertakings</b></p> <p><b>Art. 1:104 of the Financial Supervision Act</b></p> <p><b>Art. 4:16 of the Financial Supervision Act</b></p> <p><b>Art. 1:108 of the Financial Supervision Act</b></p>	<p>the Dutch Central Bank of a change of data on the basis of which the Dutch Central Bank evaluated what was determined in Article 3:9 of that Act.</p> <p><b>Article 35 of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p>(1) A payment institution (...) electronic money institution (...) shall give written notice to the Dutch Central Bank of:</p> <p><b>Article 3:71 of the Financial Supervision Act</b></p> <p>(2) <i>Via</i> Decrees (...) rules shall be determined for the way in which the annual accounting, the annual report and other information shall be provided.</p> <p><b>Article 129 of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p>A payment service institution (...) electronic money institution (...) shall provide the documents, (...)</p>	<p>schriftelijk aan de Nederlandsche Bank kennis van een wijziging in de ingevolge artikel 2:3b, tweede lid, van de wet respectievelijk ingevolge artikel 2:10b, tweede lid, van de wet verstrekte gegevens met betrekking tot:</p> <p><b>Artikel 34 Besluit Prudentiele regels Wet Financieel Toezicht</b></p> <p>(1) Een betaalinstantelling, (...) elektronischgeldinstelling, (...) geeft schriftelijk kennis aan de Nederlandsche Bank van een wijziging van gegevens op basis waarvan de Nederlandsche Bank heeft geoordeeld dat wordt voldaan aan hetgeen ingevolge artikel 3:9 wordt bepaald (...)</p> <p><b>Artikel 35 Besluit Prudentiele regels Wet Financieel Toezicht</b></p> <p>(1) Een betaalinstantelling, (...) elektronischgeldinstelling, (...) geeft schriftelijk kennis aan de Nederlandsche Bank van</p>	<p>Decree Prudential Rules of the Financial Supervision Act provide the requirements concerning Article 14 and Article 5 of Directive 2007/64/EC which payment institutions and electronic money institutions must provide to the Dutch Central Bank in situations where the information for the authorisation is changed.</p> <p>Article 15 paragraphs 1 and 2 of Directive 2007/64/EC are transposed in a conform manner by Articles 3:29 paragraph 3 and 3:71 paragraph 2 of the Financial Supervision Act and Article 129 of the Decree Prudential Rules of the Financial Supervision Act.</p> <p>Article 15 paragraphs 1 and 2 of Directive 2007/64/EC concern the application of international accounting standards of Directive 78/660/EEC, 83/349/EEC and 86/635/EEC and Regulation (EC) 1606/2002 <i>mutatis mutandis</i> to payment institutions.</p> <p>Article 3:29 paragraph 3 and 3:71 paragraph 2 of the Financial Supervision Act indicate that the changes applicable to payment institutions and electronic money institutions concerning accounting shall be laid down in the Decree Prudential Rules of the Financial Supervision Act.</p> <p>Article 129 of the Decree Prudential Rules of the Financial Supervision Act in this regard requires payment institutions and electronic money institutions to report the accounting documents on the basis of the international accounting standards and the law of the State where this financial undertaking has its seat</p>

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		<p><b>Act</b></p> <p><b>Art. 1:24 of the Financial Supervision Act</b></p> <p><b>Art. 1:25 of the Financial Supervision Act</b></p> <p><b>Art. 1:27a of the Financial Supervision Act</b></p> <p><b>Art. 1:69 of the Financial Supervision Act</b></p> <p><b>Art.</b></p>	<p>concerning the division and content in the form created and on the basis of (...) the international accounting standards and respectively the law of the State where this financial enterprise has its seat (...)</p> <p><b>Article 3:74b of the Financial Supervision Act</b></p> <p>(1) A payment service institution or electronic money institution with a seat in the Netherlands which next to payment services provide other activities shall hold separate accounting for the payment services.</p> <p><b>Article 4:27 of the Financial Supervision Act</b></p> <p>(1) An auditor checking the financial statements of a (...) payment service institution, electronic money institution or bank in the Netherlands, shall report to the Financial Markets Authority any circumstance of which he becomes aware during the execution of the investigation and which is</p>	<p>een wijziging in:</p> <p><b>Artikel 3:71 Wet op het Financieel Toezicht</b></p> <p>(2) Bij of krachtens algemene maatregel van bestuur worden regels gesteld met betrekking tot de wijze van de verstrekking van de jaarrekening, het jaarverslag en de overige gegevens.</p> <p><b>Artikel 129 Besluit Prudentiele regels Wet Financieel Toezicht</b></p> <p>Een betaalinstelling, (...) elektronischgeldinstelling, (...) verstrekt de documenten, bedoeld in artikel 3:71, eerste lid, of 3:81, eerste lid, van de wet, wat betreft indeling en inhoud in de vorm waarin deze zijn opgemaakt ingevolge (...) de internationale jaarrekeningstandaarden onderscheidenlijk het recht van de staat waar deze financiële onderneming haar zetel heeft. (...)</p> <p><b>Artikel 3:74b Wet op het Financieel Toezicht</b></p>	<p>respectively.</p> <p>Article 15 paragraph 3 of Directive 2007/64/EC is transposed by Article 3:74b of the Financial Supervision Act in conjunction with Section 7 of Title 8 of Book 2 of the Civil Code.</p> <p>Article 15 paragraph 3 of Directive 2007/64/EC requires payment institutions to provide separate accounting information.</p> <p>Article 3:74b of the Financial Supervision Act transposes the requirement that separate account takes place for payment institutions and electronic money institutions. Section 7 of Title 8 of Book 2 of the Civil Code indicates the requirement of annual audit reporting for all financial undertakings, which includes applicability to both electronic money institutions and payment institutions.</p> <p>Article 15 paragraph 4 of Directive 2007/64/EC is transposed in a conform manner by Article 4:27 paragraph 1, 2 and 3 of the Financial Supervision Act.</p> <p>Article 15 paragraph 4 of Directive 2007/64/EC refers to a duty for auditors to report facts or decisions concerning the credit institution in accordance with Article 53 of Directive 2006/48/EC. Article 53 of Directive 2006/48/EC specifies three conditions under which an auditor should report. These concern: (a) material breaches of laws governing the institution; (b) when affecting the continuous function of the institution; or (c) when leading to refusal to certify the accounts to the expression of reservations.</p>



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		<p><b>1:28 of the Financial Supervision Act</b></p> <p><b>Art. 1:46 of the Financial Supervision Act</b></p> <p><b>Art. 5:13 General Administrative Act</b></p> <p><b>Art. 1:74 of the Financial Supervision Act</b></p> <p><b>Art. 1:79 of the Financial</b></p>	<p>contrary to the obligations imposed under this section.</p> <p>(2) An auditor checking the financial statements of a (...) payment service institution, electronic money institution or bank in the Netherlands, shall report to the Financial Markets Authority any circumstance of which he becomes aware during the execution of the investigation and which leads to refusal to certify the accounts or to the expression of reservations.</p> <p>(3) The first and second paragraph apply <i>mutatis mutandis</i> to auditors which (...) perform the annual accounting of another person with which the financial undertaking is connected through a formal or factual control structure.</p> <p><b>Article 3:18 of the Financial Supervision Act</b></p> <p>(2) A payment service institution (...) electronic money institution shall not outsource activities in</p>	<p>(1) Een betaalinstelling of elektronischgeldinstelling met zetel in Nederland die naast het verlenen van betaaldiensten tevens andere werkzaamheden verricht, voert een afzonderlijke boekhouding voor de betaaldiensten.</p> <p><b>Artikel 4:27 Wet op het Financieel Toezicht</b></p> <p>(1) Een accountant die het onderzoek uitvoert van de jaarrekening van een beheerder van een (...) betaalinstelling, (...) elektronischgeldinstelling, bank (...) meldt de Autoriteit Financiële Markten zo spoedig mogelijk elke omstandigheid waarvan hij bij de uitvoering van het onderzoek kennis heeft gekregen en die in strijd is met op grond van dit deel opgelegde verplichtingen.</p> <p>(2) Een accountant die het onderzoek uitvoert van de jaarrekening van een beheerder van een (...) betaalinstelling, (...) elektronischgeldinstelling, bank (...) meldt de Autoriteit Financiële</p>	<p>Article 4:27 paragraph 1 and 2 of the Financial Supervision Act requires auditors for payment service institutions and electronic money institutions to report any circumstances of which the auditor becomes aware during the investigation and which are contrary to the obligations under that Section, and which lead to refusal to certify the accounts or to the expression of reservations. Article 4:27 paragraph 1 and 2 of the Financial Supervision Act therefore cover material breaches; issues affecting the continuous function of the institution and it also expressly covers situations leading to refusal to certify the accounts to the expression of reservations.</p> <p>Article 53 final paragraph of Directive 2006/48/EG also requires auditors to report close links resulting from a control relationship with the institution involved. Article 4:27 paragraph 3 of the Financial Supervision Act indicates that the first and second paragraph of this Article shall apply <i>mutatis mutandis</i> when performing the annual accounting of another person with which the financial undertaking is connected through a formal or factual control structure.</p> <p>Article 17 paragraph 7, first, second subparagraphs and third paragraph introductory wording of Directive 2007/64/EC are transposed for both payment institutions and electronic money institutions in a conform manner by Article 32a paragraphs 1 and 2 of the Decree Prudential Rules of the Financial Supervision Act and Article 3:18 paragraph 2 of the Financial</p>

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		<p><b>Financial Supervision Act</b></p> <p><b>Art. 1:80 of the Financial Supervision Act</b></p> <p><b>Art. 1:75 of the Financial Supervision Act</b></p> <p><b>Art. 1:89 of the Financial Supervision Act</b></p> <p><b>Art. 1:90 of the Financial Supervision Act</b></p>	<p>accordance with the indications set by Order of Decree.</p> <p><b>Article 32a of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p>(1) This chapter, except for Article 27a, shall apply only to the outsourcing of activities by payment institutions, insofar it concerns important activities.</p> <p>(2) An activity is regarded important if a poor or inadequate implementation would affect substantially the compliance by the payment institution with the authorisation requirements, as referred to in Art. 2:3b of the Act, or with other obligations under the Act or Title 7B of Book 7 of the Civil Code, or its financial results or the soundness or the continuity of its paymentservices.</p> <p><b>Article 27 of the Decree Prudential Rules of the Financial Supervision Act</b></p>	<p>Markten zo spoedig mogelijk elke omstandigheid waarvan hij bij de uitvoering van het onderzoek kennis heeft gekregen en die leidt tot weigering van het afgeven van een verklaring omtrent de getrouwheid of tot het maken van voorbehouden.</p> <p>(3) Het eerste en tweede lid zijn van overeenkomstige toepassing op een accountant die (...) het onderzoek uitvoert van de jaarrekening van een andere persoon met welke de financiële onderneming in een formele of feitelijke zeggenschapsstructuur is verbonden.</p> <p><b>Artikel 3:18 Wet op het Financieel Toezicht</b></p> <p>(2) Een betaalinstelling, clearinginstelling, elektronischgeldinstelling, entiteit voor risico-acceptatie, bank, premiepensioeninstelling, verzekeraar of wisselinstelling besteedt bij algemene maatregel van bestuur aan te wijzen werkzaamheden niet uit.</p>	<p>Supervision Act.</p> <p>Article 17 paragraph 7, first, second subparagraphs and third paragraph introductory wording of Directive 2007/64/EC requires that payment institutions inform the authorities when outsourcing operational functions and that the outsourcing may not be undertaken in such a way as to impair materially the quality of the institutions internal control and ability for the authorities to monitor the institutions compliance with the obligations under this Directive, including the authorisation requirements.</p> <p>Article 32a paragraphs 1 and 2 of the Decree Prudential Rules of the Financial Supervision Act, indicate that outsourced activities are: poor or inadequate execution substantially affecting the compliance of the authorisation requirements of the institution, or other obligations, including financial results, solidarity or continuity of its payment services. Article 3:18 paragraph 2 of the Financial Supervision Act prohibits payment institutions and electronic money institutions to outsource activities in accordance with the requirements laid down by Order of Decree, therefore all above Articles of the Decree Prudential Rules of the Financial Supervision Act apply to payment service institutions and electronic money institutions in that regard.</p> <p>Article 17 paragraph 7 third subparagraph under (a) of Directive 2007/64/EC is transposed in a conform manner by Article 27 paragraph 2 of the Decree Prudential Rules of</p>

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			<p><b>Act</b></p> <p><b>Art. 1:92 of the Financial Supervision Act</b></p> <p><b>Art. 2:206a of the Financial Supervision Act</b></p> <p><b>Art. 42a of the Decree Conduct Supervision Financial Undertakings</b></p> <p><b>Art. 42b of the Decree Conduct</b></p>	<p><b>Act</b></p> <p>(2) A payment institution, (...) electronic money institution (...) shall not outsource the tasks and activities of the persons involved in its daily policy, including the establishment of policy and the assuming of responsibility for its policy.</p> <p><b>Article 38j of the Decree Conduct Supervision Financial Undertakings</b></p> <p>With the outsourcing of activities in connection with the providing of services or the emission of electronic money, the payment institution or electronic money institution shall ensure that the outsourcing of the obligations of the payment institution respectively the electronic money institution towards their clients and the rights of their clients on the basis of the law or Title 7B of Book 6 of the Civil Code does not alter those those obligations.</p> <p><b>Article 37 of the Decree</b></p>	<p><b>Artikel 32a Besluit Prudentiele regels Wet Financieel Toezicht</b></p> <p>(1) Dit hoofdstuk is, met uitzondering van artikel 27a, slechts van toepassing op het uitbesteden van werkzaamheden door betaalinstellingen of elektronischgeldinstellingen voor zover het belangrijke werkzaamheden betreft.</p> <p>(2) Een werkzaamheid wordt als belangrijk aangemerkt indien een gebrekkige of tekortschietende uitvoering ervan wezenlijk afbreuk zou doen aan de naleving door de betaalinstelling van de vergunningsvereisten, als bedoeld in artikel 2:3b van de wet , of van andere verplichtingen ingevolge de wet of Titel 7B van Boek 7 van het Burgerlijk Wetboek , dan wel aan haar financiële resultaten of de continuïteit van haar betaaldiensten.</p> <p><b>Artikel 27 Besluit</b></p>	<p>the Financial Supervision Act.</p> <p>Article 17 paragraph 7 third subparagraph under (a) of Directive 2007/64/EC requires that outsourcing shall not result in the delegation by senior management of its responsibility. Article 27 paragraph 2 of the Decree Prudential Rules of the Financial Supervision Act indicates that, for payment institutions and electronic money institutions, the following shall not be outsourced: tasks and activities of the persons involved in its daily policy including the establishment of policy and the assuming of responsibility for its policy.</p> <p>Article 17 paragraph 7 third subparagraph under (b) of Directive 2007/64/EC is transposed in a literal manner by Article 38j of the Decree Conduct Supervision of Financial Undertakings.</p> <p>Article 17 paragraph 7 third subparagraph under (b) of Directive 2007/64/EC requires that the relationship and obligations of the payment institution towards its payment service users under Directive 2007/64/EC shall not be altered. Article 38j of the Decree Conduct Supervision of Financial Undertakings requires with regard to outsourcing of activities in connection with the providing of services or the emission of electronic money, that payment institutions or electronic money institutions ensure that the respective obligations towards their clients and the rights of their clients on the basis of the law or Title 7B of Book 6 of the Civil Code are not altered.</p>

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		<p><b>Supervision Financial Undertakings</b></p> <p><b>Art. 1:58 of the Financial Supervision Act</b></p> <p><b>Art. 1:56 of the Financial Supervision Act</b></p> <p><b>Art. 1:59 of the Financial Supervision Act</b></p> <p><b>Art. 1:58 of the Financial</b></p>	<p><b>Conduct Supervision Financial Undertakings</b></p> <p>A financial undertaking shall not outsource activities if this forms any obstacle to the adequate supervision of this Section on the Conduct of Financial Undertakings.</p> <p><b>Article 38k of the Decree Conduct Supervision Financial Undertakings</b></p> <p>(1) The Articles 37, 38g, 38h and 38j shall only apply to outsourcing of activities by payment institutions and electronic money institutions in so far as this concerns important activities.</p> <p>(2) An activity is considered important if a poor or inadequate execution of it shall constitute a realistic breach of the supervision by the payment institution or electronic money institution of the requirements for authorisation (...) or other obligations on the basis of the law or Title 7B of Book 7 of the Civil Code, or the financial results or</p>	<p><b>Prudentiele regels Wet Financieel Toezicht</b></p> <p>(2) Een betaalinstantie, (...) elektronischgeldinstelling, (...) besteedt de taken en werkzaamheden van personen die het dagelijks beleid bepalen, daaronder mede verstaan het vaststellen van het beleid en het afleggen van verantwoording over het gevoerde beleid, niet uit.</p> <p><b>Artikel 38j Besluit Gedragstoezicht Financiële Ondernemingen</b></p> <p>Bij de uitbesteding van werkzaamheden in verband met het verlenen van betaaldiensten dan wel de uitgifte van elektronisch geld draagt de betaalinstantie of de elektronischgeldinstelling er zorg voor dat uitbesteding de verplichtingen van de betaalinstantie, onderscheidenlijk de elektronischgeldinstelling, jegens haar cliënten en de rechten van haar cliënten uit hoofde van de wet of</p>	<p>Article 17 paragraph 7 third subparagraph under (c) and (d) of Directive 2007/64/EC are transposed in a literal manner by Articles 37 of the Decree Conduct Supervision of Financial Undertakings, Article 38k paragraph 1 and 2 of the Decree Conduct Supervision of Financial Undertakings, and Article 1:104 of the Financial Supervision Act.</p> <p>Article 17 paragraph 7 third subparagraph under (c) concerns not undermining the compliance of the payment institution with its authorisation requirements when outsourcing activities, and under (d) that none of the other conditions subject to which the authorisation was granted shall be removed or modified. Article 37 of the Decree Conduct Supervision of Financial Undertakings indicates that financial undertakings (i.e. electronic money institutions and payment institutions) shall not outsource activities if this forms any obstacle to adequate supervision of this Section on the Conduct of Financial Undertakings. Furthermore, Article 38k paragraph 1 of the Decree Conduct Supervision of Financial Undertakings states that Article 37 shall only apply to outsourcing of activities by payment institutions and electronic money institutions in so far as this concerns important activities.</p> <p>Article 38k paragraph 2 of the Decree Conduct Supervision of Financial Undertakings indicates that it considers as important activities any realistic breaches on the supervision and the requirements for authorisation of payment institutions and</p>

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		<p><b>Supervision Act</b></p> <p><b>Article 1:59 of the Financial Supervision Act</b></p> <p>the solidity or continuity of its payment services or emission of electronic money.</p> <p><b>Article 1:104 Financial Supervision Act</b></p> <p>(1) The supervisor can modify, limit, partially withdraw or provide further requirements to an authorisation which it has granted (..)</p> <p><b>Article 4:16 Financial Supervision Act</b></p> <p>(3) By or through a general regulation:</p> <p>(a) in connection with the enforcement of the provisions under this Section, rules shall be laid down with regard to the outsourcing of activities by financial undertakings;</p> <p>(b) rules will be laid down with regard to the control of risks that are related to the outsourcing of activities performed by managers, custodians and investment institutions</p> <p><b>Artikel 1:108 Financial Supervision Act</b></p> <p>(1) The registrar shall</p>	<p>Titel 7B van Boek 7 van het Burgerlijk Wetboek niet wijzigt.</p> <p><b>Artikel 37 Besluit Gedragstoezicht Financiële Ondernemingen</b></p> <p>Een financiële onderneming gaat niet over tot het uitbesteden van werkzaamheden indien dat een belemmering vormt voor een adequaat toezicht op de naleving van het Deel Gedragstoezicht financiële ondernemingen van de wet.</p> <p><b>Artikel 38k Besluit Gedragstoezicht Financiële Ondernemingen</b></p> <p>(1) De artikelen 37, 38g, 38h en 38j zijn slechts van toepassing op het uitbesteden van werkzaamheden door betaalinstellingen of elektronischgeldinstellingen voor zover het belangrijke werkzaamheden betreft.</p> <p>(2) Een werkzaamheid wordt als belangrijk</p> <p>electronic money institutions. Article 38k paragraph 2 of the Decree Conduct Supervision of Financial Undertakings can be therefore considered to cover the obligation to comply with and not undermine the authorisation requirements for payment institutions and electronic money institutions, and that none of the conditions subject to which the institutions' authorisation was granted shall be modified or removed in the process.</p> <p>Furthermore, Article 1:104 of the Financial Supervision Act indicates that only the supervisor can modify and change the entire or part of the authorisation which it has granted, or modify or place further requirements on such authorisations.</p> <p>Article 18 paragraph 1 of Directive 2007/64/EC is transposed in a conform manner by Article 37 of the Decree Conduct Supervision of Financial Undertakings.</p> <p>Article 18 paragraph 1 of Directive 2007/64/EC requires that, where payment institutions rely on third parties for the performance of operational functions they take reasonable steps to ensure that the requirements of Directive 2007/64/EC are complied with. In this regard, Article 37 of the Decree Conduct Supervision of Financial Undertakings indicates that financial undertakings shall not outsource activities, if this forms any obstacle to the adequate supervision of this Section on the Conduct of Financial Undertakings.</p> <p>Article 37 of the Decree Conduct Supervision</p>

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		<p>keep the information referred to in Article 1:107 for at least 5 years (...)</p> <p><b>Article 1:24 Financial Supervision Act</b></p> <p>(2) The Dutch Central Bank shall, on the basis of this Act, hold the task of prudential supervision on financial undertakings and of decision on the authorisation of financial undertakings to the financial markets.</p> <p><b>Article 1:25 Financial Supervision Act</b></p> <p>(2) The Authority on Financial Markets shall, on the basis of this Act, hold the task of conducting supervision over the financial markets and of deciding on granting financial undertakings access to these markets.</p> <p><b>Article 1:27a Financial Supervision Act</b></p> <p>(1) The management board and the supervisory board of the Dutch Central Bank including the management board and the board of supervision of the</p>	<p>aangemerkt indien een gebrekkige of tekortschietende uitvoering ervan wezenlijk afbreuk zou doen aan de naleving door de betaalinstelling of de elektronischgeldinstelling van de vergunningsvereisten, (...) of van andere verplichtingen ingevolge de wet of Titel 7B van Boek 7 van het Burgerlijk Wetboek, dan wel aan haar financiële resultaten of de soliditeit of continuïteit van haar betaaldiensten of uitgifte van elektronisch geld.</p> <p><b>Artikel 1:104 Wet op het Financieel Toezicht</b></p> <p>(1) De toezichthouder kan een door hem verleende vergunning wijzigen, geheel of gedeeltelijk intrekken of beperken, dan wel daaraan nadere voorschriften verbinden (...)</p> <p><b>Artikel 4:16 Wet op het Financieel Toezicht</b></p> <p>(3) Bij of krachtens algemene maatregel van</p>	<p>of Financial Undertakings can be considered to satisfy the condition of taking reasonable steps to ensure that the requirements of Directive 2007/64/EC are complied with.</p> <p>Article 18 paragraph 2 of Directive 2007/64/EC is transposed in a conform manner by Article 4:16 paragraph 3 of the Financial Supervision Act.</p> <p>Article 18 paragraph 2 of Directive 2007/64/EC requires that payment institutions remain fully liable for any acts of their employees, or any agents, branches or entities to which activities are outsourced.</p> <p>No explicit transposition is evident. However, Article 4:16 paragraph 3 of the Financial Supervision Act requires that rules shall be laid down with regard to the outsourcing of activities by financial undertakings, which regulate the outsourcing of activities of financial undertakings and lay down the control of risks related of the outsourcing of activities by managers, custodians and investment firms.</p> <p>Article 19 of Directive 2007/64/EC is transposed in a conform manner by Article 1:107 and 1:108 paragraph 1 of the Financial Supervision Act.</p> <p>Article 1:108 paragraph 1 of the Financial Supervision Act states that the registrar shall keep the information referred to in Article 1:107 available for at least 5 years. Article 1:107 of the Financial Supervision Act concerns all registration requirements for all financial undertakings, including conditions</p>

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		<p>Authority on Financial Markets shall be composed of persons whose reliability is unquestionable and who are competent for the exercising of their duties</p> <p><b>Article 1:69 Financial Supervision Act</b></p> <p>(2) The supervisor shall provide (...) the European Commission, the European supervisory authorities, the Mixed Committee and the European Committee for systemic risks all information and data required in the exercise of their duties.</p> <p><b>Article 1:28 Financial Supervision Act</b></p> <p>(1) When the supervisor on the basis of this act is attributed authority and competency to set generally binding rules, the supervisor shall not implement these without consulting a representative authority concerning the undertakings under his supervision.</p> <p><b>Article 1:46 Financial</b></p>	<p>bestuur:</p> <p>(a) worden in verband met het toezicht op de naleving van het ingevolge dit deel bepaalde, regels gesteld met betrekking tot het uitbesteden van werkzaamheden door financiële ondernemingen;</p> <p>(b) worden regels gesteld met betrekking tot de beheersing van risico's die verband houden met het uitbesteden van werkzaamheden door beheerders, bewaarders en beleggingsondernemingen ; en</p> <p>(c) worden regels gesteld met betrekking tot de tussen een beheerder, bewaarder of beleggingsonderneming en de derde te sluiten overeenkomst inzake het uitbesteden van werkzaamheden.</p> <p><b>Artikel 1:108 Wet op het Financial Toezicht</b></p> <p>(1) De registerhouder houdt de in artikel 1:107 bedoelde gegevens gedurende ten minste vijf</p> <p>and changes to authorisations such as withdrawals; declarations, address information, insurances and other information to be declared to the supervisor.</p> <p>Article 20 paragraph 1 of the Financial Supervision Act is transposed in a conform manner by Articles 1:24 paragraph 2, 1:25 paragraph 2, 1:25a and 5:88 of the Financial Supervision Act.</p> <p>Article 20 paragraph 1 of the Financial Supervision Act indicates that competent authorities shall be designated for providing authorisations and prudential supervision of payment institutions; which shall guarantee independence from economic bodies; avoid conflicts of interests; and inform the Commission accordingly. Article 1:25a of the Financial Supervision Act indicates that the Board, as referred to in Article 1, paragraph (c) of the Competitions Act, holds on the basis of this Act the task of monitoring compliance with Article 5:88 of the Financial Supervision Act. Article 5:88 of the Financial Supervision Act concerns rules for the access to payment systems by payment service providers which are not dependent on other rules than objective, non-discriminating, proportional and necessary. Also the requirement of independence from economic bodies and avoiding conflicts of interests is met by the indications of Article 5:88 of the Financial Supervision Act.</p> <p>Article 1:24 paragraph 2 of the Financial Supervision Act designates the Dutch Central Bank as the authority holding the task of</p>

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		<p><b>Supervision Act</b></p> <p>(1) The supervisors work in cooperation with the aim of setting the generally binding rules and policy rules in order that these, in so far as they concern the subjects of prudential supervision or conduct supervision, are uniform as much as possible.</p> <p><b>Article 5:13 General Administrations Act</b></p> <p>A supervisor shall only use its powers to the extent that this is reasonably necessary for the performance of its duties.</p> <p><b>Article 1:74 of the Financial Supervision Act</b></p> <p>(1) The supervisor can require anyone to provide information for the supervision concerning compliance with the rules of and on the basis of this Act.</p> <p><b>Article 1:104 Financial Supervision Act</b></p> <p>(1) The supervisor can</p>	<p>jaar (...)</p> <p><b>Artikel 1:24 Wet op het Financieel Toezicht</b></p> <p>(2) De Nederlandsche Bank heeft, op de grondslag van deze wet, tot taak het prudentieel toezicht op financiële ondernemingen uit te oefenen en te beslissen omtrent de toelating van financiële ondernemingen tot de financiële markten.</p> <p><b>Artikel 1:25 Wet op het Financieel Toezicht</b></p> <p>(2) De Autoriteit Financiële Markten heeft, op de grondslag van deze wet, tot taak het gedragstoezicht op financiële markten uit te oefenen en te beslissen omtrent de toelating van financiële ondernemingen tot die markten.</p> <p><b>Artikel 1:27a Wet op het Financieel Toezicht</b></p> <p>(1) De directie en de raad van commissarissen van de Nederlandsche Bank alsmede het bestuur en de raad van toezicht van de Autoriteit Financiële Markten bestaan uit</p>	<p>prudential supervision over financial undertakings and deciding on the authorisation of financial undertakings to the financial markets. Article 1:25 paragraph 2 of the Financial Supervision Act designates the Authority on Financial Markets as holding the task of conducting supervision over the financial markets and decides on granting financial undertakings access to these markets. The Dutch Central Bank and the Authority on Financial Markets are therefore both bodies expressly authorised by law to be responsible in their above indicated functions, including granting authorisations and conducting prudential supervision on financial undertakings concerning Title II of Directive 2007/64/EC.</p> <p>Article 20 paragraph 1 second subparagraph of Directive 2007/64/EC is transposed in a conform manner by Articles 1:27a paragraph 2 and 1:69 paragraph 2 of the Financial Supervision Act.</p> <p>Article 1:27a paragraph 2 of the Financial Supervision Act indicates that the management boards and the supervisory boards of the Dutch Central Bank and the Authority on Financial Markets shall be composed of persons whose reliability is unquestionable and who are competent for the exercise of their duties. In this regard, conflicts of interest can be considered to be avoided by Dutch law and independence from economic bodies is guaranteed. Article 1:69 paragraph 2 of the Financial Supervision Act also indicates that the supervisor shall provide the European Commission with all</p>



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		<p>modify, limit, partially withdraw or provide further requirements to an authorisation which it has granted (..)</p> <p><b>Article 1:79 of the Financial Supervision Act</b></p> <p>(1) The supervisor can impose a penalty payment for the infringement of;</p> <p>a. requirements, stated according to the articles mentioned in the Annex of this article;</p> <p>b. the prospectus regulation;</p> <p>c. Regulation (EC) No 2560/2001 of the European Parliament and the Council of the European Union of 19 December 2001 on cross-border payments in euro (OJ L 344), and</p> <p>d. Art.5:20 of the General Administrative Act.</p> <p><b>Article 1:80 of the Financial Supervision Act</b></p> <p>(1) The supervisor may impose an administrative penalty in respect of</p>	<p>personen wier betrouwbaarheid buiten twijfel staat en die geschikt zijn voor de uitoefening van hun functies.</p> <p><b>Artikel 1:69 Wet op het Financieel Toezicht</b></p> <p>(2) De toezichthouder verstrekt (...) de Europese Commissie, de Europese toezichthoudende autoriteiten, het Gemengd Comité en het Europees Comité voor systeemrisico's alle gegevens en inlichtingen die voor de vervulling van hun taken nodig zijn.</p> <p><b>Artikel 1:28 Wet op het Financieel Toezicht</b></p> <p>(1) Indien ingevolge deze wet aan de toezichthouder de bevoegdheid wordt toegekend om algemeen verbindende voorschriften vast te stellen gaat de toezichthouder daartoe niet over dan nadat hij een daarvoor in aanmerking komende representatieve vertegenwoordiging van onder zijn toezicht staande ondernemingen heeft</p>	<p>information and data required in the exercise of their duties, which meets the requirements of the last sentence of paragraph 1 of Article 20 of Directive 2007/64/EC.</p> <p>Article 20 paragraph 2 of Directive 2007/64/EC is transposed in a conform manner by <u>Article 1:28 paragraph 1 of the Financial Supervision Act.</u></p> <p>Article 20 paragraph 2 of Directive 2007/64/EC requires that Member States shall ensure that the competent authorities designated under paragraph 1 possess all the powers necessary for the performance of their duties. Article 1:28 paragraph 1 of the Financial Supervision Act indicates that supervisors can be attributed the authorisation and competency to set general rules which are based on the matters concerning the Financial Supervision Act and in order to exercise their duties. In this regard, the supervising bodies can be provided the powers necessary for the performance of their duties.</p> <p>Article 20 paragraph 3 of Directive 2007/64/EC is transposed in a conform manner by Article 1:46 paragraph 1 of the Financial Supervision Act.</p> <p>Article 20 paragraph 3 of Directive 2007/64/EC requires that Member States ensure that these authorities cooperate closely so they can discharge their respective duties effectively. In this regard, Article 1:46 paragraph 1 of the Financial Supervision Act states that the supervisors work in cooperation with the aim of setting the generally binding rules and policy rules in</p>

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		<p>breaches of:</p> <p>a. regulations adopted following the articles mentioned in the Annex to this Article;</p> <p>b. the prospectus regulation;</p> <p>c. Regulation (EC) No 2560/2001 of the European Parliament and the Council of the European Union of 19 December 2001 on cross-border payments in euro (OJ L 344), and</p> <p>d. Art. 5:20 of the General Administrative Act.</p> <p><b>Article 1:75 of the Financial Supervision Act</b></p> <p>(2) The Dutch Central Bank can give indications as referred to in the first paragraph also to financial undertakings if it senses a development that could endanger the equity, the solvability or the liquidity of the financial undertaking.</p> <p><b>Article 1:89 of the Financial Supervision Act</b></p>	<p>geraadpleegd.</p> <p><b>Artikel 1:46 Wet op het Financieel Toezicht</b></p> <p>(1) De toezichthouders werken samen met het oog op de vaststelling van algemeen verbindende voorschriften en beleidsregels opdat deze, voorzover zij betrekking hebben op onderwerpen die zowel tot het prudentieel toezicht als tot het gedragstoezicht behoren, zoveel mogelijk gelijkkluidend zijn.</p> <p><b>Artikel 5:13 Algemene Wet Bestuursrecht</b></p> <p>Een toezichthouder maakt van zijn bevoegdheden slechts gebruik voor zover dat redelijkerwijs voor de vervulling van zijn taak nodig is.</p> <p><b>Artikel 1:74 Wet op het Financieel Toezicht</b></p> <p>(1) De toezichthouder kan ten behoeve van het toezicht op de naleving van de bij of krachtens deze wet gestelde regels van een ieder inlichtingen vorderen.</p>	<p>order that these, in so far as they concern the subjects of prudential supervision or conduct supervision, are uniform as much as possible. Article 1:46 paragraph 1 of the Financial Supervision Act covers the requirement that authorities cooperate closely so they can discharge their respective duties effectively.</p> <p>Article 20 paragraph 4 of Directive 2007/64/EC is transposed in a conform manner by Articles 1:24 paragraph 2 and 1:25 paragraph 2 of the Financial Supervision Act.</p> <p>Article 20 paragraph 4 of Directive 2007/64/EC requires the tasks of the competent authorities designated under paragraph 1 to be the responsibility of the competent authorities of the home Member State. Article 1:24 paragraph 2 of the Financial Supervision Act designates the Dutch Central Bank as the authority holding the task of prudential supervision over financial undertakings and deciding on the entry of financial undertakings to the financial markets. Article 1:25 paragraph 2 of the Financial Supervision Act designates the Authority on Financial Markets as holding the task of conducting supervision over the financial markets and deciding on granting financial undertakings access to these markets. The Dutch Central Bank and the Authority on Financial Markets are therefore both national bodies expressly authorised by law to be responsible in their above indicated functions, including granting authorisations and conducting prudential supervision on financial undertakings concerning Title II of Directive 2007/64/EC. These bodies cover</p>

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		<p>(1) Any person carrying out duties or who has performed duties by virtue of the application of this Act or of any decisions taken under this Act, shall be prohibited from making public or known confidential data or information provided or obtained under this Act or under section 5.2 of the General Administrative Law Act or obtained from a person or body referred to in Art. 1:90, first subsection, or 1:91, first para. or forwarded or otherwise used other than to carry out his duties as required or which this Act requires.</p> <p>(2) Notwithstanding the first paragraph, the supervisor can, by using confidential data or information obtained in carrying out its duties under this Act, give information, if this information can not be reduced to individuals.</p> <p style="text-align: center;"><b>Article 1:90 of the Financial Supervision Act</b></p>	<p>governance of all financial undertakings, including payment institutions and electronic money institutions.</p> <p>The transposing provisions for Article 20 paragraph 5 of Directive 2007/64/EC could not be located in Dutch law. This provision is a case of partial conformity, as it does not concern a positive obligation but indicates what should not be done, i.e. the competent authorities are not required to supervise business activities of payment institutions other than those referenced in the Annex and Article 16 paragraph 1 of subparagraph (a).</p> <p>Article 21 paragraph 1 first and second subparagraph introductory wording of Directive 2007/64/EC are all transposed in a conform manner by Articles 5:13 and 5:15 of the General Administrative Act and Articles 1:74 paragraph 1, 1:79 paragraph 1, 1:80 paragraph 1 and 1:104 paragraph 1 of the Financial Supervision Act.</p> <p>Article 21 paragraph 1 first and second subparagraph introductory wording of Directive 2007/64/EC indicate that the controls exercised by competent authorities for checking continued compliance are proportionate, adequate and responsive to the risks to which payment institutions are exposed. In this regard, Article 5:13 of the General Administrative Act states that a supervisor shall only use its powers to the extent that this is reasonably necessary for the performance of its duties and as far as it is proportional. As the General Administrative Act concerns an Act of general scope,</p>

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		<p>(1) The supervisor may, in derogation of Article 1:89, first paragraph, give confidential data or information obtained in carrying out its duties under this Act, to another supervisor or a regulatory authority in another Member State, unless: (...)</p> <p>a. the purpose for which the confidential information will be used is not sufficiently determined;</p> <p>b. the envisaged use of the confidential information does not fit in the framework of the supervision on financial markets or on persons active on those markets;</p> <p>c. the provision of confidential information will not be in line with the Dutch law or the public order.</p> <p>d. the secrecy of the confidential information is not sufficiently guaranteed;</p> <p>e. the provision of the confidential information is reasonably contrary or</p>	<p>ratingbureaus; en</p> <p>d. artikel 5:20 van de Algemene wet bestuursrecht.</p> <p><b>Artikel 1:80 Wet op het Financieel Toezicht</b></p> <p>1. De toezichthouder kan een bestuurlijke boete opleggen terzake van overtreding van:</p> <p>a. voorschriften, gesteld ingevolge de in de bijlage bij dit artikel genoemde artikelen;</p> <p>b. voorschriften met betrekking tot het toezicht op financiële markten of op die markten werkzame personen, gesteld ingevolge een bij algemene maatregel van bestuur aangewezen verordening als bedoeld in artikel 288 van het Verdrag betreffende de werking van de Europese Unie;</p> <p>c. de verordening ratingbureaus; en</p> <p>d. artikel 5:20 van de Algemene wet bestuursrecht.</p> <p><b>Artikel 75 Wet op het</b></p>	<p>applicable to all supervisors, this can be considered to apply also to supervisors for electronic money institutions.</p> <p>Furthermore, Article 21 paragraph 1 of Directive 2007/64/EC states that in order to check compliance with that Title, the authorities shall be entitled to take the following steps, in particular: (a) requiring the payment institution to provide any information needed to monitor compliance; and (b) to carry on-site inspections at payment institutions, branches or agencies or other entities under its responsibility; (c) issue recommendations, guidelines and if applicable, binding administrative provisions; (d) to suspend or withdrawal authorisations in cases referred to in Article 12.</p> <p>Concerning paragraphs (a) and (b), Article 1:74 paragraph 1 of the Financial Supervision Act indicates that the supervisor can require anyone to provide information required for its duty of monitoring compliance with the rules established by and on the basis of the Financial Supervision Act. Article 1:74 paragraph 1 of the Financial Supervision Act provides a broad scope of power for the supervisor. The requirement of providing information meets the requirement of Article 21 paragraph 1 subparagraph (a) to provide any information for monitoring compliance. Furthermore, Article 5:15 of the General Administrative Act states that a supervisor is authorised to enter any location/place, with the exception of private property. In this regard, the supervisor can carry out on-site inspections at the payment institutions,</p>

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		<p>would be contrary with the interests which this law envisages to protect, or</p> <p>f. it is not sufficiently guaranteed that the confidential information will not be used for another purpose than those for which it is granted.</p> <p><b>Article 1:92 Financial Supervision Act</b></p> <p>(1) The supervisor can, notwithstanding Article 1:89(1), provide confidential information or data obtained in the course of its duties which he has to perform on the basis of this Act, to an authority in charge of the execution of criminal sanctions or to an expert entrusted by that body with such a task provided that the requested data or information is necessary for carrying out that task.</p> <p><b>Article 1:110 of the Financial Supervision Act</b></p> <p>(1) If there is an appeal against a taken decision based on this Act, or if a temporary measure is</p>	<p><b>Financieel Toezicht</b></p> <p>(2) De Nederlandsche Bank kan een aanwijzing als bedoeld in het eerste lid eveneens aan een financiële onderneming geven indien zij tekenen ontwaart van een ontwikkeling die het eigen vermogen, de solvabiliteit of de liquiditeit, onderscheidenlijk de technische voorzieningen, van die financiële onderneming in gevaar kunnen brengen.</p> <p><b>Artikel 1:89 Wet op het Financieel Toezicht</b></p> <p>(1) Het is een ieder die uit hoofde van de toepassing van deze wet of van ingevolge deze wet genomen besluiten enige taak vervult of heeft vervuld, verboden van vertrouwelijke gegevens of inlichtingen die ingevolge deze wet dan wel ingevolge afdeling 5.2 van de Algemene wet bestuursrecht zijn verstrekt of verkregen of van een persoon of instantie als bedoeld in artikel 1:90, eerste lid,</p>	<p>agents, branches or entities to which activities are outsourced which meets Article 21 paragraph 1 subparagraph (b) of Directive 2007/64/EC. Article 1:74 paragraph 2 indicates that the Dutch Central Bank as an authority can give indications to financial undertakings if there is a development that could endanger the equity, the solvability or the liquidity of the financial undertaking. In accordance with Article 1:79 paragraph 1 and 1:80 paragraph 1 of the Financial Supervision Act, the supervisor can impose penalties for breaches and violations of requirements which includes those referenced in the Annex of that Article, the prospectus and the General Administrative Act. Article 1:104 paragraph 1 of the Financial Supervision Act enables the supervisor to modify, limit, partially withdraw or provide further requirements to authorisations it has granted on the basis of Article 12 of Directive 2007/64/EC, which meets the requirement of Article 21 paragraph 1 subparagraph (c) of Directive 2007/64/EC regarding the power to withdraw or suspend authorisations.</p> <p>Article 21 paragraph 2 of Directive 2007/64/EC is transposed in a conform manner by Article 1:79 paragraph 1 and 1:80 paragraph 1 of the Financial Supervision Act.</p> <p>Article 1:79 paragraph 1 and 1:80 paragraph 1 of the Financial Supervision Act enable the supervisor to impose penalties or sanctions for breaches and violations of the Articles referenced in the Annex to that Article, the prospectus and the General Administrative Act, and in order to effectively control the</p>

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		<p>requested (...) the court in Rotterdam shall have authorisation.</p> <p><b>Article 2:106a of the Financial Supervision Act</b></p> <p>(1) A payment institution which intends to offer services in another Member States <i>via</i> a branch office, <i>via</i> intermediary payment service agents shall only initiate this after informing the Dutch Central Bank.</p> <p>(2) With the notification indicated in the first paragraph the payment institution shall provide the information determined by Order of Decree.</p> <p>(3) The Dutch Central Bank shall provide the information indicated in the second paragraph within a month after receipt of the supervising body of the other Member State.</p> <p><b>Article 42a of the Decree Marketentry Financial Undertakings</b></p> <p>The information as</p>	<p>onderscheidenlijk 1:91, eerste lid, zijn ontvangen, verder of anders gebruik te maken of daaraan verder of anders bekendheid te geven dan voor de uitvoering van zijn taak of door deze wet wordt geëist.</p> <p>(2) In afwijking van het eerste lid kan de toezichthouder met gebruikmaking van vertrouwelijke gegevens of inlichtingen verkregen bij de uitvoering van zijn taak op grond van deze wet, mededelingen doen, indien deze niet kunnen worden herleid tot afzonderlijke personen.</p> <p><b>Artikel 1:90 Wet op het Financieel Toezicht</b></p> <p>(1) De toezichthouder kan, in afwijking van artikel 1:89, eerste lid, vertrouwelijke gegevens of inlichtingen verkregen bij de uitvoering van zijn taak op grond van deze wet, verstrekken aan de andere toezichthouder of een toezichthoudende instantie in een andere lidstaat, tenzij:</p> <p>business of payment institution. These sanctions can take the form of a penalty payment and an administrative penalty. Articles 1:79 and 1:80 have a general wording and do not refer to the persons or entities on which these penalties might be imposed. However, the Dutch provision is still in accordance with the Directive provision. Furthermore, as these sanctions are not limited or restricted to any specific entities, in this regard both electronic money institutions and payment institutions can be considered to be covered.</p> <p>Article 21 paragraph 3 of Directive 2007/64/EC is transposed by Article 1:75 paragraph 2 of the Financial Supervision Act.</p> <p>Article 21 paragraph 3 of Directive 2007/64/EC states that competent authorities are entitled to take steps outlined in the first paragraph, to ensure sufficient capital for payment services, in particular where the non-payment services activities of the payment institution impair or are likely to impair the financial soundness of the payment institution. Article 1:75 paragraph 2 of the Financial Supervision Act indicates that the Dutch Central Bank can give indications to financial undertakings if it becomes aware of a development that could endanger the equity, solvability or liquidity of the financial undertaking. Article 1:75 paragraph 2 of the Financial Supervision Act therefore provides for authorities to take the necessary steps to ensure sufficient capital, and to prevent impairment of financial soundness of the</p>

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		<p>referenced by Article 2:106a second paragraph of the Act concerns:</p> <p>(c) If the payment institution intends to provide payment services in another Member State <i>via</i> intervention of a payment service agent in that Member State:</p> <p><b>1°.</b> An account of the name, address, telephone and faxnumber and the e-mail address of the payment service agent;</p> <p><b>2°.</b> A description of the internal control mechanisms which shall be used by the payment service agent to conform to the requirements of the Act in preventing moneylaundering and financing of terrorism; and</p> <p><b>3°.</b> The identity of the policy makers or contributing policy makers, including the information from which it is apparent that they are reliable and knowledgeable;</p> <p><b>Article 42b of the Decree Marketentry Financial</b></p>	<p>institution.</p> <p>Article 22 paragraph 1 of Directive 2007/64/EC is transposed in a conform manner by Article 1:89 paragraph 1 of the Financial Supervision Act.</p> <p>According to Article 22 paragraph 1 of Directive 2007/64/EC, all persons who have worked for the competent authorities, including experts acting on behalf of the competent authorities are bound by the obligation of professional secrecy. Article 1:89 paragraph 1 of the Financial Supervision Act requires: any person carrying out duties or who was performed duties by virtue of that Act; to be prohibited from making public or known confidential data or information; provided or obtained under this Act or under section 5.2 of the General Administrative Act or obtained from a person or body referred to in Art. 1:90, first subsection, or 1:91, first paragraph; or forwarded or otherwise used other than to carry out his duties as required or which this Act requires. Article 1:89 paragraph 1 of the Financial Supervision Act therefore is of very broad scope concerning the protections of confidentiality. It can be considered to cover 'any person' carrying out duties or who has performed duties by virtue of that Act and therefore meets the requirement of Article 22 paragraph 1 of Directive 2007/64/EC concerning any persons or experts to be bound to secrecy.</p> <p>Article 22 paragraph 2 of Directive 2007/64/EC is transposed in a conform manner by Article 1:89 paragraph 2 and 1:90</p>

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		<p><b>Undertakings</b></p> <p>The information as referenced by Article 2:107a second paragraph of the Act concerns:</p> <p>(c) If the electronic money institution intends to provide payment services in another Member State <i>via</i> intervention of a payment service agent in that Member State:</p> <p><b>1°.</b> An account of the name, address, telephone and faxnumber and the e-mail address of the payment service agent;</p> <p><b>2°.</b> A description of the internal control mechanisms which shall be used by the payment service agent to conform to the requirements of the Act in preventing money laundering and financing of terrorism; and</p> <p><b>3°.</b> The identity of the policy makers or contributing policy makers, including the information from which it is apparent that they are reliable and knowledgeable;</p>	<p>of inlichtingen niet zullen worden gebruikt voor een ander doel dan waarvoor deze worden verstrekt.</p> <p><b>Artikel 1:92 Wet op het Financieel Toezicht</b></p> <p>(1) De toezichthouder kan, in afwijking van artikel 1:89, eerste lid, vertrouwelijke gegevens of inlichtingen verkregen bij de uitvoering van de hem ingevolge deze wet opgedragen taak, verstrekken aan een instantie die is belast met de uitoefening van strafvorderlijke bevoegdheden of aan een deskundige die door een dergelijke instantie met een opdracht is belast, voorzover de verlangde gegevens of inlichtingen noodzakelijk zijn voor de uitvoering van die opdracht.</p> <p><b>Artikel 1:110 Wet op het Financieel Toezicht</b></p> <p>(1) Indien beroep wordt ingesteld tegen een besluit op grond van deze wet of indien om een voorlopige voorziening wordt verzocht ingevolge deze</p> <p>paragraph 1 of the Financial Supervision Act.</p> <p>Article 22 paragraph 2 of Directive 2007/64/EC requires professional secrecy to be strictly applied in order to ensure the protection of individual and business rights. Article 1:89 paragraph 2 of the Financial Supervision Act indicates that the supervisor can provide announcements or information obtained in carrying out its duties under this Act, if this cannot be traced back to specific individuals. In this regard confidentiality is protected. Furthermore, Article 1:90 paragraph 1 of the Financial Supervision Act provides for exceptions to the supervisors providing such information. These exceptions provide further protection of confidentiality and ensure that Dutch law respects professional secrecy rules. Therefore, Articles 1:89 paragraph 2 and 1:90 paragraph 1 of the Financial Supervision Act protect individual and business rights.</p> <p>Article 22 paragraph 3 of Directive 2007/64/EC is transposed in a conform manner by Article 1:89 2 and 1:90 paragraph 1 of the Financial Supervision Act.</p> <p>Article 22 paragraph 3 of Directive 2007/64/EC requires that Member States apply this Article when taking into account, <i>mutatis mutandis</i>, Articles 44 to 53 of Directive 2006/48/EC. Articles 1:89 paragraph 2 and 1:90 paragraph 1 of the Financial Supervision Act already provide a basis for the supervisor to protect confidential data or information and exceptions to providing such information. These</p>



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		<p><b>Article 1:58 of the Financial Supervision Act</b></p> <p>(1) If the governor of an institution for collective investments in stocks with a seat in another Member State of a credit institution, life insurance or liability insurance with its seat in another Member State that works from a branch in the Netherlands and provides financial services to the Netherlands, does not give effect to the directions of the authority (...), the Supervisor shall inform the supervising body of the Member State.</p> <p>(2) The supervisor may (...) and after the supervising bodies of the Member State where financial undertakings have their seat have been informed, take the decision that the involved financial undertakings may not sign new contracts in the Netherlands if these undertakings do not meet the requirements set out</p>	<p>wet is, in afwijking van artikel 8:7 van de Algemene wet bestuursrecht, de rechtbank te Rotterdam bevoegd.</p> <p><b>Artikel 2:106a Wet op het Financieel Toezicht</b></p> <p>(1) Een betaalinstelling die voornemens is vanuit een bijkantoor in een andere lidstaat of door middel van het verrichten van diensten, al dan niet door tussenkomst van een betaaldienstagent, naar een andere lidstaat haar bedrijf uit te oefenen gaat daar slechts toe over nadat zij kennis heeft gegeven van haar voornemen aan de Nederlandsche Bank.</p> <p>(2) Bij de in het eerste lid bedoelde kennisgeving verstrekt de betaalinstelling bij of krachtens algemene maatregel van bestuur te bepalen gegevens.</p> <p>(3) De Nederlandsche Bank verstrekt de in het tweede lid bedoelde gegevens binnen een maand na ontvangst aan de toezichthoudende</p> <p>exceptions provide further protection of confidentiality and ensure that Dutch law respects professional secrecy rules. Furthermore, Article 1:92 paragraph 1 of the Financial Supervision Act states that the supervisor could also provide confidential information to an authority in charge of criminal sanctions or to experts entrusted with such a task provided that the requested data or information is necessary for that task. Therefore, confidentiality is protected under most circumstances, and only under exceptional circumstances in accordance with Article 22 paragraph 3 of Directive 2007/64/EC may confidential information be exposed or otherwise transmitted, such as to competent authorities entrusted with tasks of criminal executions. As the confidential information managed by the supervisor can apply to all financial undertakings, both payment institutions and electronic money institutions are covered.</p> <p>Article 23 paragraph 1 and 2 of Directive 2007/64/EC are transposed in a conform manner by Article 1:110 paragraph 1 of the Financial Supervision Act.</p> <p>Article 23 paragraph 1 and 2 of Directive 2007/64/EC require Member States to ensure that decisions taken by competent authorities, including failures to act, should be contestable before the courts. In this regard, Article 1:110 paragraph 1 of the Financial Supervision Act provides for the possibility to apply to the courts against decisions (including temporary decisions) taken by authorities under the Financial Supervision</p>

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		<p>by this Act: (...)</p> <p>(5) The first and second paragraph shall also be applicable to:</p> <p>(c) electronic money institutions with a seat in another Member State, taking into account that branches are to be interpreted payment service agents or persons to which activities are outsourced;</p> <p><b>Article 1:51 Financial Supervision Act</b></p> <p>(1) The supervisor shall cooperate with the supervising authorities of other Member States, where this is required for its tasks by virtue of this Act or for the fulfilment of the tasks of a supervising body.</p> <p><b>Article 1:56 of the Financial Supervision Act</b></p> <p>(1) If a payment service provider, (...) or electronic money institutions (...) established in another Member State and with a branch in the Netherlands,</p>	<p>instantie van de andere lidstaat.</p> <p><b>Artikel 42a Besluit Marktttoegang Financiële Ondernemingen</b></p> <p>De gegevens, bedoeld in artikel 2:106a, tweede lid, van de wet zijn:</p> <p>(c) indien de betaalinstelling voornemens is betaaldiensten te verlenen in een andere lidstaat door tussenkomst van een in die lidstaat gevestigde betaaldienstagent:</p> <p>1°. een opgave van de naam, het adres, het telefoon- en faxnummer en het emailadres van de betaaldienstagent;</p> <p>2°. een beschrijving van de interne controlemechanismen die door de betaaldienstagent zullen worden gebruikt om de in de Wet ter voorkoming van witwassen en financieren van terrorismeneergelegde verplichtingen na te komen; en</p> <p>3°. de identiteit van de personen die het beleid</p> <p>Act. The term ‘decisions’ is broad and under Dutch law it implies any decision or failure to act, as the definition is not limited in Article 1:110 paragraph 1 of the Financial Supervision Act. Furthermore, the decisions referred to which may be appealed, apply to the entire Act and therefore include decisions against payment institutions or electronic money institutions.</p> <p>Article 24 paragraph 1 and 2 introductory wording and paragraphs (a) – (c) of Directive 2007/64/EC are transposed in a conform manner by Article 1:51 paragraph 1 and 3 of the Financial Supervision Act.</p> <p>Article 24 paragraph 1 and 2 introductory wording of Directive 2007/64/EC requires the competent authorities of different Member States to cooperate with each other and with the European Central Bank and the national central banks of the Member States. In this regard, Article 1:51 paragraph 1 of the Financial Supervision Act indicates that the supervisor shall cooperate with the supervisor of other Member States, if necessary and in accordance with this Act or in the fulfilment of the duties of the other Member State.</p> <p>Article 24 paragraph 2 of Directive 2007/64/EC further requires cooperation with regard to: cooperating with the supervisor of other Member States in charge of authorisations; the European Central Bank and the national central banks of Member States, in their capacity as monetary and oversight authorities, and, where appropriate, other public authorities responsible for</p>

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		<p>the supervisory authority of that other Member State can, after giving the regulator notice thereof, verify information or data at the branch necessary for the exercise of supervision (...)</p> <p>(2) The supervisory authority of another Member State may also ask the supervisor to verify information or data of the branch necessary for the exercise of supervision on the institution, (...) The supervisor shall comply with this request, or give the supervisory authority of another Member State the opportunity to verify information from the branch.</p> <p><b>Article 1:59 of the Financial Supervision Act</b></p> <p>(1) If a payment institution (...) electronic money institution (...) with its seat in the Netherlands and a branch in another Member State are not separable from its parent institution or perform financial services or other</p>	<p>van de betaaldienstagent bepalen of mede bepalen, alsmede gegevens waaruit blijkt dat zij betrouwbaar en deskundig zijn.</p> <p><b>Artikel 1:51 Wet op het Financieel Toezicht</b></p> <p>(1) De toezichthouder werkt samen met toezichthoudende instanties van andere lidstaten, indien dat voor het vervullen van zijn taak op grond van deze wet of voor de vervulling van de taak van die toezichthoudende instanties nodig is.</p> <p><b>Artikel 42b Besluit Markttoegang Financiële Ondernemingen</b></p> <p>De gegevens, bedoeld in artikel 2:107a, tweede lid, van de wet zijn:</p> <p>(c) Indien de elektronischgeldinstelling voornemens is betaaldiensten te verlenen in een andere lidstaat door tussenkomst van een in die lidstaat gevestigde betaaldienstagent:</p> <p>1°. een opgave van de naam, het adres, het</p> <p>overseeing payment and settlement systems and other relevant authorities. Article 1:51 paragraph 3 of the Financial Supervision Act indicates that the supervisor shall provide to a supervising authority of another Member State all information and indications necessary for the fulfilment of the duties of the latter. In this regard Article 1:51 paragraph 3 of the Financial Supervision Act meets the requirements (a) concerning cooperation with supervisors of other States in charge of authorisations, and (b) cooperation with the European Central Bank and the national central banks of Member States, and (c) other relevant authorities, as all act as supervising authorities and Article 1:51 paragraph 3 of the Financial Supervision Act indicates to cooperate with other ‘supervising authorities’.</p> <p>Article 25 paragraph 1 of Directive 2007/64/EC is transposed in a conform manner by Article 2:106a paragraph 1,2 and 3 and Article 2:107a paragraph 2 of the Financial Supervision Act, and Article 42a and 42b paragraph (c) of the Decree Marketentry Financial Undertakings.</p> <p>Article 25 paragraph 1 of Directive 2007/64/EC requires any authorised payment institution wishing to provide payment services in other Member States to inform the competent authorities of its home Member State. Article 2:106a paragraph 1 of the Financial Supervision Act requires payment institutions intending to offer services in another Member State <i>via</i> branch offices and by using intermediary payment service agents</p>

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			<p>services to another Member State and do not comply with the legal requirements, the supervisor shall, after receiving the notification of the supervising institution of the other Member State, inform as soon as possible the involved supervisor; payment institution (...) electronic money institution (...) in order to follow the code of conduct within a reasonable term set by the supervisor and in order to end the inconsistency with the regulations of the other Member State.</p>	<p>telefoon- en faxnummer en het emailadres van de betaaldienstagent;</p> <p>2°. een beschrijving van de interne controlemechanismen die door de betaaldienstagent zullen worden gebruikt om de in de Wet ter voorkoming van witwassen en financieren van terrorismeneergelegde verplichtingen na te komen; en</p> <p>3°. de identiteit van de personen die het beleid van de betaaldienstagent bepalen of mede bepalen, alsmede gegevens waaruit blijkt dat zij betrouwbaar en deskundig zijn.</p> <p><b>Artikel 1:58 Wet op het Financieel Toezicht</b></p> <p>(1) Indien een beheerder met zetel in een andere lidstaat van een instelling voor collectieve belegging in effecten of een bank, levensverzekeraar of schadeverzekeraar met zetel in een andere lidstaat die vanuit een bijkantoor in Nederland zijn onderscheidenlijk haar bedrijf uitoefent of</p>	<p>to only do so after informing the Dutch Central Bank.</p> <p>Article 25 paragraph 1 of Directive 2007/64/EC further requires the competent authorities of the home Member State to provide within one month of receipt of that information, to inform the host Member State authorities of: the name and address of the payment institution, the names of those responsible for the management of the branch, its organisational structure and of the kind of payment services it intends to provide in the territory of the host Member State. In this regard, Article 2:106a paragraph 3 of the Financial Supervision Act requires the Dutch Central Bank to provide the information in the second paragraph to the supervising body of the host Member State within a month after receipt. Article 2:106a paragraph 2 and 2:107a paragraph 2 of the Financial Supervision Act are both identical and indicate that the notification requirements applicable to payment institutions and electronic money institutions respectively are set by Order of Decree. In this regard, Article 42a and 42b paragraph (c) of the Decree Marketentry Financial Undertakings provide for payment institutions and electronic money institutions respectively that the following information is required, if the institution in question intends to offer payment services in another Member State <i>via</i> payment service agents in that Member State: the name, address, phone, fax and e-mail address of the payment service agent, a description of the internal control mechanisms which shall be</p>

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			<p>financiële diensten verleent dan wel diensten verricht naar Nederland, geen gevolg geeft aan een door de toezichthouder gegeven aanwijzing als bedoeld in artikel 1:75, stelt de toezichthouder de toezichthoudende instantie van de andere lidstaat daarvan in kennis.</p> <p>(2) De toezichthouder kan, onverminderd de artikelen 1:79 en 1:80, en na de toezichthoudende instantie van de lidstaat waar de financiële onderneming haar zetel heeft daarvan in kennis te hebben gesteld, het besluit nemen dat de betrokken financiële onderneming geen nieuwe overeenkomsten in Nederland mag afsluiten, indien deze niet voldoet aan hetgeen bij of krachtens deze wet is bepaald: (...)</p> <p>(5) Het eerste en tweede lid zijn van overeenkomstige toepassing op:</p> <p>(c) elektronischgeldinstellingen met zetel in een andere</p>	<p>used by the payment service agent to conform to the requirements of the Act in preventing money laundering and financing terrorism and the identity of the policymakers or contributing policymakers, including the information from which it is apparent that they are reliable and knowledgeable. These requirements can be considered to meet the requirements under Article 25 paragraph 1 of Directive 2007/64/EC concerning obtaining the names and addresses of the payment institution, including those responsible for the management of the branch as policymakers; its organisational structure and the kind of payment services it intends to provide in the other Member State.</p> <p>Article 25 paragraph 2 of Directive 2007/64/EC is transposed in a conform manner by Article 1:58 paragraphs 1 and 2 of the Financial Supervision Act.</p> <p>Article 25 paragraph 2 of Directive 2007/64/EC requires the competent authorities of the home Member State to cooperate with the authorities of the host Member State, in order to carry out the controls and take the necessary steps provided for in Article 21. In this regard, Article 1:58 paragraph 1 of the Financial Supervision Act provides that where an institution or undertaking with branches in the Netherlands and providing financial services to the Netherlands but which has a seat in another Member State, and it does not comply with the directions of the supervisor, the supervisor will inform the supervising body of the other Member State.</p>

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			<p>lidstaat, met dien verstande dat onder bijkantoor mede wordt verstaan betaaldienstagent of persoon aan wie werkzaamheden zijn uitbesteed;</p> <p><b>Artikel 1:56 Wet op het Financieel Toezicht</b></p> <p>(1) Indien een (...), betaaldienstverlener, elektronischgeldinstelling, (...) met zetel in een andere lidstaat een bijkantoor heeft in Nederland, kan de toezichthoudende instantie van die andere lidstaat, na de toezichthouder in kennis te hebben gesteld, bij het bijkantoor gegevens of inlichtingen verifiëren die nodig zijn voor de uitoefening van het toezicht op die instelling (...)</p> <p>(2) De toezichthoudende instantie van de andere lidstaat kan voorts de toezichthouder verzoeken bij het bijkantoor gegevens of inlichtingen te verifiëren die nodig zijn voor de uitoefening van het toezicht op die (...)</p>	<p>Furthermore, Article 1:58 paragraph 2 of the Financial Supervision Act indicates that the supervisor can take measures such as blocking the involved financial undertakings from assigning or signing new contracts in the Netherlands, if the undertakings do not conform to the requirements of this Act. The Directive requirements of cooperation, carrying out controls and taking the necessary steps with regard to agents, branches or entities, can be considered to be met by Article 1:58 paragraphs 1 and 2 of the Financial Supervision Act. Furthermore, Article 1:58 paragraph 5 subparagraph (c) specifically makes paragraphs 1 and 2 applicable to electronic money institutions with a seat in another Member State and with regard to outsourcing of activities.</p> <p>Article 25 paragraph 3 of Directive 2007/64/EC is transposed in a conform manner by Article 1:56 paragraphs 1 and 2 of the Financial Supervision Act.</p> <p>Article 25 paragraph 3 of Directive 2007/64/EC requires that by way of cooperation in accordance with paragraphs 1 and 2 of that Article, authorities of the home Member State shall notify the authorities of the host Member State when they intend to carry out on-site inspections. Article 1:56 paragraphs 1 of the Financial Supervision Act indicates that for payment institutions and electronic money institutions with a seat in another Member State but with a branch in the Netherlands, the supervisor of another Member State can, after informing the supervisor of the branch office, verify</p>

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			<p>betaaldienstverlener, elektronischgeldinstelling, (...). De toezichthouder geeft aan dit verzoek gevolg, of stelt de toezichthoudende instantie van de andere lidstaat in de gelegenheid om bij het bijkantoor gegevens of inlichtingen te verifiëren of te doen verifiëren.</p> <p><b>Artikel 1:59 Wet op het Financieel Toezicht</b></p> <p>(1) Indien een (...) betaalinstelling, elektronischgeldinstelling, (...) met zetel in Nederland die vanuit een bijkantoor in een andere lidstaat zijn onderscheidenlijk haar bedrijf uitoefent of financiële diensten verleent dan wel diensten verricht naar een andere lidstaat niet voldoet aan in die andere lidstaat geldende wettelijke voorschriften, geeft de toezichthouder na daartoe een kennisgeving van de toezichthoudende instantie van die andere lidstaat te hebben ontvangen, zo spoedig mogelijk een aanwijzing aan de betrokken (...),</p>	<p>information of the branch as required in the exercising of supervision with. The wording verifying information required in the exercise of supervision is a broad notion, which can be considered to include inspections on-site of information to meet its duties as a supervisor. In this regard, the requirement of on-site inspections from home Member State authorities is met. Article 1:56 paragraphs 2 of the Financial Supervision Act furthermore provides for the possibility of the supervisor of the home Member State to also request the supervisor of the host Member State to verify information required for the exercise of its tasks as a supervisor. In this regard, conformity with the Directive requirement of the possibility to delegate the task of verification to the authorities of the host Member State is observed.</p> <p>Article 25 paragraph 4 of Directive 2007/64/EC is transposed in a conform manner by Article 1:59 paragraph 1 of the Financial Supervision Act.</p> <p>Article 25 paragraph 4 of Directive 2007/64/EC requires sharing all essential and/or relevant information, in particular in the case of infringements or suspected infringements by agents, branches or entities to which activities are outsourced. Article 1:59 paragraph 1 of the Financial Supervision Act states that the supervisor after receiving notification of the supervising institution of the other Member State, shall inform as soon as possible the involved supervisor or payment institution or electronic money institution in order to follow the code of</p>

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				<p>betalinstelling, elektronischgeldinstelling, (...) om binnen een door de toezichthouder gestelde redelijke termijn de in de aanwijzingsbeschikking bepaalde gedragslijn te volgen, ten einde de strijdigheid met de in die andere lidstaat geldende wettelijke voorschriften te beëindigen.</p>	<p>conduct set by the supervisor within a reasonable term and to end the inconsistency with the regulations of the other Member State. In this regard, communication with supervising authorities of the other Member State is possible with regard to information that creates inconsistencies with regulations, which can be considered to be essential and/or relevant information as required by Article 25 paragraph 4 of Directive 2007/64/EC.</p> <p>No additional provisions are required to be adopted in order to transpose Article 25 paragraph 5 of Directive 2007/64/EC, as Dutch legislation is in conformity with Article 25 paragraph 5 of Directive 2007/64/EC.</p> <p>Article 25 paragraph 5 of Directive 2007/64/EC provides for applicability of paragraphs 1-4 without prejudice to the obligation of competent authorities under Directive 2005/60/EC; Regulation (EC) No 1781/2006, in particular under Article 37(1) of Directive 2005/60/EC and Article 15(3) of Regulation (EC) No 1781/2006 to supervise or monitor the compliance with the requirements laid down in those instruments. The Dutch Central Bank and the Authority of financial markets are responsible for the application of the Directive on money laundering and financing of terrorist activities. These rules can be found in the Act on the implementation of the prevention of money laundering and terrorist financing.</p> <p>Overall, conformity with all Articles of</p>



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						<p>Directive 2007/64/EC is observed, with the exception of Articles 11, 12 paragraph 2 and 20 paragraph 5 of Directive 2007/64/EC, which are partially conform.</p> <p>Therefore, overall, taking into account the above observations, partial conformity is concluded.</p>
<b>Art. 3(2)</b>	<p>Electronic money institutions shall inform the competent authorities in advance of any material change in measures taken for safeguarding of funds that have been received in exchange for electronic money issued.</p>	<p>2. Instellingen voor elektronisch geld lichten de bevoegde autoriteiten op voorhand in over elke substantiële wijziging in de maatregelen die worden genomen voor de bescherming van geldmiddelen die zijn ontvangen in ruil voor elektronisch geld dat is uitgegeven.</p>	<p><b>Art. 3:29a of the Financial Supervision Act</b></p> <p><b>Art. 32b of the Decree Prudential Rules of the Financial Supervision Act</b></p>	<p><b>Article 3:29a of the Financial Supervision Act</b></p> <p>(2) An electronic money institution with a seat in the Netherlands shall ensure that funds are received in exchange for electronic money in a manner set by Order of Decree.</p> <p><b>Article 32b of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p>(1) A payment institution or electronic money institution shall inform the Dutch Central Bank of any changes (...) concerning:</p> <p>(i) The manner in which the requirements referred to in Article 3:29a of the Act are met concerning the funds which are received by payment service users</p>	<p><b>Artikel 3:29a Wet op het Financieel Toezicht</b></p> <p>(2) Een elektronischgeldinstelling met zetel in Nederland stelt de geldmiddelen die worden of zijn ontvangen in ruil voor elektronisch geld op een bij of krachtens algemene maatregel van bestuur bepaalde wijze zeker.</p> <p><b>Artikel 32b Besluit Prudentiele Regels van de Wet op het Financieel Toezicht</b></p> <p>(1) Een betaalinstantelling of elektronischgeldinstelling geeft onverwijld schriftelijk aan de Nederlandsche Bank kennis van een wijziging (...) met betrekking tot:</p> <p>(i) de wijze waarop wordt voldaan aan het ingevolge artikel 3:29a</p>	<p><b>CONFORM</b></p> <p>Articles 3:29a of the Financial Supervision Act transposes Article 3 paragraph 2 of the Directive.</p> <p>Article 3 paragraph 2 of the Directive requires electronic money institutions to inform authorities in advance of any material changes in measures taken for safeguarding funds received in exchange for e-money issued.</p> <p>Article 3:29a paragraph 2 of the Financial Supervision Act indicates that electronic money institutions ensure that funds are received in exchange for electronic money in a manner set by Order of Decree.</p> <p>Article 32b paragraph 1 and (i) of the Decree Prudential Rules of the Financial Supervision Act further requires electronic money institutions to inform the Dutch Central Bank of any changes concerning the manner in which the requirements referred to in Article 3:29a of the Act are met concerning the funds which are received in exchange for the electronic money issued.</p> <p>Article 32b paragraph 1 and (i) of the Decree Prudential Rules of the Financial Supervision</p>

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				or payment service providers and concerning the funds received in exchanged for electronic money issued;	van de wet bepaalde met betrekking tot de geldmiddelen die worden of zijn ontvangen van betaaldienstgebruikers of betaaldienstverleners en met betrekking tot de geldmiddelen die worden of zijn ontvangen in ruil voor elektronisch geld dat is uitgegeven;	Act specifically provides for the requirement of a duty to inform the competent authorities of any changes concerning funds received in exchange for issued electronic money or money received by payment service users or providers.  Conformity in this regard is thus observed.  Furthermore, the notification of ‘any’ changes is a broad requirement which can be considered to cover changes in the safeguarding method, the credit institution where safeguarded funds are deposited or a change in the insurance undertaking or credit institution which insured or guaranteed the safeguarded funds, as indicated by recital 14 of the Directive. Therefore, recital 14 is taken into account by Dutch law.  Overall, based on the above observations, conformity with Article 3 paragraph 2 of the Directive is observed.
<b>Art. 3(3) 1<sup>st</sup> subpar a.</b>	3. Any natural or legal person who has taken a decision to acquire or dispose of, directly or indirectly, a qualifying holding within the meaning of point 11 of Article 4 of Directive 2006/48/EC in an electronic money institution, or to further increase or reduce, directly or indirectly, such qualifying holding as a	3. Elke natuurlijke of rechtspersoon die een beslissing heeft genomen om direct of indirect een gekwalificeerde deelneming, als bedoeld in artikel 4, punt 11, van Richtlijn 2006/48/EG, in een instelling voor elektronisch geld te verwerven of vervreemden, of om direct of indirect een dergelijke gekwalificeerde	<b>Art. 3:108a of the Financial Supervision Act</b>  <b>Art. 1:1 of the Financial Superv</b>	<b>Article 3:108a of the Financial Supervision Act</b>  (1) Anyone who provides information as referred to in Article 3:103 first paragraph to the Dutch Central Bank concerning a change of its qualified holding in an electronic money institution, shall also provide information on the size of the proposed holding including an	<b>Artikel 3:108a Wet op het Financieel Toezicht</b>  (1) Degene die aan de Nederlandsche Bank een kennisgeving verstrekt als bedoeld in artikel 3:103, eerste lid, over een wijziging van zijn gekwalificeerde deelneming in een elektronischgeldinstelling, verstrekt daarbij mede informatie over de grootte van de voorgenomen	<b>PARTIALLY CONFORM</b>  Articles 3:108a and 3:303 of the Financial Supervision Act transpose Article 3 paragraph 3, subparagraph 1 of the Directive.  Article 3:108a paragraph 1 of the Financial Supervision Act requires anyone to provide information referred to in Article 3:103 of that Act to the Dutch Central Bank concerning a change of its qualified holding in an electronic money institution, to also provide information on the size of the holding including an overview of information set out by Order of Decree.

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	<p>result of which the proportion of the capital or of the voting rights held would reach, exceed or fall below 20 %, 30 % or 50 %, or so that the electronic money institution would become or cease to be its subsidiary, shall inform the competent authorities of their intention in advance of such acquisition, disposal, increase or reduction.</p>	<p>deelneming te vergroten of te verminderen, waardoor het percentage van het door hem gehouden kapitaal of de door hem gehouden stemrechten 20 %, 30 % of 50 % zou bereiken, onderschrijden of overschrijden, of waardoor de instelling voor elektronisch geld een dochteronderneming zou worden of niet langer een dochteronderneming zou zijn, brengt de bevoegde autoriteiten op de hoogte van zijn intentie, alvorens deze verwerving, vervreemding, verhoging of verlaging plaatsvindt.</p>	<p><b>ision Act</b></p> <p><b>Article 3:103 of the Financial Supervision Act</b></p> <p>overview of the information set out by Order of Decree.</p> <p><b>Article 1:1 of the Financial Supervision Act</b></p> <p><b>Qualified holding:</b> a direct or indirect interest of at least 10 percent of the placed capital of a undertaking or the direct or indirect voting power of at least 10 percent of the votes in a undertaking, or the direct or indirect possibility to exercise similar control in a undertaking (...)</p> <p><b>Article 3:103 of the Financial Supervision Act</b></p> <p>(1) Anyone shall provide the Dutch Central Bank information prior to a change of its qualified holding in a financial undertaking, (...)</p> <p>a. as a result of which the size of this undertaking increases above 20, 33 or 50 percent or as a result of which the financial undertaking becomes a subsidiary; or</p>	<p>deelneming alsmede een opgave van bij of krachtens algemene maatregel van bestuur te bepalen gegevens.</p> <p><b>Artikel 1:1 Wet op het Financieel Toezicht</b></p> <p><b>gekwalificeerde deelneming:</b> een rechtstreeks of middellijk belang van ten minste tien procent van het geplaatste kapitaal van een onderneming of het rechtstreeks of middellijk kunnen uitoefenen van ten minste tien procent van de stemrechten in een onderneming, of het rechtstreeks of middellijk kunnen uitoefenen van een daarmee vergelijkbare zeggenschap in een onderneming (...)</p> <p><b>Artikel 3:103 Wet op het Financieel Toezicht</b></p> <p>(1) Een ieder geeft de Nederlandsche Bank vooraf kennis van een wijziging van zijn gekwalificeerde deelneming in een financiële onderneming, (...):</p>	<p>The wording ‘anyone’ is a broad concept and can be considered to include natural and legal persons. In this regard, conformity with Article 3 paragraph 3 subparagraph 1 of the Directive is observed.</p> <p>Furthermore. Article 3:108a of the Financial Supervision Act refers to ‘qualified holdings’ which by definition of Article 1:1 of the Financial Supervision Act refers to: direct or indirect capital interests, voting power or similar power to exercise control in any undertaking of at least 10 %.</p> <p>In this regard, conformity with the Directive requirement of meeting the ‘qualifying holdings’ as indicated by point 11 of Article 4 of Directive 2006/48/EC is observed as this requires 10% of more of capital or voting rights.</p> <p>Furthermore, Article 3:103 paragraph 1 of the Financial Supervision Act indicates that anyone shall provide the Dutch Central Bank with information prior to a change of its qualified holding in a financial undertaking:</p> <p>(a) when the size of this undertaking increases above 20, 33 or 50 percent, or, when the undertaking becomes a subsidiary, or (b) as a result of which the size of the holding decreases under 10, 20, 33 or 50 percent, or, when the undertaking ceases to be a subsidiary.</p> <p>Article 3:103 paragraph 1 of the Financial Supervision Act in this regard meets the Directive requirements of providing information to a competent authority in advance of such acquisition or disposal,</p>

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				<p>b. as a result of which the size of the holding decreases under the 10, 20, 33 or 50 percent or as result of which the financial undertaking ceases to be a subsidiary.</p>	<p>a. waardoor de omvang van deze deelneming boven de 20, 33 of 50 procent stijgt of waardoor de financiële onderneming een dochtermaatschappij wordt; of</p> <p>b. waardoor de omvang van deze deelneming onder de 10, 20, 33 of 50 procent daalt of waardoor de financiële onderneming ophoudt een dochtermaatschappij te zijn.</p>	<p>increase or reduction and prior to a change in qualified holding.</p> <p>Furthermore, specifically <i>via</i> paragraph (a) of Article 3:103 of the Financial Supervision Act, the notification requirement is triggered when the percentages of the holding increase above 20, 33 or 50 percent or when the undertaking becomes a subsidiary; or under (b) where the size of the holding decreases under the 10, 20, 33 or 50 percent or the undertaking ceases to be a subsidiary.</p> <p>Dutch law <i>via</i> Article 3:103 of the Financial Supervision Act indicates a third, or 33%, to represent the figure above or below which the notification is triggered for the size of the holding.</p> <p>It is possible that the Dutch legislator was misled by the reference to qualifying holdings under the meaning of Article 19 paragraph 1 first subparagraph of Directive 2006/48/EC which states: “Member States need not apply the 30 % threshold where, in accordance with Article 9(3)(a) of Directive 2004/109/EC, they apply a threshold of one-third.</p> <p>As Dutch law has opted for one third as the percentage above or below which the size of the holding triggers a notification requirement, for the purposes of Article 3 paragraph 3, subparagraph 1 of this Directive holding a 30% requirement, Article 3:103 of the Financial Supervision Act hampers the proper implementation of the Directive.</p> <p>Therefore, only partial conformity is observed with Article 3 paragraph 3, first</p>

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					<p>subparagraph of the Directive.</p> <p>The other requirements for reaching, exceeding or falling below 20 % or 50 %, or so that the electronic money institution would become or cease to be its subsidiary are conformly transposed in Article 3:103 of the Financial Supervision Act with identical percentages represented.</p> <p>Overall, based on the above observations, partial conformity with Article 3 paragraph 3 first subparagraph is observed.</p>	
<p><b>Art. 3(3) 2<sup>nd</sup> subpar a.</b></p>	<p>The proposed acquirer shall supply to the competent authority information indicating the size of the intended holding and relevant information referred to in Article 19a(4) of Directive 2006/48/EC.</p>	<p>De kandidaat-verwerver verstrekt de bevoegde autoriteiten informatie over de grootte van de voorgenomen deelneming en de relevante informatie bedoeld in artikel 19 bis, lid 4, van Richtlijn 2006/48/EG.</p>	<p><b>Art. 3:108a of the Financial Supervision Act</b></p> <p><b>Art. 32b of the Decree Prudential Rules of the Financial Supervision Act</b></p>	<p><b>Article 3:108a of the Financial Supervision Act</b></p> <p>(1) Anyone who provides information as referred to in Article 3:103 first paragraph to the Dutch Central Bank concerning a change of its qualified holding in an electronic money institution, shall provide also information on the size of the proposed holding including an overview of the information set out by Order of Decree.</p> <p><b>Article 32b of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p>(1) A payment institution</p>	<p><b>Artikel 3:108a Wet op het Financieel Toezicht</b></p> <p>(1) Degene die aan de Nederlandsche Bank een kennisgeving verstrekt als bedoeld in artikel 3:103, eerste lid, over een wijziging van zijn gekwalificeerde deelneming in een elektronischgeldinstelling, verstrekt daarbij mede informatie over de grootte van de voorgenomen deelneming alsmede een opgave van bij of krachtens algemene maatregel van bestuur te bepalen gegevens.</p> <p><b>Artikel 32b Besluit Prudentiele Regels van de Wet op het Financieel</b></p>	<p><b>CONFORM</b></p> <p>Article 3:108a of the Financial Supervision Act transposes Article 3 paragraph 3 second subparagraph of the Directive.</p> <p>Article 3 paragraph 3 second subparagraph of the Directive requires the proposed acquirer to supply information indicating the size of the intended holding and relevant information referred to in Article 19a paragraph 4 of Directive 2006/48/EC, which concerns a list of necessary information for an assessment of the notification of a change in qualified holdings.</p> <p>Article 3:108a paragraph 1 of the Financial Supervision Act requires that ‘anyone’ who provides information referred to in Article 3:103 of that Act to the Dutch Central Bank concerning a change of its qualified holding in an electronic money institution, shall also provide information on the size of the proposed holding, including an overview of that information as set out by Order of</p>

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			<p>or electronic money institution shall inform the Dutch Central Bank of any changes (...) concerning:</p> <p>(c) the identity of the persons which, directly or indirectly, own qualified holdings as indicated by Article 1 of the Act on payment service providers or concerning electronic money institutions, including information on the size of their holdings and their suitability;</p>	<p><b>Toezicht</b></p> <p>(1) Een betaalinstelling of elektronischgeldinstelling geeft onverwijld schriftelijk aan de Nederlandsche Bank kennis van een wijziging (...) met betrekking tot:</p> <p>(c) de identiteit van personen die, direct of indirect, gekwalificeerde deelnemingen als bedoeld in artikel 1 van de wet in de betaaldienstverlener of de elektronischgeldinstelling bezitten, alsmede de omvang van hun deelnemingen en het bewijs van hun geschiktheid;</p>	<p>Decree.</p> <p>With regard to Article 3 paragraph 3 second subparagraph of the Directive regarding the proposed-acquirer to provide such information, this is covered by ‘anyone’ under Article 3:108a paragraph 1 of the Financial Supervision Act.</p> <p>Conformity is thus observed in this regard.</p> <p>Furthermore, information on the size of the proposed holding including an overview of the information should be provided based on Article 1:108a paragraph 1 of the Financial Supervision Act, as also required by Article 3 paragraph 3 second subparagraph of the Directive in conjunction with the list requirement under Article 19a paragraph 4 of Directive 2006/48/EC.</p> <p>Therefore, conformity is also observed in this regard.</p> <p>Furthermore, such an overview of information is further specified in Article 32b paragraph 1 subparagraph (c) of the Decree Prudential Rules of the Financial Supervision Act, which indicates that also the identity of the persons directly or indirectly owning qualified holdings should be listed, including information on the size of their holdings and their suitability.</p> <p>In this regard, also the requirements of Article 19a paragraph 4 second and third sentence of Directive 2006/48/EC are met with regards to a balance between the proportionality of the information adapted to the nature of the proposed acquirer and</p>

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						<p>acquisition, but not requiring information which is not relevant for a prudential assessment.</p> <p>Overall, based on the above observations, conformity is observed with Article 3 paragraph 3 second subparagraph of the Directive.</p>
<b>Art. 3(3) 3<sup>rd</sup> subpar a.</b>	<p>Where the influence exercised by the persons referred to in the second subparagraph is likely to operate to the detriment of the prudent and sound management of the institution, the competent authorities shall express their opposition or take other appropriate measures to bring that situation to an end. Such measures may include injunctions, sanctions against directors or managers, or the suspension of the exercise of the voting rights attached to the shares held by the shareholders or members in question.</p>	<p>Indien de door de in de tweede alinea bedoelde personen uitgeoefende invloed een prudente en gezonde bedrijfsvoering van de instelling zou kunnen belemmeren, maken de bevoegde autoriteiten hun bezwaren hiertegen kenbaar of nemen ze andere passende maatregelen om aan deze toestand een einde te maken. Die maatregelen kunnen bindende aanwijzingen, sancties tegen bestuurders of managers of de schorsing van de uitoefening van de stemrechten die verbonden zijn aan de aandelen welke door de betrokken aandeelhouders of vennoten worden gehouden, omvatten.</p>	<b>Art. 3:108a Financial Supervision Act</b>	<p><b>Article 3:108a of the Financial Supervision Act</b></p> <p>(2) If the Dutch Central Bank, based on the level of control exercised by the candidate-acquirer to the business of the institution, has objections, the Dutch Central bank shall make these objections known at the latest within 8 weeks after receipt of the notification as indicated in the first paragraph.</p> <p>(3) If on the moment the Dutch Central Bank makes its objections known, the acquiring of the holding has already taken place, the Dutch Central Bank shall take appropriate measures. These measures can include binding instructions, sanctions against directors or managers or the</p>	<p><b>Artikel 3:108a Wet op het Financieel Toezicht</b></p> <p>(2) Indien de Nederlandsche Bank gelet op de door de kandidaat-verwerver uitgeoefende invloed op de bedrijfsvoering van de instelling, bezwaren heeft tegen de verwerving als bedoeld in artikel 3:103, eerste lid, maakt de Nederlandsche Bank deze bezwaren kenbaar uiterlijk binnen 8 weken na ontvangst van de mededeling bedoeld in het eerste lid, kenbaar.</p> <p>(3) Indien op het moment dat de Nederlandsche Bank haar bezwaren kenbaar maakt, de verwerving van de deelneming al heeft plaatsgevonden, neemt de Nederlandsche Bank passende maatregelen. Die</p>	<p><b>CONFORM</b></p> <p>Article 3:108a of the Financial Supervision Act transposes Article 3 paragraph 3, subparagraph 3 of the Directive.</p> <p>Article 3:108a paragraph 2 of the Financial Supervision Act indicates that where the candidate-acquirer exercised a level of control on the institution and where the Dutch Central Bank has objections, the Dutch Central Bank shall make these objections known at the latest within 8 weeks after receipt of the notification.</p> <p>In this regard, the Directive requirement of expressing opposition by the competent authorities is transposed by Article 3:108a paragraph 2 of the Financial Supervision Act.</p> <p>Conformity in this regard is thus observed.</p> <p>With regard to taking other appropriate measures, Article 3:108a paragraph 3 of the Financial Supervision Act further indicates that when the Dutch Central Bank makes its objections known, if the acquiring of the holding has already taken place, it shall take appropriate measures.</p> <p>These measures can include binding</p>

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				<p>suspension of exercising voting rights connected to the shares which are held by the involved shareholders or associates.</p> <p>maatregelen kunnen bindende aanwijzingen, sancties tegen bestuurders of managers of de schorsing van de uitoefening van de stemrechten die verbonden zijn aan de aandelen welke door de betrokken aandeelhouders of vennoten worden gehouden, omvatten.</p>	<p>instructions, sanctions against directors or managers, or the suspension of exercising voting rights connected to the shares as held by the involved shareholders or associates.</p> <p>In this regard, conformity with the Directive requirement of ‘taking other appropriate measures to bring that situation to an end’ is observed.</p> <p>Overall, based on the above observations, conformity is observed with Article 3 paragraph 3 third subparagraph of the Directive.</p>
<p><b>Art. 3(3) 4<sup>th</sup> subpara. a.</b></p>	<p>Similar measures shall apply to natural or legal persons who fail to comply with the obligation to provide prior information, as laid down in this paragraph.</p>	<p>Soortgelijke maatregelen zijn van toepassing op natuurlijke of rechtspersonen die de in dit lid bedoelde verplichting inzake voorafgaande kennisgeving niet naleven.</p>	<p><b>Art. 3:108a Financial Supervision Act</b></p> <p><b>Article 3:108a of the Financial Supervision Act</b></p> <p>(1) Anyone who provides information as referred to in Article 3:103 first paragraph to the Dutch Central Bank concerning a change of its qualified holding in an electronic money institution, shall also provide information on the size of the proposed holding including an overview of the information set out by Order of Decree.</p> <p>(2) If the Dutch Central Bank, based on the level of control exercised by the candidate-acquirer to the business of the institution,</p>	<p><b>Artikel 3:108a Wet op het Financial Toezicht</b></p> <p>(1) Degene die aan de Nederlandsche Bank een kennisgeving verstrekt als bedoeld in artikel 3:103, eerste lid, over een wijziging van zijn gekwalificeerde deelneming in een elektronischgeldinstelling, verstrekt daarbij mede informatie over de grootte van de voorgenomen deelneming alsmede een opgave van bij of krachtens algemene maatregel van bestuur te bepalen gegevens.</p> <p>(2) Indien de Nederlandsche Bank gelet op de door de kandidaat-</p>	<p><b>CONFORM</b></p> <p>Article 3:108a of the Financial Supervision Act transposes Article 3 paragraph 3, subparagraph 4 of the Directive.</p> <p>Article 3:108a paragraph 1 of the Financial Supervision Act requires ‘anyone’ to provide information as referred to in Article 3:103 paragraph 1 concerning providing prior information of a change in qualified holding in an electronic money institution to the Dutch Central Bank.</p> <p>The wording ‘anyone’ is a broad notion which can be considered to include natural and legal persons.</p> <p>In this regard, conformity with Article 3 paragraph 3 subparagraph 4 of the Directive is observed.</p> <p>Furthermore, Article 3:108a paragraph 2 of the Financial Supervision Act indicates that the Dutch Central Bank can make its</p>



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			<p>has objections, the Dutch Central bank shall make these objections known at the latest within 8 weeks after receipt of the notification as indicated in the first paragraph.</p> <p>(3) If on the moment the Dutch Central Bank makes its objections known, the acquiring of the holding has already taken place, the Dutch Central Bank shall take appropriate measures. These measures can include binding instructions, sanctions against directors or managers or the suspension of exercising voting rights connected to the shares which are held by the involved shareholders or associates.</p>	<p>verwerver uitgeoefende invloed op de bedrijfsvoering van de instelling, bezwaren heeft tegen de verwerving als bedoeld in artikel 3:103, eerste lid, maakt de Nederlandsche Bank deze bezwaren kenbaar uiterlijk binnen 8 weken na ontvangst van de mededeling bedoeld in het eerste lid, kenbaar.</p> <p>(3) Indien op het moment dat de Nederlandsche Bank haar bezwaren kenbaar maakt, de verwerving van de deelneming al heeft plaatsgevonden, neemt de Nederlandsche Bank passende maatregelen. Die maatregelen kunnen bindende aanwijzingen, sancties tegen bestuurders of managers of de schorsing van de uitoefening van de stemrechten die verbonden zijn aan de aandelen welke door de betrokken aandeelhouders of vennoten worden gehouden, omvatten</p>	<p>objections public concerning the acquisition as referred to in Article 3:103 paragraph 1.</p> <p>Article 3:108a paragraph 3 of the Financial Supervision Act indicates that the Dutch Central Bank shall take appropriate measures, which can be inferred to include against the natural or legal persons as referenced in Article 3:108a paragraph 1 and 3:103 paragraph 1 of the Financial Supervision Act.</p> <p>In this regard, conformity is observed with the Directive requirement of taking the measures against legal or natural persons who fail to comply with the obligation to provide prior information.</p> <p>Overall, taking into account the above observations, conformity with Article 3 paragraph 3, subparagraph 4 of the Directive is observed.</p>

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<b>Art. 3(3) 5<sup>th</sup> subpar a.</b>	If a holding is acquired despite the opposition of the competent authorities, those authorities shall, regardless of any other sanction to be adopted, provide for the exercise of the voting rights of the acquirer to be suspended, the nullity of votes cast or the possibility of annulling those votes.	Wanneer een deelneming wordt verworven ondanks bezwaar van de bevoegde autoriteiten, bepalen deze autoriteiten, onverminderd andere te treffen sancties, dat de uitoefening van destemrechten van de verkrijger wordt geschorst of dat de uitgebrachte stemmen nietig zijn of nietig verklaard kunnen worden.	<b>Art. 3:108a Financial Supervision Act</b>	<b>Article 3:108a of the Financial Supervision Act</b>  (4) When a holding is acquired despite the opposition of the Dutch Central Bank, the Dutch Central Bank can determine, regardless of any other sanction to be adopted, that the exercise of the voting rights of the acquirer shall be suspended or that the votes cast shall be void.	<b>Artikel 3:108a Wet op het Financial Toezicht</b>  (4) Wanneer een deelneming wordt verworven ondanks bezwaar van de Nederlandsche Bank, kan deze bepalen, onverminderd andere te treffen sancties, dat de uitoefening van de stemrechten van de verkrijger wordt geschorst of dat de uitgebrachte stemmen nietig zijn.	<b>CONFORM</b>  Article 3:108a paragraph 4 of the Financial Supervision Act identically transposes Article 3 paragraph 3, subparagraph 4 of the Directive.  Article 3 paragraph 3, subparagraph 5 of the Directive requires when a holding is acquired despite opposition from the competent authorities, that these authorities shall suspend the exercise of voting rights of the acquirer and the nullity of votes cast.  In this regard, Article 3:108a paragraph 4 of the Financial Supervision Act indicates that the Dutch Central Bank can determine, when a holding is acquired despite its opposition and regardless of any other sanctions, that the exercise of the voting rights shall be suspended or the nullity of the votes cast.  Conformity with the requirements of Article 3 paragraph 3, subparagraph 5 of the Directive is thus observed.
<b>Art. 3(3) 6<sup>th</sup> subpar a.</b>	The Member States may waive or allow their competent authorities to waive the application of all or part of the obligations pursuant to this paragraph in respect of electronic money institutions that carry out one or more of the activities listed in Article 6(1)(e).	De lidstaten mogen instellingen voor elektronisch geld die één of meer activiteiten opgenomen in artikel 6, lid 1, onder e), verrichten, geheel of gedeeltelijk ontheffing verlenen van de in dit lid bedoelde verplichtingen, of toestaan dat hun bevoegde autoriteiten zulke	N/A	N/A	N/A	Article 3, point 3, sixth subparagraph of the Directive sets out an option. Owing to this option, the Netherlands has chosen not to apply it. In this regard, no corresponding provision could be located in the legislation of the Netherlands.

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		ontheffing verlenen.				
<b>Art. 3(4)</b>	4. Member States shall allow electronic money institutions to distribute and redeem electronic money through natural or legal persons which act on their behalf. Where the electronic money institution wishes to distribute electronic money in another Member State by engaging such a natural or legal person, it shall follow the procedure set out in Article 25 of Directive 2007/64/EC.	4. De lidstaten staan toe dat instellingen voor elektronisch geld via natuurlijke of rechtspersonen die namens hen optreden elektronisch geld overmaken en terugbetalen. Indien de instelling voor elektronisch geld elektronisch geld wenst over te maken in een andere lidstaat door een beroep te doen op een dergelijke natuurlijke of rechtspersoon, moeten de procedures van artikel 25 van Richtlijn 2007/64/EG worden gevolgd.	<b>Art. 2:10c Financial Supervision Act</b>  <b>Art. 2:107a of the Financial Supervision Act</b>	<b>Article 2:10c of the Financial Supervision Act</b>  (1) Electronic money institutions with a seat in the Netherlands which intend to provide payment services through payment service agents, shall notify the Dutch Central Bank (...)  (2) If the Dutch Central Bank receives information in accordance with the first paragraph and it is convinced of the correctness of this information, it will register the payment service agent in the registrar, as indicated in Article 1:107.  <b>Article 2:107a of the Financial Supervision Act</b>  (1) Electronic money institutions with a seat in the Netherlands which intend to provide services in another Member State or <i>via</i> a branch office in another Member State,	<b>Artikel 2:10c Wet op het Financieel Toezicht</b>  (1) Een elektronischgeldinstelling met zetel in Nederland die voornemens is betaaldiensten te verlenen door tussenkomst van een betaaldienstagent, stelt de Nederlandsche Bank hiervan in kennis (...)  (2) Indien de Nederlandsche Bank overeenkomstig het eerste lid de gegevens heeft ontvangen en zij ervan overtuigd is dat de gegevens correct zijn, schrijft zij de betaaldienstagent in in het register, bedoeld in artikel 1:107.  <b>Artikel 2:107a Wet op het Financieel Toezicht</b>  (1) Een elektronischgeldinstelling met zetel in Nederland die voornemens is vanuit een bijkantoor in een andere lidstaat of door middel van het verrichten van diensten naar een andere lidstaat	<b>CONFORM</b>  Articles 2:10c of the Financial Supervision Act transposes Article 3 paragraph 4 of the Directive.  Article 2:10c paragraph 1 of the Financial Supervision Act provides for the possibility for electronic money institutions intending to provide payment services through payment service agents acting on their behalf, after notification to the Dutch Central Bank.  Article 2:10c paragraph 2 of the Financial Supervision Act requires that the Dutch Central Bank ensures the notified information as referenced in paragraph 1 is correct, after which it shall register the agent in the registrar of payment service providers.  In this regard, conformity is observed with the Directive concerning allowing electronic money institutions to distribute and redeem electronic money through natural or legal persons which act on their behalf.  Article 2:107a paragraph 1 of the Financial Supervision Act indicates that electronic money institutions with a seat in the Netherlands intending to provide services in other Member States or via a branch in another Member State, shall only be authorised after informing the Dutch Central Bank.  In this regard, conformity is observed with the procedure of Article 25 of Directive

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				shall only do so after informing the Dutch Central Bank.	haar bedrijf uit te oefenen, gaat daar slechts toe over nadat zij kennis heeft gegeven van haar voornemen aan de Nederlandsche Bank.	2007/64/EC concerning the notification requirement.  Overall, conformity with Article 3 paragraph 4 of the Directive is observed.
<b>Art. 3(5)</b>	5. Notwithstanding paragraph 4, electronic money institutions shall not issue electronic money through agents. Electronic money institutions shall be allowed to provide payment services referred to in Article 6(1)(a) through agents only if the conditions in Article 17 of Directive 2007/64/EC are met.	5. Onverminderd het bepaalde in lid 4, geven de instellingen voor elektronisch geld geen elektronisch geld uit via agenten. Instellingen voor elektronisch geld mogen enkel via agenten betalingsdiensten aanbieden als bedoeld in artikel 6, lid 1, onder a), indien is voldaan aan de voorwaarden opgenomen in artikel 17 van Richtlijn 2007/64/EG.	<b>Art. 3:34 of the Financial Supervision Act</b>  <b>Art. 3:53 of the Financial Supervision Act</b>  <b>Art. 2:10c of the Financial Supervision Act</b>  <b>Art. 3b of the Decree Marke</b>	<b>Article 3:34 of the Financial Supervision Act</b>  (1) Electronic money institutions shall not issue electronic money <i>via</i> agents.  <b>Article 2:10c of the Financial Supervision Act</b>  (1) Electronic money institutions with a seat in the Netherlands which intend to provide payment services through payment service agents, shall notify the Dutch Central Bank (...)  (2) If the Dutch Central Bank receives information in accordance with the first paragraph and it is convinced of the correctness of this information, it will register the payment service agent in the registrar, as indicated in	<b>Artikel 3:34 Wet op het Financieel Toezicht</b>  (1) Een elektronischgeldinstelling geeft geen elektronisch geld uit via een agent.  <b>Artikel 2:10c Wet op het Financieel Toezicht</b>  (1) Een elektronischgeldinstelling met zetel in Nederland die voornemens is betaaldiensten te verlenen door tussenkomst van een betaaldienstagent, stelt de Nederlandsche Bank hiervan in kennis (...)  (2) Indien de Nederlandsche Bank overeenkomstig het eerste lid de gegevens heeft ontvangen en zij ervan overtuigd is dat de gegevens correct zijn, schrijft zij de betaaldienstagent in in het register, bedoeld in artikel	<b>CONFORM</b>  Articles 3:34 and 2:10c transpose Article 3(5) of the Directive.  Article 3:34 paragraph 1 of the Financial Supervision Act indicates that electronic money institutions shall not issue electronic money <i>via</i> agents.  Conformity with Article 3 paragraph 5 first sentence of the Directive is thus observed.  However, Article 3 paragraph 5 of the Directive indicates that electronic money institutions shall be allowed to provide payment services referred to in Article 6 paragraph 1 subparagraph (a) of the Directive <i>via</i> agents if the conditions of Article 17 of Directive 2007/64/EC are met.  Article 17 of Directive 2007/64/EC indicates that information should be notified to the competent authorities, including the name and address information of the agent; the description of the internal control mechanisms used by the agent to comply with obligations concerning money laundering and terrorist financing; and the identity of directors and persons responsible for the management of the agent.  In this regard, Article 2:10c paragraph 1 of

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		<p><b>Marketentry Financial Undertakings</b></p> <p>Article 1:107.</p> <p><b>Article 3b of the Decree Marketentry Financial Undertakings</b></p> <p>The information as referenced under Article 2:3c and 2:10c first paragraphs of the Act shall include:</p> <p>(a) An account of the name, address, telephone and faxnumber and the e-mailaddress of the payment service agent;</p> <p>(b) A description of the internal control mechanisms which shall be used by the payment service agent to conform to the requirements of the Act in preventing money laundering and financing of terrorism; and</p> <p>(c) The identity of the policy makers or contributing policy makers, including the information from which it is apparent that they are reliable and knowledgeable.</p>	<p>1:107.</p> <p><b>Artikel 3b Besluit Markttoegang Financiële Ondernemingen</b></p> <p>De gegevens, bedoeld in artikel 2:3c, eerst lid, en 2:10c eerste lid, van de wet zijn:</p> <p>(a) een opgave van de naam, het adres, het telefoon- en faxnummer en het emailadres van de betaaldienstagent;</p> <p>(b) een beschrijving van de interne controlemechanismen die door de betaaldienstagent zullen worden gebruikt om de in de Wet ter voorkoming van witwassen en financieren van terrorismeneergelegde verplichtingen na te komen; en</p> <p>(c) de identiteit van de personen die het beleid van de betaaldienstagent bepalen of mede bepalen, alsmede gegevens waaruit blijkt dat zij betrouwbaar en deskundig zijn.</p>	<p>the Financial Supervision Act requires electronic money institutions to notify the Dutch Central Bank in case of using payment service agents.</p> <p>Article 2:10c paragraph 2 of the Financial Supervision Act requires a registration of the payment service agents in the registrar after the Dutch Central Bank is convinced of the correctness of the information.</p> <p>The information required is indicated in Article 3b of the Decree Marketentry Financial Undertakings, and under: point (a) the name and address information of the payment service agent; point (b) a description of the internal control mechanisms used by the payment service agents to conform to the requirements of the Act in preventing money laundering and the financing of terrorist activities; and point (c) the identity of the policy makers or contributing policy makers, including the information from which it is apparent that they are reliable and knowledgeable.</p> <p>The requirements under Article 3b of the Decree Marketentry Financial Undertakings are in conformity with the requirements of Article 17 of Directive 2007/64/EC.</p> <p>Therefore, conformity is observed with Article 3 paragraph 5 second sentence of the Directive.</p> <p>Furthermore, recital 10 is taken into account in Dutch law, as electronic money institutions may not use agents to issue electronic money, but payment services can be provided through</p>

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						agents where the conditions of Article 17 of the Directive are met.  Overall, taking into account the above observations, conformity with Article 3 paragraph 5 is observed.
<b>Art. 4</b>	<p><i>Article 4</i> <b>Initial capital</b></p> <p>Member States shall require electronic money institutions to hold, at the time of authorisation, initial capital, comprised of the items set out in Article 57(a) and (b) of Directive 2006/48/EC, of not less than EUR 350000.</p>	<p><i>Artikel 4</i> <b>Aanvangskapitaal</b></p> <p>De lidstaten eisen dat instellingen voor elektronisch geld op het tijdstip waarop hun vergunning wordt verleend, beschikken over een aanvangskapitaal van ten minste 350 000 EUR dat bestaat uit de bestanddelen als omschreven in artikel 57, onder a) en b), van Richtlijn 2006/48/EG.</p>	<p><b>Art. 3:53 of the Financial Supervision Act</b></p> <p><b>Art. 91 of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p><b>Art. 50 of the Decree Prudential Rules of the Financial</b></p>	<p><b>Article 3:53 of the Financial Supervision Act</b></p> <p>(1) A (...) electronic money institution (...) with a seat in the Netherlands shall hold a minimum in own capital.</p> <p>(3) By Order of Decree rules shall be set with regard to the composition and minimum amount of own capital.</p> <p><b>Article 48 of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p>(1) The minimum amount of own capital, as referred to in Article 3:53, first paragraph of the Act shall be:</p> <p>p. € 350.000 for a electronic money institution as referred to in Article 3:53, first paragraph of the Act;</p>	<p><b>Artikel 3:53 Wet op het Financieel Toezicht</b></p> <p>(1) Een (...) elektronischgeldinstelling (...) met zetel in Nederland beschikt over een minimumbedrag aan eigen vermogen.</p> <p>(3) Bij of krachtens algemene maatregel van bestuur worden regels gesteld met betrekking tot de omvang en de samenstelling van het minimumbedrag aan eigen vermogen. Bij de vaststelling van het minimumbedrag aan eigen vermogen wordt bepaald wat daarbij voor de onderscheiden rechtsvormen onder eigen vermogen wordt verstaan.</p> <p><b>Artikel 48 Besluit Prudentiele Regels Wet op het Financieel Toezicht</b></p> <p>(1) Het minimumbedrag</p>	<p><b>CONFORM</b></p> <p>Article 3:53 of the Financial Supervision Act and Article 48 of the Decree Prudential Rules of the Financial Supervision Act transpose Article 4 of the Directive.</p> <p>Article 3:53 paragraph 1 of the Financial Supervision Act requires electronic money institutions with a seat in the Netherlands to hold a minimum in own capital.</p> <p>Conformity with the Directive requirement of holding a minimum capital is thus observed.</p> <p>Furthermore, Article 3:53 paragraph 3 indicates that the amount of own capital shall be set by Order of Decree.</p> <p>Article 48 paragraph 1 in conjunction with subparagraph (p) of the Decree Prudential Rules of the Financial Supervision Act indicate that the minimum capital shall be € 350.000 for electronic money institutions.</p> <p>As the Directive requires the minimum amount of capital for electronic money institutions to be no less than EUR 350 000, Article 48 paragraph 1 of the Decree Prudential Rules of the Financial Supervision Act meets the Directive requirement.</p> <p>Conformity is therefore observed with regard to the amount of capital as set by the</p>

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		<p><b>Supervision Act</b></p> <p><b>Art. 48 of the Decree Prudential Rules of the Financial Supervision Act</b></p>	<p><b>Article 50 of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p>(1) The minimum amount of own capital (...) of a electronic money institution (...) shall be composed of the value of the assets, as indicated by Article 91, second paragraph, subparagraphs (a) to (c).</p> <p><b>Article 91 of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p>(2) The assets to take into account for the determination of the core capital shall be:</p> <p>(a) the assets, in so far as these assets fully absorb the losses and in case of insolvency or liquidation shall be subordinated to all other debt claims and preferential shares;</p> <p>(...)</p> <p>(b) reserves, with the exception of the revaluation reserve and in the event the financial undertaking is an initiator</p>	<p>aan eigen vermogen, bedoeld in artikel 3:53, eerste lid, van de wet bedraagt:</p> <p>p. € 350.000 voor een elektronischgeldinstelling als bedoeld in artikel 3:53, eerste lid, van de wet;</p> <p><b>Artikel 50 Besluit Prudentiele Regels Wet op het Financieel Toezicht</b></p> <p>(1) Het minimumbedrag aan eigen vermogen (...) van een elektronischgeldinstelling (...) wordt gevormd door de waarde van de vermogensbestanddelen, bedoeld in artikel 91, tweede lid, onderdelen a tot en met c</p> <p><b>Artikel 91 Besluit Prudentiele Regels Wet op het Financieel Toezicht</b></p> <p>(2) De voor de bepaling van het kernkapitaal in aanmerking te nemen vermogensbestanddelen zijn:</p> <p>(a) de vermogensbestanddelen, voorzover deze</p>	<p>Directive.</p> <p>Furthermore, Article 2:10b paragraph 1 and under subparagraph (h) of the Financial Supervision Act indicates that the Dutch Central Bank shall only provide authorisation to electronic money institutions if the minimum capital requirement is met.</p> <p>Conformity with the Directive requirement of ‘at the time of authorisation’ requiring the minimum capital to be held at the amount set is thus observed.</p> <p>By virtue of Article 50 of the Decree Prudential Rules of the Financial Supervision Act, the minimum capital under Dutch law is further defined by Article 91, second paragraph, subparagraphs (a) to (c).</p> <p>Article 91 paragraph 2 of the Decree Prudential Rules of the Financial Supervision Act indicates that the assets to take into account for the determination of the core capital shall be: the assets themselves, which fully absorb the losses and in case of insolvency or liquidation shall be subordinated to all other debt claims and preferential shares and the reserves, and in the event the financial undertaking is an initiator of securitisations, with the exception of the net profits which have accumulated from the capitalisation of future profits from securitised active and which serve as credit-improvement for the securitisation positions;</p> <p>In this regard, Article 91 paragraph 2 of the Decree Prudential Rules of the Financial Supervision Act meets the requirements of</p>

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				<p>of securitisations, with the exception of the net profits which have accumulated from the capitalisation of future profits from securitised active and which serve as credit-improvement for the securitisation positions;</p> <p>bestanddelen de verliezen bij doorgaande bedrijfsvoering volledig opvangen en in geval van faillissement of liquidatie achtergesteld zijn bij alle andere schuldvorderingen en preferente aandelen;</p> <p>(...)</p> <p>(b) reserves, met uitzondering van de herwaarderingsreserve en in het geval de financiële onderneming een initiator van een securitisatie is, met uitsluiting van de nettowinsten die zijn ontstaan uit de kapitalisatie van toekomstige inkomsten uit de gesecuritiseerde activa en die als kredietverbetering voor de securitisatieposities dienen;</p>	<p>own capital as equity capital and reserves in accordance with Articles 57 paragraphs (a) and (b) of Directive 2006/48/EC.</p> <p>The revaluation reserve is excluded under Article 91 paragraph 2 subparagraph (b) of the Decree Prudential Rules of the Financial Supervision Act, which is specifically also excluded under Article 23 second subparagraph of Directive 86/635/EEC, and which is the reference Directive of Article 57 (a) and (b) of Directive 2006/48/EC.</p> <p>In this regard, conformity is also observed with the items set out in Article 57 of Directive 2006/48/EC.</p> <p>Recital 11 can also be considered to have been taken into account with regard to the need of initial capital to be combined with ongoing capital to ensure an appropriate level of consumer protection on the one hand, and the sound and prudent operation of electronic money institutions on the other.</p> <p>Overall, taking into account the above observations, conformity with Article 4 of the Directive is observed.</p>	
<b>Art. 5(1)</b>	<p><i>Article 5</i> <b>Own funds</b></p> <p>1. The electronic money institution's own funds, as set out in Articles 57 to 61, 63, 64 and 66 of Directive 2006/48/EC shall not fall below the amount required under</p>	<p><i>Artikel 5</i> <b>Eigen Vermogen</b></p> <p>1. Het eigen vermogen van de instelling voor elektronisch geld, als omschreven in de artikelen 57 tot en met 61, 63, 64 en 66 van Richtlijn 2006/48/EG, mag niet</p>	<b>Art. 90 of the Decree Prudential Rules of the Financial Superv</b>	<p><b>Article 90 of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p>(1) The assessment capacity of an (...) electronic money institution as defined in Art. 3:57 paragraph 1,</p>	<p><b>Artikel 90 Besluit Prudentiele Regels Wet op het Financieel Toezicht</b></p> <p>(1) Het toetsingsvermogen van een (...) elektronischgeldinstelling als bedoeld in artikel 3:57, eerste lid, 3:58, eerste lid ,</p>	<b>CONFORM</b>
					<p>Article 90 of the Decree Prudential Rules of the Financial Supervision Act transposes Article 5 paragraph 1 of the Directive.</p> <p>Article 90 of the Decree Prudential Rules of the Financial Supervision Act states that the assessment capacity of an electronic money institution shall consist of the total sum of the capital and the additional capital indicated by</p>	



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paragraphs 2 to 5 of this Article or under Article 4 of this Directive, whichever the higher.	kleiner worden dan de bedragen die zijn voorgeschreven in de leden 2 tot en met 5 van dit artikel of in artikel 4 van deze richtlijn, indien dit hoger is.	<b>Prudential Act</b>  <b>Art. 94 of the Decree Prudential Rules of the Financial Supervision Act</b>	3:58 paragraph 1 or 3:61 paragraph 1 of the Act, consists of the total sum of the core capital and additional capital indicated by Article 94 paragraph 1 subparagraph (a)-(c), paragraphs 2, 3 and 4.  <b>Article 94 of the Decree Prudential Rules of the Financial Supervision Act</b>  (1) For the application of articles 90 until 93:  (a) the core capital shall be fully used for the calculation of the qualifying capital;  (b) the additional capital for the calculation of the qualifying capital shall only be taken into account in so far as it does not amount to more than the core capital;  (c) the lower additional capital for the calculation of the qualifying capital shall only be taken into account in so far as it does not amount to more than 50 percent of the core capital;	of 3:61, eerste lid, van de wet wordt gevormd door de som van het overeenkomstig artikel 94, eerste lid, onderdelen a tot en met c, tweede, derde en vierde lid, in aanmerking te nemen kernkapitaal en aanvullend kapitaal.  <b>Artikel 94 Besluit Prudentiele Regels Wet op het Financieel Toezicht</b>  (1) Voor de toepassing van de artikelen 90 tot en met 93:  (a) wordt het kernkapitaal volledig voor de berekening van het toetsingsvermogen in aanmerking genomen;  (b) wordt het aanvullend kapitaal voor de berekening van het toetsingsvermogen slechts in aanmerking genomen voor zover het niet meer bedraagt dan het kernkapitaal;  (c) wordt het lager aanvullend kapitaal voor de berekening van het toetsingsvermogen slechts in aanmerking genomen	Article 94 paragraph 1 subparagraph (a)-(c), and paragraphs 2-4 of those rules.  Article 94 paragraph 1 indicate that (a) the core capital shall be fully used for the calculation of the qualifying capital; and (b) the additional capital shall only be taken into account if it is not more than the core capital, or (c) less than 50% of the core capital in case of lower additional capital.  In this regard, the own funds do not fall below the amount required under Article 4 of the Directive, which concerns the core own capital.  Furthermore, recital 11 can be considered to have been taken into account with regard to providing an additional method of calculating ongoing capital.  Overall, taking into account the above observations, conformity with Article 5 paragraph 1 of the Directive is observed.

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					voor zover het niet meer bedraagt dan vijftig procent van het kernkapitaal;	
<b>Art. 5(2) 1<sup>st</sup> subpar a.</b>	2. In regard to the activities referred to in Article 6(1)(a) that are not linked to the issuance of electronic money, the own funds requirements of an electronic money institution shall be calculated in accordance with one of the three methods (A, B or C) set out in Article 8(1) and (2) of Directive 2007/64/EC. The appropriate method shall be determined by the competent authorities in accordance with national legislation.	2. Met betrekking tot de werkzaamheden bedoeld in artikel 6, lid 1, onder a), die geen verband houden met de uitgifte van elektronisch geld, wordt het vereiste eigen vermogen van een instelling voor elektronisch geld berekend aan de hand van een van de drie methoden (A, B of C) van artikel 8, leden 1 en 2, van Richtlijn 2007/64/EG. De bevoegde autoriteiten bepalen in overeenstemming met de nationale wetgeving welke methode wenselijk is.	<b>Art. 60a of the Decree Prudential Rules of the Financial Supervision Act</b>  <b>Art. 64 of the Decree Prudential Rules of the Financial Supervision Act</b>	<b>Article 60a of the Decree Prudential Rules of the Financial Supervision Act</b>  (1) The minimum amount of the qualifying capital of a payment institution shall be calculated in accordance with the methods A, B or C of the Dutch Central Bank, as indicated in Annex B to these rules.  <b>Article 64 of the Decree Prudential Rules of the Financial Supervision Act</b>  (2) For the part of the activities of electronic money institutions which concern the issuance of payment services not linked to the issuance of electronic money, the minimum amount of the own funds shall be calculated in accordance with Article 60a first paragraph.	<b>Artikel 60a Besluit Prudentiele Regels Wet op het Financieel Toezicht</b>  (1) De minimumomvang van het toetsingsvermogen van een betaalinstantie wordt berekend met toepassing van met de Nederlandsche Bank overeengekomen methode A, B of C, genoemd in bijlage B bij dit besluit.  <b>Artikel 64 Besluit Prudentiele Regels Wet op het Financieel Toezicht</b>  (2) Voor het deel van de werkzaamheden van een elektronischgeldinstelling dat betrekking heeft op het verlenen van betaaldiensten die geen verband houden met de uitgifte van elektronisch geld, wordt de minimumomvang van het toetsingsvermogen berekend met overeenkomstige	<b>CONFORM</b>  Article 60a of the Decree Prudential Rules of the Financial Supervision Act transposes Article 5 paragraph 2 first subparagraph of the Directive.  Article 64 paragraph 2 of the Decree Prudential Rules of the Financial Supervision Act indicates for the calculation of the minimum own funds amounts of electronic money institutions concerning activities of payment services not linked to the issuance of electronic money, Article 60a paragraph 1 shall apply.  Article 60a paragraph 1 of the Decree Prudential Rules of the Financial Supervision Act indicates that the minimum amount of qualifying capital of a payment institution shall be calculated in accordance with the Dutch Central Bank for methods A, B, C.  Article 60a paragraph 1 and Article 64 paragraph 2 of the Decree Prudential Rules of the Financial Supervision Act therefore meet the Directive requirement for payment services not linked to electronic money and the calculation of the own funds in accordance with the methods A, B or C as set out in Article 8 of Directive 2007/64/EC.  Therefore, overall, conformity is observed with Article 5 paragraph 2 first subparagraph

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					toepassing van artikel 60a, eerste lid.	of the Directive.  Recital 11 is also taken into account with regard to activities not linked to the issuance of electronic money, that an amount calculated on the basis of one of three methods can be used, with the final decision up to the competent supervisory authorities.
<b>Art. 5(2) 2<sup>nd</sup> subpar a.</b>	In regard to the activity of issuing electronic money, the own funds requirements of an electronic money institution shall be calculated in accordance with Method D as set out in paragraph 3.	Met betrekking tot de uitgifte van elektronisch geld, wordt het vereiste eigen vermogen van een instelling voor elektronisch geld berekend overeenkomstig methode D van lid 3.	<b>Art. 64 of the Decree Prudential Rules of the Financial Supervision Act</b>	<b>Article 64 of the Decree Prudential Rules of the Financial Supervision Act</b>  (1) For the part of the activities of the electronic money institution which concerns issuing electronic money and payment services which are linked to the issuance of electronic money, the minimum amount of the own funds shall be 2 % of the average outstanding electronic money.	<b>Artikel 64 Besluit Prudentiele Regels Wet op het Financieel Toezicht</b>  (1) Voor het deel van de werkzaamheden van een elektronischgeldinstelling dat betrekking heeft op de uitgifte van elektronisch geld en betaaldiensten die verband houden met de uitgifte van dit elektronisch geld, bedraagt de minimumomvang van het toetsingsvermogen 2% van het gemiddeld uitstaand elektronisch geld.	<b>CONFORM</b>  Article 64 of the Decree Prudential Rules of the Financial Supervision Act identically transposes Article 5 paragraph 2 second subparagraph of the Directive.  Article 5 paragraph 2 second subparagraph of the Directive requires in regard to the activity of issuing electronic money, that the own funds requirement of electronic money institutions shall be calculated in accordance with Method D as set out in paragraph 3.  Article 5 paragraph 3 of the Directive requires that the own funds of an electronic money institution for the activity of issuing electronic money shall amount to at least 2 % of the average outstanding electronic money.  Article 64 paragraph 1 of the Decree Prudential Rules of the Financial Supervision Act states that for activities of issuing electronic money and payment services linked to the issuing of electronic money, the minimum amount of the own funds shall be 2 % of the average outstanding electronic money.  Article 64 paragraph 1 of the Decree Prudential Rules of the Financial Supervision

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						<p>Act therefore identically transposes the Directive requirement of holding the minimum amount of 2 % of the average outstanding electronic money, in accordance with Method D.</p> <p>Conformity is therefore observed with Article 5 paragraph 2 second subparagraph of the Directive.</p>
<b>Art. 5(2) 3<sup>rd</sup> subpara. a.</b>	Electronic money institutions shall at all times hold own funds that are at least equal to the sum of the requirements referred to in the first and second subparagraphs.	Instellingen voor elektronisch geld moeten op elk moment beschikken over een eigen vermogen dat tenminste gelijk is aan de som van de vereisten uit de eerste en de tweede alinea.	<b>Art. 64 of the Decree Prudential Rules of the Financial Supervision Act</b>	<b>Article 64 of the Decree Prudential Rules of the Financial Supervision Act</b>  (3) The minimum amount of the own funds of electronic money institutions shall at all times amount to the sum of the minimum amount of the own funds in accordance of the first paragraph and the minimum own funds calculated in accordance with the first paragraph.	<b>Artikel 64 Besluit Prudentiele Regels Wet op het Financieel Toezicht</b>  (3) De omvang van het toetsingsvermogen van een elektronischgeldinstelling bedraagt te allen tijde ten minste de som van de minimumomvang van het toetsingsvermogen berekend volgens het eerste lid en de minimumomvang van het toetsingsvermogen berekend volgens het tweede lid.	<p><b>CONFORM</b></p> <p>Article 64 of the Decree Prudential Rules of the Financial Supervision Act transposes Article 5 paragraph 2 third subparagraph of the Directive.</p> <p>Article 64 paragraph 3 of the Decree Prudential Rules of the Financial Supervision Act indicates that the minimum amount of the own funds of electronic money institutions shall at all times amount to the sum of the minimum amount of the own funds in accordance of the first paragraph and the minimum own funds calculated in accordance with the first paragraph of these rules.</p> <p>As Article 64 paragraph 3 of the Decree Prudential Rules of the Financial Supervision Act indicates that the minimum amount shall be no less than the amount set in accordance with the first paragraph, it meets the Directive requirement of holding own funds that are at least equal to the sum of the requirements referred to in the first and second paragraphs.</p> <p>Conformity is therefore observed with Article 5 paragraph 2 third subparagraph of the Directive.</p>

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<b>Art. 5(3)</b>	3. Method D: The own funds of an electronic money institution for the activity of issuing electronic money shall amount to at least 2 % of the average outstanding electronic money.	3. Methode D: het eigen vermogen van instellingen voor elektronisch geld is voor de uitgifte van elektronisch geld ten minste gelijk aan 2 % van het gemiddeld uitstaand elektronisch geld.	<b>Art. 64 of the Decree Prudential Rules of the Financial Supervision Act</b>	<b>Article 64 of the Decree Prudential Rules of the Financial Supervision Act</b>  (1) For the part of the activities of the electronic money institution which concerns issuing electronic money and payment services which are linked to the issuance of electronic money, the minimum amount of the own funds shall be 2 % of the average outstanding electronic money.	<b>Artikel 64 Besluit Prudentiele Regels Wet op het Financieel Toezicht</b>  (1) Voor het deel van de werkzaamheden van een elektronischgeldinstelling dat betrekking heeft op de uitgifte van elektronisch geld en betaaldiensten die verband houden met de uitgifte van dit elektronisch geld, bedraagt de minimumomvang van het toetsingsvermogen 2% van het gemiddeld uitstaand elektronisch geld.	<b>CONFORM</b>  Article 64 of the Decree Prudential Rules of the Financial Supervision Act transposes Article 5 paragraph 3 of the Directive.  Article 64 paragraph 1 of the Decree Prudential Rules of the Financial Supervision Act states that for activities of issuing electronic money and payment services linked to the issuing of electronic money, the minimum amount of the own funds shall be 2 % of the average outstanding electronic money.  Article 64 paragraph 1 of the Decree Prudential Rules of the Financial Supervision Act is therefore identical to the Method D as indicated in Article 5 paragraph 3 of the Directive.  Furthermore, recital 11 indicating that an additional method for calculating ongoing capital should be provided given the specificity of electronic money, can be considered to have been taken into account by Dutch law in this regard.  Overall, taking into account the above observations, conformity with Article 5 paragraph 3 of the Directive is observed.
<b>Art. 5(4)</b>	4. Where an electronic money institution carries out any of the activities referred to in Article 6(1)(a) that are not linked to the issuance of electronic money or any of	4. Als een instelling voor elektronisch geld een van de in artikel 6, lid 1, onder a), genoemde werkzaamheden die geen verband houden met de uitgifte van elektronisch	<b>Art. 40a of the Decree Prudential Rules</b>	<b>Article 40a of the Decree Prudential Rules of the Financial Supervision Act</b>  (4) If the part of the own funds designated for future	<b>Artikel 40a Besluit Prudentiele Regels Wet op het Financieel Toezicht</b>  (4) Indien het deel van de geldmiddelen dat bestemd	<b>CONFORM</b>  Article 40a and 64 of the Decree Prudential Rules of the Financial Supervision Act transposes Article 5 paragraph 4 of the Directive.  Article 40a paragraph 4 of the Decree

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<p>the activities referred to in Article 6(1)(b) to (e) and the amount of outstanding electronic money is unknown in advance, the competent authorities shall allow that electronic money institution to calculate its own funds requirements on the basis of a representative portion assumed to be used for the issuance of electronic money, provided such a representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the competent authorities. Where an electronic money institution has not completed a sufficient period of business, its own funds requirements shall be calculated on the basis of projected outstanding electronic money evidenced by its business plan subject to any adjustment to that plan having been required by the competent authorities.</p>	<p>geld of een van de in artikel 6, lid 1, onder b) tot en met e) genoemde werkzaamheden verricht en het uitstaande bedrag aan elektronisch geld niet van te voren bekend is, staan de bevoegde autoriteiten deze instelling voor elektronisch geld toe hun vereiste eigen vermogen te berekenen op basis van een representatief gedeelte dat geacht wordt voor de uitgifte van elektronisch geld te worden gebruikt, mits een dergelijk representatief gedeelte ten genoegen van de bevoegde autoriteiten redelijkerwijs op basis van historische gegevens kan worden geraamd.</p> <p>Wanneer een instelling voor elektronisch geld haar activiteiten niet lang genoeg heeft uitgeoefend, wordt haar vereiste eigen vermogen berekend op basis van het geraamde uitstaande bedrag aan elektronisch geld als vermeld in haar programma van werkzaamheden, rekening</p>	<p><b>of the Financial Supervision Act</b></p> <p><b>Art. 64 of the Decree Prudential Rules of the Financial Supervision Act</b></p>	<p>transactions is not known or variable, the payment institution shall be allowed to exclusively apply the first paragraph on the basis of a representative portion assumed to be used for the payment services. This representative portion must be reasonably estimated on the basis of historical data.</p> <p>(5) The first until the fourth paragraph shall apply also to electronic money institutions (...)</p> <p><b>Article 64 of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p>(4) If an electronic money institution has not issued electronic money in the previous 6 months, the minimum own funds of the own capital, as indicated by the second paragraph, shall be 2 % of the average outstanding electronic money or after 6 months of outstanding electronic money in accordance with the striving of its business</p>	<p>is voor toekomstige betalingstransacties niet bekend of variabel is, is het de betaalinstanties toegestaan om het eerste lid uitsluitend toe te passen op een representatief gedeelte dat geacht wordt voor betalingsdiensten te worden gebruikt. Dit representatieve gedeelte moet redelijkerwijs kunnen worden geraamd op basis van historische gegevens.</p> <p>(5) Het eerste tot en met vierde lid zijn van overeenkomstige toepassing op elektronischgeldinstellingen (...)</p> <p><b>Artikel 64 Besluit Prudentiele Regels Wet op het Financieel Toezicht</b></p> <p>(4) Indien een elektronischgeldinstelling de uitgifte van elektronisch geld niet gedurende ten minste zes maanden heeft uitgeoefend, bedraagt de minimum omvang van het toetsingsvermogen,</p>	<p>Prudential Rules of the Financial Supervision Act indicates concerning own funds designated for future transactions but with an unknown destination or variable, that payment institutions are allowed to apply the first paragraph on the basis of a representative portion assumed to be used for the payment services, which must be reasonably estimated on the basis of historical data.</p> <p>Article 40a paragraph 5 of the Decree Prudential Rules of the Financial Supervision Act makes Article 40 paragraph 4 applicable to electronic money institutions.</p> <p>Therefore, Article 40a paragraph 4 of the Decree Prudential Rules of the Financial Supervision Act meets the Directive requirement of calculating own funds on the basis of a representative portion assumed to be used for the purpose of electronic money, provided such a representative portion can be reasonably estimated on the basis of historical data.</p> <p>Furthermore, Article 64 paragraph 4 of the Decree Prudential Rules of the Financial Supervision Act indicates that if electronic money has not been issued in the previous 6 months, the minimum own funds of the electronic money institutions' own capital shall be either 2 % of the average outstanding electronic money or after 6 months of outstanding electronic money in accordance with the striving of its business plan, whichever the highest.</p> <p>In this regard, Article 64 paragraph 4 of the Decree Prudential Rules of the Financial</p>

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		houdend met alle aanpassingen aan dit plan die de bevoegde autoriteiten hebben verlangd.		plan, whichever the highest.	bedoeld in het tweede lid, twee procent van het uitstaand elektronisch geld of het blijktens haar programma van werkzaamheden na zes maanden nagestreefde bedrag aan uitstaand elektronisch geld, naar gelang welk bedrag het hoogst is.	Supervision Act meets the Directive requirement of the second sentence, where the own funds shall be calculated on the basis of projected outstanding electronic money evidenced by its business plan.  Conformity is thus observed in this regard and with Article 5 paragraph 4 of the Directive.  Furthermore, Dutch law has indicated 6 months as the term considered for electronic money institutions as 'not completing a sufficient period of business' as indicated by the second sentence of Article 5 paragraph 4 of the Directive. In this regard, conformity can also be observed with the Directive.
<b>Art. 5(5)</b>	5. On the basis of an evaluation of the risk-management processes, of the risk loss databases and internal control mechanisms of the electronic money institution, the competent authorities may require the electronic money institution to hold an amount of own funds which is up to 20 % higher than the amount which would result from the application of the relevant method in accordance with paragraph 2, or permit the electronic money institution to hold an	5. Op basis van een evaluatie van de risicobeheersingsprocessen, de databases betreffende risico's op verliezen en het internecontrolesysteem van de instelling voor elektronisch geld, kunnen de bevoegde autoriteiten verlangen dat de instelling voor elektronisch geld een eigen vermogen aanhoudt dat tot 20 % hoger is dan het bedrag dat het resultaat is van de toepassing van de overeenkomstig lid 2 relevante methode, of de instelling voor elektronisch geld toestaan	<b>Art. 64 of the Decree Prudential Rules of the Financial Supervision Act</b>	<b>Article 64 of the Decree Prudential Rules of the Financial Supervision Act</b>  (5) Notwithstanding the first and second paragraph the Dutch Central Bank may, if the evaluation of the risk management process, the risk loss databases and the internal control mechanisms of the electronic money institution give reason for this, require the electronic money institution to hold an amount of own funds which is up to 20 % higher than the amount which	<b>Artikel 64 Besluit Prudentiele Regels Wet op het Financieel Toezicht</b>  (5) In afwijking van het eerste en tweede lid kan de Nederlandsche Bank indien een evaluatie van de risicobeheersingsprocessen, het verzamelen en vastleggen van risicoverliesgegevens en het internecontrolesysteem van de elektronischgeldinstelling daartoe aanleiding geeft, de elektronischgeldinstelling	<b>CONFORM</b>  Article 5(5) of the Directive sets out an option, which the Netherlands chose to apply.  Article 64 paragraph 5 of the Decree Prudential Rules of the Financial Supervision Act transposes the option of Article 5 paragraph 5 of the Directive.  Article 5 paragraph 5 of the Directive indicates that, if the evaluation of the risk management process, the risk loss databases and the internal control mechanisms of the electronic money institution give reason to this, the competent authorities may require the electronic money institution to hold an amount of own funds up to 20 % higher than the amount which would result from the application of the relevant method in accordance with paragraph 2 or permit the

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	amount of own funds which is up to 20 % lower than the amount which would result from the application of the relevant method in accordance with paragraph 2.	een eigen vermogen aan te houden dat tot 20 % lager is dan het bedrag dat het resultaat is van de toepassing van de overeenkomstig lid 2 relevante methode.		would result from the application of the relevant method, indicated in the first and second paragraph, or permit the electronic money institution to hold an amount of own which which is up to 20 % lower than the amount which would result from the application of the relevant method. Indicated in the first and second paragraphs.	verplichten een toetsingsvermogen aan te houden dat ten hoogste 20 procent hoger is dan het bedrag dat het resultaat is van de toepassing van de methode, bedoeld in het eerste of tweede lid.	electronic money institution to hold an amount of own funds which is up to 20 % lower than the amount which would result from the application of the relevant method in accordance with paragraph 2;  Article 64 paragraph 5 of the Decree Prudential Rules of the Financial Supervision Act requires the electronic money institution to hold an amount of own funds up to 20 % higher than the amount which would result from the application of the relevant method in accordance with first and second paragraphs of that Article or permit the electronic money institution to hold an amount of own funds which is up to 20 % lower than the amount which would result from the application of the relevant method in accordance the first and second paragraphs of that Article, if the evaluation of the risk management process, the risk loss databases and the internal control mechanisms of the electronic money institution give reason to this.  The option of Article 5 paragraph 5 of the Directive is therefore identically transposed.
<b>Art. 5(6) intr. wording</b>	6. Member States shall take the necessary measures to prevent the multiple use of elements eligible for own funds:	6. De lidstaten nemen de nodige maatregelen ter voorkoming van het meervoudige gebruik van elementen die voor de berekening van het eigen vermogen in aanmerking komen:	N/A	N/A	N/A	<b>CONFORM</b>  Due to the nature of the NIMs, no provisions could be identified in Dutch law, however conformity is not affected as the requirements for transposition follow.
<b>Art.</b>	(a) where the electronic	a) wanneer de instelling	<b>Article</b>	<b>Article 25 of the Decree</b>	<b>Artikel 25 Besluit</b>	<b>CONFORM</b>



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<b>5(6)(a)</b>	money institution belongs to the same group as another electronic money institution, a credit institution, a payment institution, an investment firm, an asset management company or an insurance or reinsurance undertaking;	voor elektronisch geld tot eenzelfde groep behoort als een andere instelling voor elektronisch geld, een kredietinstelling, een betalingsinstelling, een beleggingsonderneming, een vermogensbeheerder of een verzekerings- of herverzekeringsonderneming;	<b>25 of the Decree Prudential Supervision of Financial Groups</b>	<b>Prudential Supervision of Financial Groups</b>  (3) Regardless of which method is used (...)  (a) the multiple use of the elements eligible for own funds on the level of financial conglomerates or the creation of own funds within the group shall not be authorised.	<b>Prudentieel Toezicht Financie Groepen</b>  (3) Ongeacht welke van de (...), bedoelde methoden wordt toegepast:  (a) is het meerdere malen gebruiken van vermogensbestanddelen die voor de berekening van het eigen vermogen in aanmerking komen op het niveau van het financiële conglomeraat of de creatie van eigen vermogen binnen de groep niet toegestaan.	Article 25 of the Decree Prudential Supervision of Financial Groups transposes Article 5 paragraph 6 subparagraph (a) of the Directive.  Article 25 paragraph 3 under (a) of the Decree Prudential Supervision of Financial Groups prohibits the multiple use of the elements eligible for own funds for financial conglomerates, including any creation of own funds within the same group to which electronic money institutions could also belong.  In this regard, multiple use of elements eligible for own funds where the electronic money institution belongs to the same group as another institution is excluded.  Conformity is thus observed with Article 5 paragraph 6 subparagraph (a) of the Directive.
<b>Art. 5(6)(b)</b>	(b) where an electronic money institution carries out activities other than the issuance of electronic money.	b) wanneer een instelling voor elektronisch geld andere werkzaamheden verricht dan de uitgifte van elektronisch geld.	<b>Article 25 of the Decree Prudential Supervision of Financial Groups</b>	<b>Article 25 of the Decree Prudential Supervision of Financial Groups</b>  (3) Regardless of which method is used (...)  (a) the multiple use of the elements eligible for own funds on the level of financial conglomerates or the creation of own funds within the group shall not be authorised.	<b>Artikel 25 Besluit Prudentieel Toezicht Financie Groepen</b>  (3) Ongeacht welke van de (...), bedoelde methoden wordt toegepast:  (a) is het meerdere malen gebruiken van vermogensbestanddelen die voor de berekening van het eigen vermogen in aanmerking komen op het niveau van het financiële conglomeraat of de creatie	<b>CONFORM</b>  Article 25 of the Decree Prudential Supervision of Financial Groups transposes Article 5 paragraph 6 subparagraph (b) of the Directive.  Article 25(3) under (a) of the Decree Prudential Supervision of Financial Groups indicates that the multiple use of elements eligible for own funds for financial conglomerates, including any creation of own funds within the same group to which electronic money institutions could also belong, are prohibited.  As the scope of this provision does not

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					van eigen vermogen binnen de groep niet toegestaan.	exclude activities other than the issuance of electronic money, conformity is observed with Article 5(6)(b) of the Directive where the multiple use of elements eligible for own funds could take place for electronic money institutions in carrying out activities other than the issuance of electronic money.  Based on the above observations, conformity with Article 5(6)(b) of the Directive is observed.
<b>Art. 5(7)</b>	7. Where the conditions laid down in Article 69 of Directive 2006/48/EC are met, Member States or their competent authorities may choose not to apply paragraphs 2 and 3 of this Article to electronic money institutions which are included in the consolidated supervision of the parent credit institutions pursuant to Directive 2006/48/EC.	7. Indien de voorwaarden van artikel 69 van Richtlijn 2006/48/EG vervuld zijn, kunnen de lidstaten of hun bevoegde autoriteiten besluiten leden 2 en 3 van dit artikel niet toe te passen op instellingen voor elektronisch geld die onder het bereik vallen van het geconsolideerd toezicht op de moederkredietinstelling krachtens Richtlijn 2006/48/EG.	<b>Art. 3:278 of the Financial Supervision Act</b>	<b>Art. 3:278 of the Financial Supervision Act</b>  (1) The supervision on individual basis on the compliance of the obligations set by Articles 3:17 first and second paragraph subparagraph c, and 3:57, shall not apply to Dutch investment firms or Dutch banks which serve as subsidiaries of Dutch holding investment firms or banks if:  (a) supervision on those Dutch holding investment firms or banks takes place on consolidated basis and the subsidiary is included; and  (b) the own capital between the Dutch holding investment firm or bank	<b>Artikel 3:278 Wet op het Financieel Toezicht</b>  (1) Het toezicht op individuele basis op de naleving van het bepaalde ingevolge de artikelen 3:17, eerste en tweede lid, onderdeel c, en 3:57 is niet van toepassing op Nederlandse beleggingsondernemingen of Nederlandse banken die dochteronderneming zijn van een Nederlandse moederbeleggingsonderneming of Nederlandse moederbank indien:  (a) op die Nederlandse moederbeleggingsonderneming of Nederlandse moederbank toezicht op geconsolideerde basis wordt uitgeoefend en de dochteronderneming in dat	<b>CONFORM</b>  Article 5(7) of the Directive sets out an option, which the Netherlands chose to apply.  Article 3:278 of the Financial Supervision Act transposes the option of Article 5 paragraph 7 of the Directive.  Article 3:278 paragraph 1 of the Financial Supervision Act indicates that the supervision on individual basis shall not be applicable to Dutch banks or investment firms which are subsidiaries of Dutch holding investment firms or investment banks if supervision on those Dutch holding investment firms or banks takes place on consolidated basis and the subsidiary is included; and the own capital between the Dutch holding investment firm or bank and the subsidiary is adequately divided by: 1) no practical or legal obstacle present or foreseeable which could block the immediate transfer of own capital or repayability of debts by the Dutch holding investment firm or bank, 2) the Dutch holding investment firm or bank takes due care of a managed business policy with the subsidiary

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		<p>and the subsidiary is adequately divided:</p> <ol style="list-style-type: none"> <li>1. by there being no practical or legal obstacle present or foreseeable which could block the immediate transfer of own capital or repayability of debts by the Dutch holding investment firm or bank;</li> <li>2. the Dutch holding investment firm or bank takes due care of a managed business policy with the subsidiary and with consent of the Dutch Central Bank takes accountability for the liabilities of the subsidiary, or the risks concerning the subsidiary which are negligible;</li> <li>3. the risk assessment, meet- and control procedure of the Dutch holding investment firm or bank also include the subsidiary; and</li> <li>4. the Dutch holding investment firm or bank has assigned more than 50 % of the voting rights to the holdings in the capital of the subsidiary or has the</li> </ol>	<p>toezicht is opgenomen; en</p> <p>(b) het toetsingsvermogen tussen de Nederlandse moederbeleggingsonderne ming of Nederlandse moederbank en de dochterondernemingen adequaat verdeeld is doordat:</p> <ol style="list-style-type: none"> <li>1. er geen feitelijke of juridische belemmering aanwezig of te voorzien is die een onmiddellijke overdracht van toetsingsvermogen of terugbetaling van schulden door de Nederlandse moederbeleggingsonderne ming of Nederlandse moederbank kan verhinderen;</li> <li>2. de Nederlandse moederbeleggingsonderne ming of Nederlandse moederbank zorg draagt voor een beheerste bedrijfsvoering bij de dochteronderneming en met instemming van de Nederlandsche Bank instaat voor de verplichtingen van de dochteronderneming, of de risico's ten aanzien van de dochteronderneming</li> </ol> <p>and with consent of the Dutch Central Bank takes accountability for the liabilities of the subsidiary, or the risks concerning the subsidiary which are negligible, 3) the risk assessment, meet- and control procedure of the Dutch holding investment firm or bank also include the subsidiary, and 4) the Dutch holding investment firm or bank has assigned more than 50 % of the voting rights to the holdings in the capital of the subsidiary or has the rights to place or dismiss the majority of the persons which determine the day-to-day policy of the subsidiary;</p> <p>Article 3:278 paragraph 4 of the Financial Supervision Act indicates that the paragraph 1 shall apply in the same way to electronic money institutions with a seat in the Netherlands and which are a subsidiary to a Dutch holding bank in so far as it concerns supervision.</p> <p>The above points 1 – 4 of Article 3:278 paragraph 1 subparagraph (b) of the Financial Supervision Act concern the requirements of Article 69 of Directive 2006/48/EC and apply therefore also to electronic money institutions.</p> <p>Article 3:278 paragraph 1 of the Financial Supervision Act indicates that electronic money institutions which are included in the consolidated supervision of the parent credit institutions pursuant to Directive 2006/48/EC shall not be assessed on the basis of paragraph 2 and 3 of this Article of the Directive, but shall be assessed on the basis of consolidated supervision.</p>

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				rights to place or dismiss the majority of the persons which determine the day-to-day policy of the subsidiary;	verwaarloosbaar zijn; 3. de risicobeoordeling, meet- en controleprocedures van de Nederlandse moederbeleggingsonderneming of Nederlandse moederbank ook de dochteronderneming omvatten; en 4. de Nederlandse moederbeleggingsonderneming of Nederlandse moederbank meer dan vijftig procent van de stemrechten heeft verbonden aan de deelnemingen in het kapitaal van de dochteronderneming of het recht heeft om de meerderheid van de personen die het dagelijks beleid bepalen van de dochteronderneming te benoemen of te ontslaan.	The option of Article 5 paragraph 7 of the Directive is transposed.
<b>Art. 6(1) 1<sup>st</sup> subpara.</b>	<b>Article 6 Activities</b> 1. In addition to issuing electronic money, electronic money institutions shall be entitled to engage in any of the following activities:	<b>Artikele 6 Activiteiten</b> 1. Naast de uitgifte van elektronisch geld mogen instellingen voor elektronisch geld de volgende werkzaamheden uitoefenen:	N/A	N/A	N/A	<b>CONFORM</b> Due to the nature of the NIMs, no provisions could be identified in Dutch law, however conformity is not affected as the requirements for transposition follow.

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<b>Art. 6(1) 1<sup>st</sup> subpar a. (a)</b>	(a) the provision of payment services listed in the Annex to Directive 2007/64/EC;	a) het aanbieden van de in de bijlage bij Richtlijn 2007/64/EG vermelde betalingsdiensten;	<b>Art. 3:29c of the Financial Supervision Act</b>	<p><b>Article 3:29c of the Financial Supervision Act</b></p> <p>(1) A payment institution or electronic money institution with a seat in the Netherlands shall only hold payment account for payment transactions.</p> <p>(4) By Order of Decree rules shall be set for providing the payment services under 4, 5 and 7 of the Annex of the Directive indicated credits by payment institutions or electronic money institutions.</p>	<p><b>Artikel 3:29c Wet op het Financieel Toezicht</b></p> <p>(1) Een betaalinstelling of elektronischgeldinstelling met zetel in Nederland houdt alleen betaalrekeningen aan die uitsluitend voor betalingstransacties worden gebruikt.</p> <p>(4) Bij of krachtens algemene maatregel van bestuur worden regels gesteld met betrekking tot het verlenen van de onder 4, 5 en 7 van de bijlage bij de richtlijn betaaldiensten bedoelde kredieten door betaalinstellingen of elektronischgeldinstellingen met zetel in Nederland.</p>	<p><b>CONFORM</b></p> <p>Article 3:29c of the Financial Supervision Act transposes Article 6 paragraph 1, first subparagraph, under (a) of the Directive.</p> <p>The payment services listed in points 1 – 7 of the Annex concern the storing and withdrawing of credit on accounts; execution of payment transactions; the possibility of making money transfers and the execution <i>via</i> telecommunications, digital and IT instruments.</p> <p>Article 3:29c paragraph 1 of the Financial Supervision Act concerns the holding of payment accounts for transactions and can be considered to include possibilities of storing credit and making money transfers <i>via</i> the accounts and also <i>via</i> electronic, digital or IT instruments.</p> <p>Article 3:29c paragraph 4 of the Financial Supervision Act indicates that rules shall be set concerning the providing of the payment services under 4, 5 and 7 of the payment services listed under the Annex of the payment services Directive by payment institutions or electronic money institutions.</p> <p>The payment services listed in the Annex to Directive 2007/64/EC therefore can be considered to be covered by Article 3:29c paragraph 1 and 4 of the Financial Supervision Act.</p> <p>Conformity is thus observed with Article 6 paragraph 1, subparagraph (a) of the Directive.</p>

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<b>Art. 6(1) 1<sup>st</sup> subpar a. (b)</b>	(b) the granting of credit related to payment services referred to in points 4, 5 or 7 of the Annex to Directive 2007/64/EC, where the conditions laid down in Article 16(3) and (5) of that Directive are met;	b) de verlening van kredieten in verband met betalingsdiensten als bedoeld in de punten 4, 5 en 7 van de bijlage bij Richtlijn 2007/64/EG, mits aan de voorwaarden van artikel 16, leden 3 en 5, van die richtlijn is voldaan;	<b>Art. 3:29c of the Financial Supervision Act</b> <b>Art. 40c of the Decree Prudential Rules of the Financial Supervision Act</b>	<b>Article 3:29c of the Financial Supervision Act</b> (4) By Order of Decree rules shall be set concerning the provision of the payment services under 4, 5 and 7 of the Annex of the payment services Directive indicated credits by payment institutions or electronic money institutions. <b>Article 40c of the Decree Prudential Rules of the Financial Supervision Act</b> Payment service institutions or electronic money institutions shall only grant credit in connection with the points 4, 5 and 7 of the Annex to Directive 2007/64/EC indicated payment services if: (a) the credit shall be ancillary and granted exclusively in connection with the execution of a payment transaction; (b) the credit issued in connection with a payment	<b>Artikel 3:29c Wet op het Financieel Toezicht</b> (4) Bij of krachtens algemene maatregel van bestuur worden regels gesteld met betrekking tot het verlenen van de onder 4, 5 en 7 van de bijlage bij de richtlijn betaaldiensten bedoelde kredieten door betaalinstellingen of elektronischgeldinstellingen met zetel in Nederland. <b>Artikel 40c Besluit Prudentiele Regels Wet op het Financieel Toezicht</b> Betaalinstellingen of elektronischgeldinstellingen verlenen slechts krediet in verband met de in de punten 4, 5 en 7 van de bijlage bij de richtlijn betaaldiensten bedoelde betaaldiensten indien: (a) het krediet een aanvullend krediet is en uitsluitend wordt verstrekt in verband met de uitvoering van een betalingstransactie; (b) het krediet dat is verstrekt in verband met een betaaldienst die is	<b>CONFORM</b> Article 3:29c of the Financial Supervision Act and Article 40c of the Decree Prudential Rules of the Financial Supervision Act transpose Article 6 paragraph 1, first subparagraph under (b) of the Directive. Article 6 paragraph 1, first subparagraph under (b) indicates that granting of credit related to payment services referred to in points 4, 5 and 7 of the Annex to Directive 2007/64/EC should be allowed, where the conditions of Article 16 paragraphs 3 and 5 of that Directive are met. In this regard, Article 3:29c paragraph 4 of the Financial Supervision Act indicates that for payment institutions or electronic money institutions rules shall be set concerning the providing of the payment services under 4, 5 and 7 of the payment services listed under the Annex of the payment services Directive. Furthermore, Article 16 paragraphs 3 and 5 of the Directive require that credit may be granted related to payment services referred to in points 4, 5 or 7 of the Annex only if the following conditions are met: (a) the credit shall be ancillary and granted exclusively in connection with the execution of a payment transaction; (b) the credit issued in connection with a payment service which is provided by virtue of payment services towards another State or from a branch office in another state shall be repayed within a short period which shall in no case exceed twelve months; (c) such credit shall not be

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			<p>service which is provided by virtue of payment services towards another State or from a branch office in another state shall be repayed within a short period which shall in no case exceed twelve months;</p> <p>(c) such credit shall not be granted from the funds received or held for the purpose of executing a payment transaction; and</p> <p>(d) the own funds of the payment institution shall at all times be appropriate in view of the overall amount of credit granted.</p>	<p>verleend door middel van dienstverrichting naar een andere lidstaat of vanuit een bijkantoor in een andere lidstaat wordt terugbetaald binnen een korte termijn, die in geen geval meer dan twaalf maanden bedraagt;</p> <p>(c) het niet wordt verleend uit geldmiddelen die zijn ontvangen of die worden aangehouden voor het uitvoeren van toekomstige betalingstransacties; en</p> <p>(d) het eigen vermogen van de betaalinstelling of de elektronischgeldinstelling te allen tijde in redelijke verhouding staat tot het totale bedrag van het verleende krediet.</p>	<p>granted from the funds received or held for the purpose of executing a payment transaction and the own funds of the payment institution shall at all times be appropriate in view of the overall amount of credit granted.</p> <p>Article 40c of the Decree Prudential Rules of the Financial Supervision Act provides the following conditions to be met for granting of credit related to the payment services under points 4, 5 and 7 of the Annex of Directive 2007/64/EC: (a) the credit shall be ancillary and granted exclusively in connection with the execution of a payment transaction, (b) the credit issued in connection with a payment service which is provided by virtue of payment services towards another State or from a branch office in another state shall be repaid within a short period which shall in no case exceed twelve months; (c) such credit shall not be granted from the funds received or held for the purpose of executing a payment transaction; and (d) the own funds of the payment institution shall at all times be appropriate in view of the overall amount of credit granted.</p> <p>Article 40c of the Decree Prudential Rules of the Financial Supervision Act therefore identically transposes the requirements of Article 6 paragraph 1, first subparagraph under (b) of the Directive paragraph in accordance with Article 16 of Directive 2007/64/EC.</p> <p>Conformity is thus observed with Article 6 paragraph 1, first subparagraph under (b) of the Directive.</p>

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<b>Art. 6(1) 1<sup>st</sup> subpar a. (c)</b>	(c) the provision of operational services and closely related ancillary services in respect of the issuing of electronic money or to the provision of payment services referred to in point (a);	c) het verrichten van operationele diensten en daarmee nauw verbonden nevendiensten met betrekking tot de uitgifte van elektronisch geld of het verlenen van betalingsdiensten als bedoeld onder a);	<b>Art. 3:29c of the Financial Supervision Act</b>	<b>Article 3:29c of the Financial Supervision Act</b>  (1) A payment institution or electronic money institution will only have payment accounts that will be exclusively used for the payment transactions.	<b>Artikel 3:29c Wet op het Financieel Toezicht</b>  (1) Een betaalinstelling of elektronischgeldinstelling met zetel in Nederland houdt alleen betaalrekeningen aan die uitsluitend voor betalingstransacties worden gebruikt.	<b>CONFORM</b>  Article 3:29c of the Financial Supervision Act reflects Article 6 paragraph 1, subparagraph (c) of the Directive.  Article 3:29c paragraph 1 of the Financial Supervision Act requires electronic money institution to have separate payment accounts exclusively used for its payment transactions.  Using payment accounts for payment transactions includes the operational services and related ancillary services with regard to issuing electronic money or the provision of payment services referred to in point (a) of this Article.  In this regard therefore, conformity with Article 6 paragraph 1, subparagraph (c) of the Directive is thus observed.
<b>Art. 6(1) 1<sup>st</sup> subpar a. (d)</b>	(d) the operation of payment systems as defined in point 6 of Article 4 of Directive 2007/64/EC and without prejudice to Article 28 of that Directive;	d) de exploitatie van betalingssystemen zoals omschreven in artikel 4, punt 6, van Richtlijn 2007/64/EG, onverminderd het bepaalde in artikel 28 van die richtlijn;	<b>Art. 1:1 of the Financial Supervision Act</b>  <b>Art. 5:88 of the Financial Supervision Act</b>	<b>Article 1:1 of the Financial Supervision Act</b>  Paymentsystem: a funds transfer system with formal and standardised arrangements and common rules for the processing, clearing and/or settlement of payment transactions;  <b>Article 5:88 of the Financial Supervision Act</b>  (1) Notwithstanding the	<b>Artikel 1:1 Wet op het Financieel Toezicht</b>  betalingssysteem: een geldovermakingssysteem met formele en gestandaardiseerde regelingen en gemeenschappelijke regels voor de verwerking, clearing of afwikkeling van betalingstransacties;  <b>Artikel 5:88 Wet op het Financieel Toezicht</b>  (1) Onverminderd het bepaalde in Hoofdstuk 3	<b>CONFORM</b>  Article 1:1 and 5:88 of the Financial Supervision Act transpose Article 6 paragraph 1, sub-paragraph (d) of the Directive.  Article 6 paragraph 1, subparagraph (d) of the Directive indicates that the operation of payment systems in Article 4 point 6 of Directive 2007/64/EC should be allowed without prejudice to Article 28 of that Directive.  Article 6 point 4 of Directive 2007/64/EC provides the definition of ‘payment systems’ as: ‘a funds transfer system with formal and standardised arrangements and common rules



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			<p><b>Act</b></p> <p>established rules of Chapter 3 and 4 of the Competition Act, the access of payment service providers to paymentsystems shall not be dependent on rules other than those which are objective, non-discriminatory and proportional and necessary for the protection of the payment system against specific risks and for the protection of the financial and operational stability of the payment system.</p>	<p>en 4 van de Mededingingswet, wordt de toegang van betaaldienstverleners tot een betalingssysteem niet afhankelijk gesteld van andere regels dan regels die objectief, niet-discriminerend en evenredig zijn en noodzakelijk zijn voor de bescherming van het betalingssysteem tegen specifieke risico's en voor de bescherming van de financiële en operationele stabiliteit van het betalingssysteem.</p> <p>for the processing, clearing and/or settlement of payment transactions'.</p> <p>In this regard, Article 1:1 of the Financial Supervision Act provides a definition which is identical to Article 6 point 4 of Directive 2007/64/EC.</p> <p>Conformity is thus observed with regard to the Directive definition of payment systems.</p> <p>Furthermore, Article 5:88 paragraph 1 of the Financial Supervision Act authorises the access of payment service providers to such payment systems which shall not be dependent on rules other than objective, non-discriminatory, proportional and necessary for the protection of the payment system against specific risks and for the protection of the financial and operational stability of the payment system.</p> <p>The requirements of Article 5:88 paragraph 1 of the Financial Supervision Act meet the requirements of Article 28 of the Directive, with regard to ensuring that rules on access of payment service providers shall be objective, non-discriminatory and proportionate and shall be no more inhibitory of access than necessary to safeguard against specific risks, such as settlement risk, operational and business risk.</p> <p>Conformity is observed with the Directive concerning the requirement of access to payment systems notwithstanding the further requirements of Article 28 of the Directive.</p> <p>Overall, conformity is observed with regard to Article 6 paragraph 1, subparagraph (d) of</p>

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						the Directive.
<b>Art. 6(1) 1<sup>st</sup> subpar a. (e)</b>	(e) business activities other than issuance of electronic money, having regard to the applicable Community and national law.	e) andere bedrijfswerkzaamheden dan de uitgifte van elektronisch geld, met inachtneming van de toepasselijke nationale en communautaire wetgeving.	<b>Art. 3:29b of the Financial Supervision Act</b>	<b>Article 3:29b of the Financial Supervision Act</b> If a (...) electronic money institution with a seat in the Netherlands also pursues activities which are not linked to the (...) issuing of electronic money, the Dutch Central Bank may require the electronic money institution to pursue those activities <i>via</i> a separate legal person if the activities infringe or imminently infringe: (a) the financial solidarity of the (...) electronic money institution, or (b) the supervision on the compliance of this Act	<b>Artikel 3:29b Wet op het Financieel Toezicht</b> Indien een (...) elektronischgeldinstelling met zetel in Nederland tevens werkzaamheden verricht die geen verband houden met (...) het uitgeven van elektronisch geld, kan de Nederlandsche Bank de (...) elektronischgeldinstelling verplichten die werkzaamheden te doen verrichten door een aparte rechtspersoon indien het verrichten van die werkzaamheden afbreuk doet of dreigt te doen aan: (a) de financiële soliditeit van de (...) elektronischgeldinstelling, of (b) het toezicht op de naleving van deze wet	<b>CONFORM</b> Article 3:29b of the Financial Supervision Act transposes Article 6 paragraph 1, subparagraph (e) of the Directive. Article 6 paragraph 1, subparagraph (e) of the Directive indicates that electronic money institutions should be entitled to pursue business activities other than issuance of electronic money, having regard to the applicable Community and national law. In this regard, Article 3:29b of the Financial Supervision Act provides for electronic money institutions to also pursue activities not linked to the issuing of electronic money. In this regard, conformity with the Directive concerning the pursuing of other business activities not linked to electronic money is observed. Furthermore, according to Article 3:29b of the Financial Supervision Act, the Dutch Central Bank may require the electronic money institution to pursue those activities <i>via</i> a separate legal person if the activities infringe or imminently infringe: (a) the financial solidarity of the (...) electronic money institution, or (b) the supervision on the compliance of this Act. In this regard, the national law provides for protections in ensuring compliance with national law if it considers the activities of the electronic money institution indicate risks

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						<p>of infringement of financial solidarity or the compliance of this Act.</p> <p>Conformity with the Directive requirement of having regard to the applicable national law is observed and conformity with the other requirements of Article 6 paragraph 1, subparagraph (e) is also observed.</p>
<b>Art. 6(1) 2<sup>nd</sup> subpar a.</b>	Credit referred to in point (b) of the first subparagraph shall not be granted from the funds received in exchange of electronic money and held in accordance with Article 7(1).	Kredieten als bedoeld in de eerste alinea, onder b) worden niet verleend uit de middelen die in ruil voor het elektronisch geld worden ontvangen en conform artikel 7, lid 1, worden aangehouden.	<b>Art. 3:29c of the Financial Supervision Act</b>	<b>Article 3:29c of the Financial Supervision Act</b>  (2) Funds which a (...) electronic money institution with a seat in the Netherlands issues in connection with the providing of payment services or receives from payment service users shall be, notwithstanding Article 1:1 of this Act, not deemed as claimable funds.	<b>Artikel 3:29c Wet op het Financieel Toezicht</b>  (2) Geldmiddelen die een (...) elektronischgeldinstelling met zetel in Nederland in verband met het verlenen van betaaldiensten van betaaldienstgebruikers ontvangt, zijn, in afwijking van artikel 1:1, geen opvorderbare gelden.	<p><b>CONFORM</b></p> <p>Article 3:29c of the Financial Supervision Act transposes Article 6 paragraph 1, second subparagraph of the Directive.</p> <p>Article 6 paragraph 1, second subparagraph of the Directive requires that credit within the meaning of Article 6 paragraph 1 subparagraph (b) shall not be granted from the funds received in exchange of electronic money and held in accordance with Article 7 paragraph 1 of this Directive.</p> <p>Article 3:29c paragraph 2 of the Financial Supervision Act states that funds which an electronic money institution issues in connection with the providing of payment services or which it receives from payment service users, shall not be deemed as claimable funds. Therefore, credit as referred to in point (b) of the first subparagraph of this Directive is never granted from the funds received in exchange of electronic money when held in accordance with Article 7 paragraph 1 of this Directive.</p> <p>Conformity is thus observed in this regard.</p> <p>Furthermore, in accordance with recital 13, the issuance of electronic money does not</p>

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						<p>constitute a deposit-taking activity, and electronic money institutions are not allowed to grant credit from the funds received or held for the purpose of issuing electronic money or to grant interest or any other benefit unless those benefits are not related to the length of time during which the electronic money holder holds electronic money. The prudential requirements can also be considered proportionate to the operational and financial risks faced in the course of the business of such bodies.</p> <p>Overall, based on the above observations, conformity with Article 6 paragraph 1, second subparagraph is observed.</p>
<b>Art. 6(2)</b>	2. Electronic money institutions shall not take deposits or other repayable funds from the public within the meaning of Article 5 of Directive 2006/48/EC.	Instellingen voor elektronisch geld nemen geen deposito's of andere terugbetaalbare gelden van het publiek in ontvangst in de zin van artikel 5 van Richtlijn 2006/48/EG.	<b>Art. 3:29c of the Financial Supervision Act</b>	<b>Article 3:29c of the Financial Supervision Act</b> (3) Funds received by the electronic money institution in exchange of electronic money shall, notwithstanding Article 1:1, not be claimable funds.	<b>Artikel 3:29c Wet op het Financieel Toezicht</b> (3) Geldmiddelen die door een elektronischgeldinstelling zijn ontvangen in ruil voor elektronisch geld, zijn, in afwijking van artikel 1:1, geen opvorderbare gelden.	<b>CONFORM</b> Article 3:29c of the Financial Supervision Act transposes Article 6 paragraph 2 of the Directive. Article 6 paragraph 2 of the Directive requires that electronic money institutions shall not take deposits or other repayable funds from the public within the meaning of Article 5 of Directive 2006/48/EC, which prohibits undertakings from carrying on the business of taking deposits or other repayable funds from the public. In this regard, Article 3:29c paragraph 3 of the Financial Supervision Act states that funds received by the electronic money institution in exchange of electronic money shall not be claimable funds. Therefore, Article 3:29c paragraph 3 of the Financial Supervision Act meets the Directive

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						<p>requirement.</p> <p>Conformity is thus observed.</p> <p>Furthermore, in accordance with recital 13 electronic money institutions are not allowed to grant credit from the funds received or held for the purpose of issuing electronic money or to grant interest or any other benefit unless those benefits are not related to the length of time during which the electronic money holder holds electronic money. The prudential requirements can also be considered proportionate to the operational and financial risks faced in the course of the business of such bodies.</p> <p>Overall, taking into account the above observations, conformity with Article 6 paragraph 2 of the Directive is observed.</p>
<b>Art. 6(3)</b>	3. Any funds received by electronic money institutions from the electronic money holder shall be exchanged for electronic money without delay. Such funds shall not constitute either a deposit or other repayable funds received from the public within the meaning of Article 5 of Directive 2006/48/EC.	Geldmiddelen die instellingen voor elektronisch geld van houders van elektronisch geld ontvangen worden onverwijld gewisseld voor elektronisch geld. Dergelijke geldmiddelen zijn noch deposito's noch andere terugbetaalbare gelden die zijn ontvangen van het publiek in de zin van artikel 5 van Richtlijn 2006/48/EG.	<b>Art. 3:29c of the Financial Supervision Act</b>	<b>Article 3:29c of the Financial Supervision Act</b>  (3) Funds received by the electronic money institution in exchange of electronic money shall, notwithstanding Article 1:1, not be claimable funds.	<b>Artikel 3:29c Wet op het Financieel Toezicht</b>  (3) Geldmiddelen die door een elektronischgeldinstelling zijn ontvangen in ruil voor elektronisch geld, zijn, in afwijking van artikel 1:1, geen opvorderbare gelden.	<b>CONFORM</b>  Article 3:29c of the Financial Supervision Act transposes Article 6 paragraph 3 of the Directive.  Article 6 paragraph 3 of the Directive requires that any funds received by electronic money institutions from the electronic money holder shall be exchanged without delay and not constitute either a deposit or repayable funds.  Article 3:29c paragraph 3 of the Financial Supervision Act provides that funds received by electronic money institutions in exchange of electronic money shall not be claimable funds. Article 3:29c paragraph 3 of the Financial Supervision Act provides therefore

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						that such funds shall be exchanged and shall not constitute either a deposit or other repayable funds received from the public.  Conformity is thus observed with Article 6 paragraph 3 of the Directive.
<b>Art. 6(4)</b>	4. Article 16(2) and (4) of Directive 2007/64/EC shall apply to funds received for the activities referred to in paragraph 1(a) of this Article that are not linked to the activity of issuing electronic money.	Artikel 16, leden 2 en 4 van Richtlijn 2007/64/EG zijn van toepassing op geldmiddelen die zijn ontvangen voor activiteiten bedoeld in lid 1, onder a), van dit artikel die geen verband houden met de uitgifte van elektronisch geld.	<b>Art. 3:29c of the Financial Supervision Act</b>  <b>Art. 3:5 of the Financial Supervision Act</b>	<b>Article 3:29c of the Financial Supervision Act</b>  (1) A (...) electronic money institution with a seat in the Netherlands shall only hold payment accounts which are used exclusively for payment transactions.  (3) Funds received by the electronic money institution in exchange of electronic money shall, notwithstanding Article 1:1, not be claimable funds.  <b>Article 3:5 of the Financial Supervision Act</b>  (1) Anyone is prohibited in the Netherlands in the exercise of an undertaking outside of closed circles to claim funds of others than professional marketparties, or to receive or hold these.	<b>Artikel 3:29c Wet op het Financieel Toezicht</b>  (1) Een betaalinstelling of elektronischgeldinstelling met zetel in Nederland houdt alleen betaalrekeningen aan die uitsluitend voor betalingstransacties worden gebruikt.  (3) Geldmiddelen die door een elektronischgeldinstelling zijn ontvangen in ruil voor elektronisch geld, zijn, in afwijking van artikel 1:1, geen opvorderbare gelden.  <b>Artikel 3:5 Wet op het Financieel Toezicht</b>  (1) Het is een ieder verboden in Nederland in de uitoefening van een bedrijf buiten besloten kring opvorderbare gelden van anderen dan professionele marktpartijen aan te trekken, ter beschikking te	<b>CONFORM</b>  Article 3:29c of the Financial Supervision Act transposes Article 6 paragraph 3 of the Directive.  Article 6 paragraph 4 of the Directive indicates that Article 16 paragraphs 2 and 4 of Directive 2007/64/EC apply to funds received for the activities referred to in paragraph 1 subparagraph (a) of this Article that are not linked to the activity of issuing electronic money.  Article 16 paragraph 2 of Directive 2007/64/EC states that only payment accounts may be held when used exclusively for payment transactions. Any funds received with a view to the provision of payment services shall not constitute a deposit or other repayable funds.  Article 16 paragraph 4 of Directive 2007/64/EC requires that no business shall be conducted of taking deposits or other repayable funds.  Article 3:29c paragraph 1 of the Financial Supervision Act requires that only payment accounts may be held when used exclusively for payment transactions.  In this regard, conformity is observed with

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				verkrijgen of ter beschikking te hebben.	<p>Article 16 paragraph 2 of Directive 2007/64/EC requiring that only payment accounts may be held when used exclusively for payment transactions.</p> <p>Furthermore, Article 3:29c paragraph 3 of the Financial Supervision Act provides funds received by the electronic money institution in exchange of electronic money shall not be claimable funds.</p> <p>Article 3:29c paragraph 3 of the Financial Supervision Act therefore prohibits any funds received with a view to the provision of payment services to not constitute a deposit or other repayable funds. In this regard, conformity is observed with Article 16 paragraph 2 of Directive 2007/64/EC that any funds received with a view to the provision of payment services shall not constitute a deposit or other repayable funds.</p> <p>Therefore, conformity with the Directive is observed in this regard.</p> <p>Furthermore, Article 3:5 paragraph 1 of the Financial Supervision Act states that anyone is prohibited in the Netherlands in the exercise of an undertaking outside of closed circles to claim funds of others than professional market parties, or to receive or hold these. In this regard Article 3:5 paragraph 1 is a broad prohibition of claiming, holding or receiving funds which can be considered to cover the activities referred to in Article 6 paragraph 1 subparagraph (a) of the Directive and which are not linked to the activity of issuing electronic</p>

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						money. Conformity with the Directive concerning the activities of payment services which are not linked to the issuing of electronic money is observed. Conformity is also observed with the remaining requirements of Article 6 paragraph 4 of the Directive.
<b>Art. 7(1)</b>	<p><i>Article 7</i> <b>Safeguarding requirements</b></p> <p>1. Member States shall require an electronic money institution to safeguard funds that have been received in exchange for electronic money that has been issued, in accordance with Article 9(1) and (2) of Directive 2007/64/EC. Funds received in the form of payment by payment instrument need not be safeguarded until they are credited to the electronic money institution's payment account or are otherwise made available to the electronic money institution in accordance with the execution time requirements laid down in the Directive 2007/64/EC, where applicable. In any event, such funds shall be</p>	<p><i>Artikel 7</i> <b>Beschermingsvereisten</b></p> <p>1. De lidstaten eisen van een instelling voor elektronisch geld dat zij de middelen die zij in ruil voor elektronisch geld dat is uitgegeven hebben ontvangen veilig stelt overeenkomstig artikel 9, leden 1, en 2, van Richtlijn 2007/64/EG. Middelen die zijn ontvangen in de vorm van betalingen door een betaalinstrument hoeven niet veilig te worden gesteld tot de betaalrekening van de instellingen voor elektronisch geld ermee gecrediteerd is of tot ze op een andere manier ter beschikking worden gesteld van de instelling voor elektronisch geld in overeenstemming met de vereisten op het vlak van</p>	<p><b>Art. 3:29a of the Financial Supervision Act</b></p> <p><b>Art. 40a of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p><b>Art. 40b of the Decree Prudential Rules of the Financial Supervision Act</b></p>	<p><b>Article 3:29a of the Financial Supervision Act</b></p> <p>(2) A (...) electronic money institution with seat in the Netherlands shall safeguard the funds used or received by payment service users or electronic money institutions in accordance with rules set by Order of Decree.</p> <p><b>Article 40b of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p>(1) An electronic money institution (...) shall safeguard funds received in exchange for electronic money issued at the moment these funds become available to the electronic money institution or at the latest 5 business days after issuing</p>	<p><b>Artikel 3:29a Wet op het Financieel Toezicht</b></p> <p>(2) Een (...) elektronischgeldinstelling met zetel in Nederland stelt de geldmiddelen die worden of zijn ontvangen van betaaldienstgebruikers of andere betaalinstellingen of elektronischgeldinstellingen op een bij of krachtens algemene maatregel van bestuur bepaalde wijze zeker.</p> <p><b>Artikel 40b Besluit Prudentiele Regels Wet op het Financieel Toezicht</b></p> <p>(1) Een elektronischgeldinstelling (...) stelt de middelen die zij ontvangt in ruil voor elektronisch geld dat is uitgegeven, veilig op het moment dat deze gelden ter beschikking komen van</p>	<p><b>CONFORM</b></p> <p>Article 9 paragraph 2 of Directive 2007/64/EC sets out an option, which the Netherlands chose to apply.</p> <p>Article 3:29c of the Financial Supervision Act and Article 40a and 40b of the Decree Prudential Rules of the Financial Supervision Act transpose Article 7 paragraph 1 of the Directive.</p> <p>Article 7 paragraph 1 of the Directive requires that all electronic money institutions shall safeguard funds received in exchange for electronic money issued, in accordance with Article 9 paragraphs 1 and 2 of Directive 2007/64/EC.</p> <p>Article 3:29a paragraph 2 of the Financial Supervision Act requires all electronic money institutions to safeguard funds used or received in accordance with rules set by Order of Decree.</p> <p>Article 40b paragraph 1 of the Decree Prudential Rules of the Financial Supervision Act indicates that electronic money institutions shall safeguard funds received in exchange for electronic money issued at the moment these funds become available to it or</p>



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	safeguarded by no later than five business days, as defined in point 27 of Article 4 of that Directive, after the issuance of electronic money.	uitvoeringstermijnen die zijn vastgelegd in Richtlijn 2007/64/EG, indien van toepassing. Dergelijke middelen moeten in ieder geval niet later dan vijf werkdagen, zoals omschreven in artikel 4, punt 27, van die richtlijn, na de uitgifte van het elektronisch geld veilig worden gesteld.	<b>Rules of the Financial Supervision Act</b>	<p>the electronic money.</p> <p>(2) The financial undertaking shall ensure the funds it receives in exchange for electronic money in one of the following ways:</p> <p>(a) the funds shall not be comingled with the funds of other claimants;</p> <p>(b) the funds shall be covered by an insurance policy or a similar guarantee by an insurance firm or bank which does not belong to the same group as the electronic money institution, against the risk that the electronic money institution is unable to meet its liabilities concerning the funds (...)</p> <p>(3) If paragraph 2 and under (a) is applied, the received funds shall be placed on a separate bank account or placed in safe, liquid assets with a low risk in a manner that other claimants of the electronic money institution, especially in case of insolvency, they cannot</p>	<p>de elektronischgeldinstelling doch uiterlijk vijf werkdagen na uitgifte van het elektronisch geld.</p> <p>(2) De financiële onderneming stelt (...) gelden die zij ontvangt in ruil voor elektronisch geld op een van de volgende wijzen veilig:</p> <p>(a) de gelden worden niet vermengd met de geldmiddelen van andere schuldeisers van de elektronischgeldinstelling;</p> <p>(b) de gelden worden gedekt door een verzekeringspolis of een vergelijkbare garantie van een verzekeraar of een bank die niet tot dezelfde groep behoort als de elektronischgeldinstelling, tegen het risico dat de elektronischgeldinstelling niet in staat is haar verplichtingen met betrekking tot de gelden na te komen, (...)</p> <p>(3) Indien toepassing wordt gegeven aan het tweede lid, aanhef en onderdeel a, worden de ontvangen gelden op een</p>	<p>at the latest within 5 business days after issuing the electronic money.</p> <p>In this regard, conformity with the Directive requirements of safeguarding funds at the time these are made available or no later than 5 business days as defined in point 27 of Article 4 of Directive 2007/64/EC is observed.</p> <p>Furthermore, Article 40b paragraph 2 of the Decree Prudential Rules of the Financial Supervision Act indicates that financial undertakings shall ensure that received funds shall (a) not be comingled with the funds of other claimants; (b) be covered by an insurance policy or similar guarantee against the risk the electronic money institution is unable to meet its liabilities concerning the funds.</p> <p>Article 40b paragraph 3 of the Decree Prudential Rules of the Financial Supervision Act further indicates that when applying paragraph 2(a), received funds shall be placed on a separate bank account or placed in safe, liquid assets with a low risk in a manner that other claimants of the electronic money institution, especially in case of insolvency, cannot claim these funds.</p> <p>In this regard, conformity is observed with the Directive requirements of safeguarding funds in accordance with Article 9 paragraphs 1 under (a) and under (c) of Directive 2007/64/EC, which concern the requirements of not comingling funds with those of other claimants; placing the received funds in separate accounts with low risk profiles; and</p>

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			<p>claims these funds.</p> <p><b>Article 40a of the Decree Prudential Rules of the Financial Supervision Act</b></p> <p>(4) If the part of the own funds designated for future transactions is not known or variable, the payment institution shall be allowed to exclusively apply the first paragraph on the basis of a representative portion assumed to be used for the payment services. This representative portion must be reasonably estimated on the basis of historical data.</p>	<p>afzonderlijke rekening gestort bij een bank of belegd in veilige, liquide activa met een lage risicograad, op zodanige wijze dat andere schuldeisers van de elektronischgeldinstelling, in het bijzonder in het geval van insolventie van de elektronischgeldinstelling, hun vorderingen niet op deze gelden kunnen verhalen.</p> <p><b>Artikel 40a Besluit Prudentiele Regels Wet op het Financieel Toezicht</b></p> <p>(4) Indien het deel van de geldmiddelen dat bestemd is voor toekomstige betalingstransacties niet bekend of variabel is, is het de betaalinstanties toegestaan om het eerste lid uitsluitend toe te passen op een representatief gedeelte dat geacht wordt voor betalingsdiensten te worden gebruikt. Dit representatieve gedeelte moet redelijkerwijs kunnen worden geraamd op basis van historische</p>	<p>covering them with insurance in accordance with national law against the claims of other creditors.</p> <p>Article 9 paragraph 2 of Directive 2007/64/EC as referenced by Article 7 paragraph 1 of the Directive, concerns an option which is transposed by Article 40a paragraph 4 of the Decree Prudential Rules of the Financial Supervision Act.</p> <p>Article 40a paragraph 4 of the Decree Prudential Rules of the Financial Supervision Act specifically indicates that when part of the own funds designated for future transactions is not known or variable, the payment institution shall be allowed to exclusively apply the first paragraph on the basis of a representative portion assumed to be used for the payment services. This representative portion must be reasonably estimated on the basis of historical data.</p> <p>Article 40a paragraph 1 as referenced above concerns the identical requirements of Article 40b paragraph 2 of safeguarding funds by not comingling these with funds of other claimants, and ensuring insurance coverage.</p> <p>Therefore, the option of Article 9 paragraph 2 of Directive 2007/64/EC is transposed.</p>

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					gegevens.	
<b>Art. 7(2) 1<sup>st</sup> subparagraph a.</b>	2. For the purposes of paragraph 1, secure, low-risk assets are asset items falling into one of the categories set out in Table 1 of point 14 of Annex I to Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions for which the specific risk capital charge is no higher than 1,6 %, but excluding other qualifying items as defined in point 15 of that Annex.	2. Voor de toepassing van lid 1, zijn veilige activa met een lage risicograad activa die vallen in een van de categorieën opgenomen in tabel 1 van punt 14 van bijlage I bij Richtlijn 2006/49/EG van het Europees Parlement en de Raad van 14 juni 2006 inzake de kapitaalvereikendheid van beleggingsondernemingen en kredietinstellingen (1) waarvoor het kapitaalvereikendheid voor het specifieke risico niet hoger ligt dan 1,6 %, terwijl andere in aanmerking komende activa, als gedefinieerd in punt 15 van die bijlage, worden uitgesloten.	<b>Art. 3:29a of the Financial Supervision Act</b>  <b>Art. 40a of the Decree Prudential Rules of the Financial Supervision Act</b>	<b>Article 3:29a of the Financial Supervision Act</b>  (1) A (...) electronic money institution with a seat in the Netherlands shall safeguard the funds received from payment service users or other payment institutions or electronic money institutions in a manner set by Order of Decree.  <b>Article 40a of the Decree Prudential Rules of the Financial Supervision Act</b>  (3) For the application of the second paragraph, secure, low-risk assets are asset items falling into one of the categories set out in Table 1 of point 14 of Annex I to Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (PbEU L 177) for which the specific risk	<b>Artikel 3:29a Wet op het Financieel Toezicht</b>  (1) Een (...) elektronischgeldinstelling met zetel in Nederland stelt de geldmiddelen die worden of zijn ontvangen van betaaldienstgebruikers of andere betaalinstanties of elektronischgeldinstellingen op een bij of krachtens algemene maatregel van bestuur bepaalde wijze zeker.  <b>Artikel 40a Besluit Prudentiele Regels Wet op het Financieel Toezicht</b>  (3) Voor de toepassing van het tweede lid zijn veilige activa met een lage risicograad activa die vallen in een van de categorieën opgenomen in tabel 1 van punt 14 van bijlage I bij Richtlijn 2006/49/EG van het Europees Parlement en de Raad van 14 juni 2006 inzake de kapitaalvereikendheid van	<b>CONFORM</b>  Article 3:29a of the Financial Supervision Act and Article 40a of the Decree Prudential Rules of the Financial Supervision Act identically transpose Article 7 paragraph 2, subparagraph 1 of the Directive.  Article 3:29a of the Financial Supervision Act requires that the electronic money institution shall safeguard that the funds received from payment service users, other payment institutions or electronic money institutions in a manner set by Order of Decree.  Article 40a of the Decree Prudential Rules of the Financial Supervision Act requires that for application of the second paragraph, secure, low-risk assets shall be asset items falling into one of the categories set out in Table 1 of point 14 of Annex I to Directive 2006/49/EC for which the specific risk capital charge is no higher than 1.6 %, excluding other qualifying items as defined in point 15 of that Annex.  Conformity with the identical Directive requirements in this regard can be thus observed.

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				capital charge is no higher than 1,6 %, but excluding other qualifying items as defined in point 15 of that Annex.	beleggingsondernemingen en banken (PbEU L 177) waarvoor het kapitaalvereiste voor het specifieke risico niet hoger ligt dan 1,6%, terwijl andere in aanmerking komende activa, als gedefinieerd in punt 15 van die bijlage, worden uitgesloten.	
<b>Art. 7(2) 2<sup>nd</sup> subpar a.</b>	For the purposes of paragraph 1, secure, low-risk assets are also units in an undertaking for collective investment in transferable securities (UCITS) which invests solely in assets as specified in the first subparagraph.	Voor de toepassing van lid 1, zijn veilige activa met een lage risicograad eveneens deelnemingsrechten in een instelling voor collectieve belegging in effecten (ICBE) die enkel investeert in activa zoals gespecificeerd in de eerste alinea.	<b>Art. 40a of the Decree Prudential Rules of the Financial Supervision Act</b>	<b>Article 40a of the Decree Prudential Rules of the Financial Supervision Act</b>  (3) For the purposes of paragraph 2, secure, low-risk assets are also units in an undertaking for collective investment in transferable securities (UCITS) which invests solely in assets as specified in the first subparagraph.	<b>Artikel 40a Besluit Prudentiele Regels Wet op het Financieel Toezicht</b>  (3) (...) Voor de toepassing van het tweede lid zijn veilige activa met een lage risicograad eveneens deelnemingsrechten in een instelling voor collectieve belegging in effecten (ICBE) die enkel investeert in activa zoals gespecificeerd in de eerste alinea. (...)	<b>CONFORM</b>  Article 40a of the Decree Prudential Rules of the Financial Supervision Act identically transposes Article 7 paragraph 2, subparagraph 2 of the Directive.  Article 40a paragraph 3 subparagraph 2 of the Decree Prudential Rules of the Financial Supervision Act indicates that secure, low-risk assets are also units in an undertaking for collective investment in transferable securities (UCITS) which invests solely in assets as specified in the first sub-paragraph.  The first subparagraph indicates the items falling into one of the categories set out in Table 1 of point 14 of Annex I to Directive 2006/49/EC for which the specific risk capital charge is no higher than 1,6 %, excluding other qualifying items as defined in point 15 of that Annex.  Therefore, Article 40a paragraph 3 subparagraph 2 of the Decree Prudential Rules of the Financial Supervision Act is identical to the Directive requirement in this

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						regard Conformity is thus observed.
<b>Art. 7(2) 3<sup>rd</sup> subpar a.</b>	In exceptional circumstances and with adequate justification, the competent authorities may, based on an evaluation of security, maturity, value or other risk element of the assets as specified in the first and second subparagraphs, determine which of those assets do not constitute secure, low-risk assets for the purposes of paragraph 1.	In buitengewone omstandigheden en wanneer dit voldoende gemotiveerd is, mogen de bevoegde autoriteiten, op basis van een evaluatie van de veiligheid, de looptijd, de waarde of andere risicofactoren van de activa zoals gespecificeerd in de eerste en tweede alinea, bepalen welke van deze activa geen veilige activa met een lage risicograad zijn voor de toepassing van lid 1.	<b>Art. 40a of the Decree Prudential Rules of the Financial Supervision Act</b>	<b>Article 40a of the Decree Prudential Rules of the Financial Supervision Act</b>  (3) (...) In exceptional circumstances and with adequate justification, the competent authorities may, based on an evaluation of security, maturity, value or other risk element of the assets as specified in the first and second subparagraphs, determine which of those assets do not constitute secure, low-risk assets for the purposes of paragraph 1.	<b>Artikel 40a Besluit Prudentiele Regels Wet op het Financieel Toezicht</b>  (3) (...) In buitengewone omstandigheden en wanneer dit voldoende gemotiveerd is, mogen de bevoegde autoriteiten, op basis van een evaluatie van de veiligheid, de looptijd, de waarde of andere risicofactoren van de activa zoals gespecificeerd in de eerste en tweede alinea, bepalen welke van deze activa geen veilige activa met een lage risicograad zijn voor de toepassing van het eerste lid.	<b>CONFORM</b> Article 7(2) third subparagraph of the Directive sets out an option, which the Netherlands chose to apply.  Article 40a of the Decree Prudential Rules of the Financial Supervision Act identically transposes Article 7 paragraph 2, subparagraph 3 of the Directive concerning determining in exceptional circumstances and with adequate justification which of the assets referred to in the first and second paragraphs do not constitute secure, low-risk assets for the purposes of paragraph 1.  In this regard, conformity is thus observed.  The Netherlands has not further defined “exceptional circumstances”. However, the option of Article 7 paragraph 2 subparagraph 3 of the Directive is conformly transposed.
<b>Art. 7(3)</b>	3. Article 9 of Directive 2007/64/EC shall apply to electronic money institutions for the activities referred to in Article 6(1)(a) of this Directive that are not linked to the activity of issuing electronic money.	3. Artikel 9 van Richtlijn 2007/64/EG is van toepassing op instellingen voor elektronisch geld voor de activiteiten bedoeld in artikel 6, lid 1, onder a), van deze richtlijn die geen verband houden met de uitgifte van elektronisch geld.	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	Article 7(3) of the Directive sets out an option. Owing to this option, the Netherlands has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of the Netherlands either.

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<b>Art. 7(4)</b>	4. For the purposes of paragraphs 1 and 3, Member States or their competent authorities may determine, in accordance with national legislation, which method shall be used by the electronic money institutions to safeguard funds.	4. Voor de doeleinden van de leden 1 en 3, mogen de lidstaten of hun bevoegde autoriteiten overeenkomstig de nationale wetgeving bepalen welke methode door de instellingen voor elektronisch geld moet worden gebruikt voor de bescherming van de geldmiddelen.	<b>Art. 69 of the Decree Prudential Rules of the Financial Supervision Act</b>	<b>Article 69 of the Decree Prudential Rules of the Financial Supervision Act</b>  (1) The Dutch Central Bank may (...) on request grant authorisation to calculate the amount of risk based assets not included on the balance-sheet, in accordance with a internal method with which usage is made of own projections for the risk of no repayment of liabilities. The Dutch Central Bank may also, upon request, grant authorisation to use own estimates of losses where no repayment of liabilities and exchange factors take place.	<b>Artikel 69 Besluit Prudentiele Regels Wet op het Financieel Toezicht</b>  (1) De Nederlandsche Bank kan (...) toestemming verlenen om de bedragen van haar naar risico gewogen activa of posten buiten de balansstelling (...) te berekenen volgens een interne modellenmethode, waarbij gebruik wordt gemaakt van eigen ramingen van de kans op wanbetaling. De Nederlandsche Bank kan tevens, op verzoek, toestemming verlenen om daarbij gebruik te maken van eigen ramingen van verliezen bij wanbetaling en omrekeningsfactoren.	<b>CONFORM</b>  Article 7(4) of the Directive sets out an option, which the Netherlands chose to apply.  Article 32b of the Decree Prudential Rules of the Financial Supervision Act transposes the option of Article 7 paragraph 4 of the Directive.  Article 7 paragraph 4 of the Directive allows Member States for the purposes of paragraphs 1 and 3 to determine which method shall be used by the electronic money institutions to safeguard funds.  Article 69 paragraph 1 of the Decree Prudential Rules of the Financial Supervision Act indicates that the Dutch Central Bank may grant authorisation to calculate the amount of risk based assets not included on the balance-sheet, in accordance with an internal method with which usage is made of own projections for the risk of no repayment of liabilities.  It may also grant authorisation for the undertaking to use own estimates of losses where liabilities may not be repayed.  The option of Article 7 paragraph 4 of the Directive is conformly transposed.
<b>Art. 8(1)</b>	<b>Article 8 Relations with third countries</b>  1. Member States shall not apply to a branch of an electronic money	<b>Artikel 8 Betrekkingen met derde landen</b>  1. De lidstaten passen op een bijkantoor van een instelling voor	<b>Art. 2:10f of the Financial Supervision Act</b>	<b>Article 2:10f of the Financial Supervision Act</b>  (1) Any person with a seat in a non-Member State is	<b>Artikel 2:10f Wet op het Financieel Toezicht</b>  (1) Het is een ieder met zetel in een staat die geen lidstaat is verboden:	<b>CONFORM</b>  Article 2:10f of the Financial Supervision Act transposes of Article 8 paragraph 1 of the Directive.  Article 8 paragraph 1 of the Directive

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	<p>institution having its head office outside the Community, when taking up or pursuing its business, provisions which result in more favourable treatment than that accorded to an electronic money institution having its head office within the Community.</p>	<p>elektronisch geld met hoofdkantoor buiten de Gemeenschap voor wat betreft het aanvangen van zijn werkzaamheden dan wel de uitoefening ervan geen bepalingen toe die leiden tot een gunstiger behandeling dan die welke geldt voor een instelling voor elektronisch geld die haar hoofdkantoor binnen de Gemeenschap heeft.</p>	<p><b>ision Act</b></p> <p>prohibited to:</p> <p>(a) exercise an undertaking as an electronic money institution in the Netherlands</p> <p>(b) exercise an undertaking as an electronic money institution in another Member State <i>via</i> a branch office in the Netherlands</p>	<p>(a) in in Nederland het bedrijf van elektronischgeldinstelling uit te oefenen;</p> <p>(b) vanuit een in Nederland gelegen bijkantoor het bedrijf van elektronischgeldinstelling uit te oefenen in een andere lidstaat.</p> <p>requires that Member States shall not apply to a branch of an electronic money institution having its head office outside the EEA provisions which result in a more favourable treatment than those having its head office within the EEA.</p> <p>The definition of Member States encompasses EU and EEA states as referenced above, therefore the wording non-Member States broadens the scope to States outside of the EU and EEA for the purposes of head office locations.</p> <p>On the basis of Article 2:10f paragraph 1 subparagraph (a) of the Financial Supervision Act, the Netherlands prohibits electronic money institutions with a seat in a non-Member State from operating in the Netherlands.</p> <p>Article 2:10f paragraph 1 subparagraph (b) of the Financial Supervision Act also prohibits branch offices of electronic money institutions in the Netherlands from operating as such institutions in another Member State (i.e. EU and EEA states).</p> <p>Therefore, the Netherlands does not provide a more favourable treatment to a branch of an electronic money institution having its seat outside of the EEA.</p> <p>Conformity in this regard is observed with Article 8 paragraph 1 of the Directive.</p> <p>Furthermore, recital 15, requiring that the same treatment should be applied to branches of electronic money institutions which have their head office outside the Community as to</p>

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						those with their head office within the Community, can be considered to have been taken into account by Dutch law.
<b>Art. 8(2)</b>	2. The competent authorities shall notify the Commission of all authorisations for branches of electronic money institutions having their head office outside the Community.	2. De bevoegde autoriteiten stellen de Commissie in kennis van alle vergunningen voor bijkantoren van instellingen voor elektronisch geld die hun hoofdkantoor buiten de Gemeenschap hebben.	N/A	N/A	N/A	<p><b>CONFORM</b></p> <p>No provisions could be identified in Dutch law which transpose Article 8 paragraph 2 of the Directive.</p> <p>The absence, in the national legislation, of a binding disposition requiring the Dutch competent authority to notify the Commission of the authorisations conceded does not prevent that the provision of such information is done.</p> <p>No information has been found as regards the actual notification of the data requested in Article 8(2) of the Directive to the Commission.</p> <p>In view of the above, conformity can be concluded.</p>
<b>Art. 8(3)</b>	3. Without prejudice to paragraph 1, the Community may, through agreements concluded with one or more third countries, agree to apply provisions that ensure that branches of an electronic money institution having its head office outside the Community are treated identically throughout the Community.	Onverminderd lid 1 kan de Gemeenschap, door middel van met één of meer derde landen gesloten overeenkomsten, regelingen treffen inzake de toepassing van bepalingen die de bijkantoren van een instelling voor elektronisch geld die haarhoofdkantoor buiten de Gemeenschap heeft, eenzelfde behandeling in	N/A	N/A	N/A	<p><b>CONFORM</b></p> <p>No provisions could be identified in Dutch law transposing Article 8(3) of the Directive. However conformity is not affected as it concerns an obligation that rests upon the Community and not the Member States.</p>



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		de gehele Gemeenschap verzekeren				
<b>Art. 9(1) 1<sup>st</sup> subpar a. intr. wording</b>	<p><i>Article 9</i> <b>Optional Exemptions</b></p> <p>1. Member States may waive or allow their competent authorities to waive the application of all or part of the procedures and conditions set out in Articles 3, 4, 5 and 7 of this Directive, with the exception of Articles 20, 22, 23 and 24 of Directive 2007/64/EC, and allow legal persons to be entered in the register for electronic money institutions if both of the following requirements are complied with:</p>	<p><i>Artikel 9</i> <b>Facultatieve ontheffingen</b></p> <p>1. De lidstaten kunnen geheel of gedeeltelijk ontheffing verlenen of toestaan dat hun bevoegde autoriteiten geheel of gedeeltelijk ontheffing verlenen van de toepassing van de procedures en voorwaarden neergelegd in de artikelen 3, 4, 5 en 7 van deze richtlijn, met uitzondering van de artikelen 20, 22, 23 en 24 van Richtlijn 2007/64/EG, en toestaan dat rechtspersonen in het register voor instellingen voor elektronisch geld worden ingeschreven, wanneer aan de twee volgende voorwaarden is voldaan:</p>	<p><b>Art. 2:10d of the Financial Supervision Act</b></p> <p><b>Art. 1c Rules on Exemptions of the Financial Supervision Act</b></p> <p><b>Art. 1:107 of the Financial Supervision Act</b></p> <p><b>Art. 2:10a of the Financial</b></p>	<p><b>Article 2:10d of the Financial Supervision Act</b></p> <p>By Order of Decree partial or entire exemptions of Article 2:10a paragraph 1 may be given. Conditions may be established in connection with this entire or partial exemption.</p> <p><b>Article 1c Rules on Exemptions of the Financial Supervision Act</b></p> <p>(1) Exempted of Article 2:10a first paragraph of the Act shall be electronic money institutions with legal personality, if:</p> <p>(a) the combined value of the financial liabilities of the undertaking in connection with issuing electronic money are on average not higher than € 5.000.000;</p> <p>(b) none of the persons determining policy or co-determining policy are persons with a history as indicated by Article 6 (a) –</p>	<p><b>Artikel 2:10d Wet op het Financieel Toezicht</b></p> <p>Bij ministeriële regeling kan geheel of gedeeltelijk vrijstelling worden geregeld van artikel 2:10a, eerste lid. Aan deze gehele of gedeeltelijke vrijstelling kunnen voorschriften worden verbonden.</p> <p><b>Artikel 1c Vrijstellingsregeling Wet op het Financieel Toezicht</b></p> <p>(1) Van artikel 2:10a, eerste lid, van de wet zijn vrijgesteld elektronischgeldinstellingen met rechtspersoonlijkheid, indien:</p> <p>(a) de gezamenlijke waarde van de financiële verplichtingen van de onderneming die met de uitgifte van elektronisch geld verband houden, gemiddeld niet hoger is dan € 5.000.000;</p> <p>(b) geen van de personen die het beleid bepalen of</p>	<p><b>CONFORM</b></p> <p>Article 9(1) first subparagraph introductory wording of the Directive sets out an option, which the Netherlands chose to apply.</p> <p>Article 2:10d of the Financial Supervision Act and Article 1c transpose the option of Article 9 paragraph 1 sub-paragraph 1 introductory wording of the Directive.</p> <p>Article 2:10d of the Financial Supervision Act indicates that conditions for partial or entire exemptions of the authorisation requirements for electronic money institutions may be established.</p> <p>Article 1c paragraph 1 of the Rules on Exemptions of the Financial Supervision Act indicates the exemptions of Article 2:10a first paragraph concerning electronic money institutions, in particular if the four requirements below are met: (e) the combined value of the financial liabilities in connection with issuing electronic money are on average not higher than € 5.000.000, (f) none of the policy makers or co-policy makers have a history of money laundering activities, financing terrorism or hold a record of misdemeanours of financial supervision laws, (g) the undertaking only issues electronic money via a payment instrument or account for electronic money upon which a maximum amount of € 150 any one time can be stored; and (h) the undertaking has informed the Dutch Central bank of its intention to issue</p>

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		<p><b>Supervision Act</b></p> <p>(d) of the Decree Prudential Rules of the Financial Supervision Act, in so far as they concern money laundering activities or financing of terrorism or economic offences or have been noted to be involved with misdemeanors of financial supervision laws;</p> <p>(c) the undertaking only issues electronic money <i>via</i> a payment instrument or account for electronic money upon which a maximum amount of € 150 any one time can be stored; and</p> <p>(d) the undertaking has informed the Dutch Central Bank of its intention to issue electronic money.</p> <p><b>Article 1:107 of the Financial Supervision Act</b></p> <p>2) The registrar takes immediately care of the registration of:</p> <p>(a) the financial undertakings:</p> <p>2°. To which exemptions apply, if on the basis of</p>	<p>electronic money</p> <p>In this regard, Dutch law provides for exceptions to requiring authorisations in cases of small scale electronic money institutions with no criminal history of money laundering or terrorist financing, while guaranteeing confidentiality and requiring a notification to the supervisory authorities.</p> <p>The requirements of Article 1c paragraph 1 of the Rules on Exemptions of the Financial Supervision Act are without compromise to the designation of competent authorities; professional secrecy rules; the right to apply to the courts and the exchange of information of Article 20, 22, 23 and 24 of Directive 2007/64/EC respectively.</p> <p>Article 2:10a and 2:10e of the Financial Supervision Act are aimed at electronic money institutions with a seat in the Netherlands or operating <i>via</i> branches in the Netherlands, both of which require authorisation. Therefore, the waivers applicable can be considered to concern only electronic money institutions operating on the territory of the Netherlands.</p> <p>Furthermore, account is taken of recital 16 for waiving the application of provisions regarding institutions issuing only a limited amount of electronic money; and that such institutions shall not benefit from the freedom of establishment or of providing services.</p> <p>Account is also taken of recital 16 concerning the registration of those electronic money institutions benefiting from a waiver, as</p>

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				<p>rules in connection with the exemption they have notified the supervisor of its intention to provide the relevant services;</p> <p><b>Article 2:10a of the Financial Supervision Act</b></p> <p>(1) Any person with a seat in the Netherlands is prohibited to issue electronic money without prior authorisation from the Dutch Central Bank.</p>	<p>(a) financiële ondernemingen:</p> <p>2°. waarop een vrijstelling van toepassing is, indien zij ingevolge een voorschrift dat aan die vrijstelling is verbonden de toezichthouder in kennis hebben gesteld van hun voornemen om de desbetreffende diensten te verlenen;</p> <p><b>Artikel 2:10a Wet op het Financieel Toezicht</b></p> <p>(1) Het is een ieder met zetel in Nederland verboden zonder een daartoe door de Nederlandsche Bank verleende vergunning elektronisch geld uit te geven.</p>	<p>registrations of financial undertakings including those undertakings holding a waiver as required on the basis of Article 1:107 paragraph 2 subparagraph (a) under point 2 of the Financial Supervision Act.</p> <p>The option is therefore transposed in accordance with Article 9 paragraph 1 subparagraph 1 introductory wording of the Directive.</p>
<b>Art. 9(1) 1<sup>st</sup> subpar . (a)</b>	(a) the total business activities generate an average outstanding electronic money that does not exceed a limit set by the Member State but that, in any event, amounts to no more than EUR 5000000; and	a) de totale bedrijfsactiviteiten genereren een gemiddeld uitstaand elektronisch geld dat niet hoger is dan een bovengrens die door de lidstaat wordt vastgelegd, maar in geen geval hoger ligt dan 5 000 000 EUR; en	<b>Art. 1c Rules on Exemptions of the Financial Supervision Act</b>	<p><b>Article 1c Rules on Exemptions of the Financial Supervision Act</b></p> <p>(1) Exempted of Article 2:10a first paragraph of the Act shall be electronic money institutions with legal personality, if:</p> <p>(a) the combined value of the financial liabilities of</p>	<p><b>Artikel 1c Vrijstellingsregeling Wet op het Financieel Toezicht</b></p> <p>(1) Van artikel 2:10a, eerste lid, van de wet zijn vrijgesteld elektronischgeldinstellingen met rechtspersoonlijkheid, indien:</p>	<p><b>CONFORM</b></p> <p>Article 1c paragraph 1 under (a) of the Rules on Exemptions of the Financial Supervision Act transposes Article 9 paragraph 1 subparagraph 1 under (a) of the Directive.</p> <p>Article 1c paragraph 1 of the Rules on Exemptions of the Financial Supervision Act indicates that electronic money institutions shall be exempt from authorisation requirements when the combined value of the financial liabilities of the undertaking in</p>

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				the undertaking in connection with issuing electronic money are on average not higher than € 5.000.000;	(a) de gezamenlijke waarde van de financiële verplichtingen van de onderneming die met de uitgifte van elektronisch geld verband houden, gemiddeld niet hoger is dan € 5.000.000;	<p>connection with issuing electronic money are on average not higher than € 5.000.000.</p> <p>Article 1c paragraph 1 and under (a) of the Rules on Exemptions of the Financial Supervision Act meets the Directive requirement concerning generating an average outstanding amount of no more than EUR 5 000 000.</p> <p>Conformity is thus observed with Article 9 paragraph 1 sub-paragraph 1 under (a) of the Directive.</p> <p>Furthermore, account is also taken of recital 16 concerning waiving the application of provisions regarding institutions issuing only a limited amount of electronic money.</p>
<b>Art. 9(1) 1<sup>st</sup> subpar a. (b)</b>	(b) none of the natural persons responsible for the management or operation of the business has been convicted of offences relating to money laundering or terrorist financing or other financial crimes.	b) geen van de met de leiding of de exploitatie van het bedrijf belaste natuurlijke personen is veroordeeld wegens strafbare feiten in verband met het witwassen van geld of terrorisme-financiering, dan wel een ander financieel misdrijf.	<b>Art. 1c Rules on Exemptions of the Financial Supervision Act</b>	<p><b>Article 1c Rules on Exemptions of the Financial Supervision Act</b></p> <p>(1) Exempted of Article 2:10a first paragraph of the Act shall be electronic money institutions with legal personality, if:</p> <p>(b) none of the persons determining policy or co-determine policy are persons with a history as indicated by Article 6 (a) – (d) of the Decree Prudential Rules of the Financial Supervision Act, in so far as they concern</p>	<p><b>Artikel 1c Vrijstellingsregeling Wet op het Financieel Toezicht</b></p> <p>(1) Van artikel 2:10a, eerste lid, van de wet zijn vrijgesteld elektronischgeldinstellingen met rechtspersoonlijkheid, indien:</p> <p>(b) geen van de personen die het beleid bepalen of mede bepalen personen zijn met antecedenten als bedoeld in artikel 6, onderdeel a, b of d, van het Besluit prudentiële</p>	<b>CONFORM</b>
						<p>Article 1c paragraph 1 under (b) of the Rules on Exemptions of the Financial Supervision Act transposes Article 9 paragraph 1 subparagraph 1 under (b) of the Directive.</p> <p>Article 1c paragraph 1 of the Rules on Exemptions of the Financial Supervision Act indicates that electronic money institutions shall be exempt from authorisation requirements when none of the policy makers or co-policy makers have a record or history of money laundering or financing of terrorism or have been noted to be involved with misdemeanours of financial supervision laws.</p> <p>Article 1c paragraph 1 and under (b) of the Rules on Exemptions of the Financial Supervision Act meets the Directive requirement of exempting electronic money</p>

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			money laundering activities or financing of terrorism or economic offences or have been noted to be involved with misdemeanors of financial supervision laws;	regels Wft, voor zover deze betrekking hebben op het witwassen van geld, terrorismefinanciering of vermogensmisdriven of als misdrijf aangemerkte overtredingen van financiële toezichtswetgeving;	institutions when none of the natural persons responsible for the management or operation of the business has been convicted of offences of money laundering, terrorist financing or other financial crimes.  Conformity is observed with Article 9 paragraph 1 sub-paragraph 1 under (b) of the Directive.	
<b>Art. 9(1) 2<sup>nd</sup> subpara a,</b>	Where an electronic money institution carries out any of the activities referred to in Article 6(1)(a) that are not linked to the issuance of electronic money or any of the activities referred to in Article 6(1)(b) to (e) and the amount of outstanding electronic money is unknown in advance, the competent authorities shall allow that electronic money institution to apply point (a) of the first subparagraph on the basis of a representative portion assumed to be used for the issuance of electronic money, provided that such a representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the competent authorities.	Wanneer een instelling voor elektronisch geld een van de in artikel 6, lid 1, onder a), genoemde werkzaamheden die geen verband houden met de uitgifte van elektronisch geld of een van de in artikel 6, lid 1, onder b) tot en met e), genoemde werkzaamheden verricht en het uitstaande bedrag aan elektronisch geld niet van te voren bekend is, staan de bevoegde autoriteiten deze instelling voor elektronisch geld toe punt a) van de eerste alinea toe te passen op basis van een representatief gedeelte dat geacht wordt voor de uitgifte van elektronisch geld te worden gebruikt, mits een dergelijk representatief gedeelte ten genoegen van de	<b>Art. 3:3 of the Financial Supervision Act</b>  <b>Art. 3:29c of the Financial Supervision Act</b>  <b>Art. 18a Rules on Exemptions of the Financial Superv</b>	<b>Article 3:3 of the Financial Supervision Act</b>  By Order of Decree exemptions may be established on the basis of the requirements of this Section for (...) electronic money institutions.  <b>Article 3:29c of the Financial Supervision Act</b>  (4) By Order of Decree rules shall be established concerning the providing of services relating to points 4, 5 and 7 of the Annex to the payment services Directive indicated credits by electronic money institutions with a seat in the Netherlands.  <b>Article 18a Rules on Exemptions of the</b>	<b>Artikel 3:3 Wet op het Financieel Toezicht</b>  Bij ministeriële regeling kan vrijstelling worden geregeld van het ingevolge dit deel bepaalde voor (...) elektronischgeldinstellinge  <b>Artikel 3:29c Wet op het Financieel Toezicht</b>  (4) Bij of krachtens algemene maatregel van bestuur worden regels gesteld met betrekking tot het verlenen van de onder 4, 5 en 7 van de bijlage bij de richtlijn betaaldiensten bedoelde kredieten door (...) elektronischgeldinstellinge n met zetel in Nederland.  <b>Artikel 18a Vrijstellingsregeling Wet op het Financieel Toezicht</b>	<b>CONFORM</b>  Article 3:3 and 3:29c of the Financial Supervision Act in conjunction with Article 40a paragraph 4 of the Decree Prudential Rules of the Financial Supervision Act and Article 1c and 18a of the Rules on Exemptions of the Financial Supervision Act transpose Article 9 paragraph 1 subparagraph 2 of the Directive.  Article 3:3 of the Financial Supervision Act indicates that exemptions may be established for the requirements of that Section by Order of Decree for electronic money institutions.  Article 18a paragraph 1 of the Rules on Exemptions of the Financial Supervision Act indicates that electronic money institutions as indicated in Article 1c of those Rules shall be exempt from the Section Prudential supervision on financial undertakings, with the exception of Article 3:29c paragraph 4 of the Act.  Article 3:29c paragraph 4 of the Financial Supervision Act indicates that rules shall be established concerning the provision of services not related to issuing electronic

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Where an electronic money institution has not completed a sufficiently long period of business, that requirement shall be assessed on the basis of projected outstanding electronic money evidenced by its business plan subject to any adjustment to that plan having been required by the competent authorities.	bevoegde autoriteiten redelijkerwijs op basis van historische gegevens kan worden geraamd; wanneer een instelling voor elektronisch geld haar activiteiten niet lang genoeg heeft uitgeoefend, wordt dit vereiste beoordeeld op basis van het geraamde uitstaande bedrag aan elektronisch geld als vermeld in haar programma van werkzaamheden, rekening houdend met alle aanpassingen van dit plan die de bevoegde autoriteiten hebben verlangd.	<b>Financial Supervision Act</b> <b>Art. 40a of the Decree Prudential Rules of the Financial Supervision Act</b> <b>Art. 1c Rules on Exemptions of the Financial Supervision Act</b>	<b>Financial Supervision Act</b> (1) Electronic money institutions as indicated in Article 1c shall be exempt from the Section on Prudential supervision on financial undertakings, with the exception of Articles (...) 3:29c paragraph 4 (...) of the Act. <b>Article 40a of the Decree Prudential Rules of the Financial Supervision Act</b> <b>Provisions implementing Articles 3:29a and 3:29c, third paragraph of the Act</b> (4) If the part of the own funds designated for future transactions is not known or variable, the payment institution shall be allowed to exclusively apply the first paragraph on the basis of a representative portion assumed to be used for the payment services. This representative portion must be reasonably estimated on the basis of	(1) Elektronischgeldinstelling en als bedoeld in artikel 1c zijn vrijgesteld van hetgeen ingevolge het Deel Prudentieel toezicht financiële ondernemingen, met uitzondering van de artikelen 3:5, 3:6, 3:7, 3:29a, 3:29b, 3:29c, vierde lid, en 3:34 van de wet is bepaald. <b>Artikel 40a Besluit Prudentiele Regels Wet op het Financieel Toezicht</b> <b>Bepalingen ter uitvoering van de artikelen 3:29a en 3:29c, derde lid, van de wet</b> (4) Indien het deel van de geldmiddelen dat bestemd is voor toekomstige betalingstransacties niet bekend of variabel is, is het de betaalinstanties toegestaan om het eerste lid uitsluitend toe te passen op een representatief gedeelte dat geacht wordt voor betalingsdiensten te worden gebruikt. Dit representatieve gedeelte moet redelijkerwijs	money as applicable to electronic money institutions with a seat in the Netherlands, which based on the exception indicated above shall also therefore apply to electronic money institutions with exemptions or waivers. Article 40a of the Decree Prudential Rules of the Financial Supervision Act implements the provisions of Article 3:29a and 3:29c of the Financial Supervision Act. In this regard, Article 40a paragraph 4 of the Decree Prudential Rules of the Financial Supervision Act indicates that if a part of the own funds designated for future transactions is not known or variable, the payment institution ( <i>via</i> paragraph 5 also electronic money institution) shall be allowed to exclusively apply the first paragraph on the basis of a representative portion assumed to be used for the payment services. This representative portion must be reasonably estimated on the basis of historical data. Article 40a paragraph 4 of the Decree Prudential Rules of the Financial Supervision Act therefore applies to unknown outstanding money of electronic money institutions, including those with a waiver or exemption as required under the Directive. Conformity in this regard with the Directive is thus observed. Furthermore, this representative portion shall be assumed to be used for the payment services referred to in Article 6 of the Directive, provided that such a representative portion can be reasonably estimated on the

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			<p>historical data.</p> <p><b>Article 1c Rules on Exemptions of the Financial Supervision Act</b></p> <p>(2) Where an electronic money institution as indicated in the first paragraph has not completed a period of business over the previous 12 months, for the application of the first paragraph subparagraph (a), a business plan may be assumed which to the satisfaction of the Dutch Central Bank forms a realistic projection of the value of the financial liabilities in connection with the issuance of electronic money.</p>	<p>kunnen worden geraamd op basis van historische gegevens.</p> <p><b>Article 1c Vrijstellingsregeling Wet op het Financieel Toezicht</b></p> <p>(2) Indien een elektronischgeldinstelling als bedoeld in het eerste lid zijn werkzaamheden niet gedurende de gehele periode van de voorafgaande twaalf maanden heeft verricht, kan voor de toepassing van het eerste lid, onderdeel a, worden uitgegaan van een programma van werkzaamheden waarin naar het oordeel van de Nederlandsche Bank een reële begroting is opgenomen van de gezamenlijke waarde van de financiële verplichtingen die verband houden met de uitgifte van elektronisch geld.</p>	<p>basis of historical data.</p> <p>In this regard, conformity with the Directive is also observed.</p> <p>The Directive furthermore requires where an electronic money institution has not completed: a sufficiently long period of business, that this requirement referenced above shall be assessed on the basis of projected outstanding electronic money evidenced by its business plan and subject to any adjustment to that plan having been required by the competent authorities.</p> <p>In this regard, Article 1c paragraph 2 of the Rules on Exemptions of the Financial Supervision Act indicates that where electronic money institutions have not completed a period of business over the previous 12 months, for the application of the first paragraph under (a) a business plan may be assumed which to the satisfaction of the Dutch Central Bank forms a realistic projection of the value of the financial liabilities</p> <p>Article 1c paragraph 2 of the Rules on Exemptions of the Financial Supervision Act therefore uses 12 months as the interpretation of the Directive requirement of ‘not having completed a sufficiently long period of business’, which can be considered in conformity with the Directive.</p> <p>Furthermore, concerning the second indent requirement, the application of paragraph (a) concerns the identical Directive requirement under Article 9 paragraph 1 under (a) that the</p>

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						<p>average outstanding electronic money must not exceed more than EUR 5 000 000.</p> <p>Conformity in this regard is also observed with the Directive.</p> <p>According to Article 1c paragraph 2 of the Rules on Exemptions of the Financial Supervision Act, also a business plan may be assumed which must be to the satisfaction of the Dutch Central Bank to indicate a realistic projection of the value of the financial liabilities. In this regard, these requirements of the Directive are also met.</p> <p>Overall, based on the above observations, conformity with Article 9 paragraph 1 subparagraph 2 of the Directive is observed.</p>
<b>Art. 9(1) 3<sup>rd</sup> subparagraph a.</b>	Member States may also provide for the granting of the optional exemptions under this Article to be subject to an additional requirement of a maximum storage amount on the payment instrument or payment account of the consumer where the electronic money is stored.	De lidstaten kunnen eveneens bepalen dat de toekenning van de facultatieve ontheffingen krachtens dit artikel afhankelijk is van een bijkomende voorwaarde, namelijk een maximale opslagcapaciteit op het betaalinstrument of de betaalrekening van de consument waar het elektronisch geld is opgeslagen.	<b>Art. 1c Rules on Exemptions of the Financial Supervision Act</b>	<p><b>Article 1c Rules on Exemptions of the Financial Supervision Act</b></p> <p>(1) Exempted of Article 2:10a first paragraph of the Act shall be electronic money institutions with legal personality, if:</p> <p>(c) the undertaking only issues electronic money <i>via</i> a payment instrument or account for electronic money on which a maximum amount of €150 any one time can be stored;</p>	<p><b>Artikel 1c Vrijstellingsregeling Wet op het Financieel Toezicht</b></p> <p>(1) Van artikel 2:10a, eerste lid, van de wet zijn vrijgesteld elektronischgeldinstellingen met rechtspersoonlijkheid, indien:</p> <p>(c) de onderneming elektronisch geld slechts uitgeeft via een betaalinstrument of rekening voor elektronisch geld waarop maximaal een</p>	<p><b>CONFORM</b></p> <p>Article 9(1) third subparagraph of the Directive sets out an option, which the Netherlands chose to apply.</p> <p>Article 1c of the Rules on Exemptions of the Financial Supervision Act transposes the option of Article 9 paragraph 1 subparagraph 3 of the Directive.</p> <p>Article 9 paragraph 1 subparagraph 3 of the Directive states that optional exemptions under this Article may be provided subject to an additional requirement of a maximum storage amount on the payment instrument or payment account where the electronic money is stored.</p> <p>In this regard, Article 1c paragraph 1 and under (c) of the Rules on Exemptions of the</p>



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					bedrag van € 150 tegelijk kan worden opgeslagen;	<p>Financial Supervision Act indicates that electronic money institutions shall be exempted if the undertaking only issues electronic money via a payment instrument or account for electronic money on which a maximum amount of €150 any one time can be stored.</p> <p>The exemptions also apply in Dutch law and are also subject to an additional requirement of a maximum storage amount of €150 on the payment instrument or account.</p> <p>The option of Article 9 paragraph 1 subparagraph 3 of the Directive is therefore transposed in accordance with the Directive.</p>
<b>Art. 9(1) 4<sup>th</sup> subpara.</b>	A legal person registered in accordance with this paragraph may provide payment services not related to electronic money issued in accordance with this Article only if conditions set out in Article 26 of Directive 2007/64/EC are met.	Een rechtspersoon met een registerinschrijving overeenkomstig dit lid mag enkel betalingsdiensten aanbieden die geen verband houden met elektronisch geld dat wordt uitgegeven overeenkomstig dit artikel indien is voldaan aan de voorwaarden opgenomen in artikel 26 van Richtlijn 2007/64/EG.	<b>Art. 1a Rules on Exemptions of the Financial Supervision Act</b>	<b>Article 1a Rules on Exemptions of the Financial Supervision Act</b>  (1) Of Article 2:3a, first paragraph of the Act shall be exempt payment service providers:  (b) of which the average of the preceding 12 months' total amount of payment transactions executed, including any agent for which it assumes full responsibility, does not exceed EUR 3.000.000 per month.  (c) none of the persons determining policy or co-	<b>Article 1a Vrijstellingsregeling Wet op het Financieel Toezicht</b>  (1) Van artikel 2:3a, eerste lid, van de wet zijn vrijgesteld betaaldienstverleners:  (b) waarvan het gemiddelde van het totale bedrag van de betalingstransacties die zij de voorafgaande twaalf maanden hebben verricht, met inbegrip van die van agenten waarvoor zij volledig aansprakelijk zijn, niet hoger is dan € 3.000.000 per maand;	<b>CONFORM</b>  Article 1a of the Rules on Exemptions of the Financial Supervision Act transposes Article 9 paragraph 1 subparagraph 4 of the Directive.  Article 9 paragraph 1 subparagraph 4 of the Directive requires that legal persons registered with the exemptions of this paragraph may provide payment services not related to electronic money issued in accordance with this Article only if the conditions of Article 26 of Directive 2007/64/EC are met.  Article 26 of Directive 2006/64/EC states that Member States may waive all or part of the procedures where: (a) the average of the preceding 12 months' total amount of payment transactions executed by the person concerned, including any agent for which it

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			<p>determine policy are persons with a history as indicated by Article 6 (a) – (d) of the Decree Prudential Rules of the Financial Supervision Act, in so far as they concern money laundering activities or financing of terrorism or economic offences or have been noted to be involved with misdemeanors of financial supervision laws;</p> <p>(3) Where a payment service provider as indicated in the first paragraph has not completed a period of business over the previous 12 months, for the application of the first paragraph sub-paragraph (b), a business plan may be assumed which to the satisfaction of the Dutch Central Bank forms a realistic projection of the value of the financial liabilities in connection with the payment transactions.</p>	<p>(c) waarvan geen van de personen die het beleid bepalen of mede bepalen personen zijn met antecedenten als bedoeld in artikel 6, onderdelen a, b en d, van het Besluit prudentiële regels Wft voor zover deze betrekking hebben op het witwassen van geld, terrorismefinanciering of vermogensmisdrijven of als misdrijf aangemerkte overtredingen van financiële toezichtswetgeving;</p> <p>(3) Indien een betaaldienstverlener als bedoeld in het eerste lid zijn werkzaamheden niet gedurende de gehele periode van de voorafgaande twaalf maanden heeft verricht, kan voor de toepassing van het eerste lid, onderdeel b, worden uitgegaan van een programma van werkzaamheden waarin naar het oordeel van de Nederlandsche Bank een reële begroting van het totale bedrag aan betalingstransacties is</p>	<p>assumes full responsibility, does not exceed EUR 3.000.000 per month. That requirement shall be assessed on the projected total amount of payment transactions in its business plan, unless an adjustment to that plan is required by the competent authorities; and (b) none of the natural persons responsible for the management or operation of the business has been convicted of offences relating to money laundering or terrorist financing or other financial crimes.</p> <p>In this regard, Article 1a paragraph 1 sub paragraph (b) of the Rules on Exemptions of the Financial Supervision Act indicates that payment service providers shall be exempt when (b) the average of the preceding 12 months' total amount of payment transactions executed, including any agent for which it assumes full responsibility, does not exceed EUR 3.000.000 per month.</p> <p>The Dutch requirements are identical with the requirement of the first sentence of Article 26 paragraph 1 under (a) of Directive 2007/64/EC.</p> <p>Conformity is thus observed.</p> <p>The second sentence of Article 26 paragraph 1 under (a) of Directive 2007/64/EC is transposed by Article 1a paragraph 3 of the Rules on Exemptions of the Financial Supervision Act, which indicates that where a period of business over the previous 12 months is not completed, a business plan may be assumed which to the satisfaction of the Dutch Central Bank forms a realistic projection of the value of the financial</p>

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					opgenomen.	<p>liabilities in connection with the payment transactions.</p> <p>Conformity is also observed in this regard.</p> <p>With regard to Article 26 paragraph 1 subparagraph (b) of Directive 2007/64/EC, Article 1a paragraph 1 subparagraph (c) of the Rules on Exemptions of the Financial Supervision Act indicates that none of the persons determining policy or co-determining policy have a history concerning money laundering activities or financing of terrorism or economic offences or have been noted to be involved with misdemeanours of financial supervision laws.</p> <p>In this regard, Article 1a paragraph 1 subparagraph (c) of the Rules on Exemptions of the Financial Supervision Act literally transposes the requirement of Article 26 paragraph 1 subparagraph (b) of Directive 2007/64/EC.</p> <p>Conformity is thus observed with Article 9 paragraph 1 subparagraph 4 of the Directive.</p>
<b>Art. 9(2)</b>	2. A legal person registered in accordance with paragraph 1 shall be required to have its head office in the Member State in which it actually pursues its business.	2. Een rechtspersoon met een registerinschrijving overeenkomstig lid 1 dient zijn hoofdkantoor te hebben in de lidstaat waar hij zijn werkzaamheden feitelijk ontplooit.	<b>Art. 1a Rules on Exemptions of the Financial Supervision Act</b>	<b>Article 1a Rules on Exemptions of the Financial Supervision Act</b>	<b>Article 1a Vrijstellingsregeling Wet op het Financieel Toezicht</b>	<b>PARTIALLY CONFORM</b>
			(1) Payment service providers shall be exempt from Article 2:3a, first paragraph of the Act:  (a) in so far as they provide payment services in the Netherlands as	(1) Van artikel 2:3a, eerste lid, van de wet zijn vrijgesteld betaaldienstverleners:  (a) voor zover zij in Nederland betaaldiensten verlenen als bedoeld onder	Article 1a of the Rules on Exemptions of the Financial Supervision Act transposes Article 9 paragraph 2 of the Directive.  Article 9 paragraph 2 of the Directive indicates that legal persons registered in accordance with a waiver shall be required to have their head office in the Member State in which they actually pursue their business.  Article 1a paragraph 1 subparagraph (a) of	

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				indicated under 1 until 5 and 7 of the payment services Directive;	1 tot en met 5 en 7 van de bijlage bij de richtlijn betaaldiensten;	<p>the Rules on Exemptions of the Financial Supervision Act states that exemptions shall be given to payment service providers in so far as those services as indicated in points 1 – 5 and 7 of the payment services Directive are provided in the Netherlands.</p> <p>However, Article 1a paragraph 1 subparagraph (a) of the Rules on Exemptions of the Financial Supervision Act does not explicitly indicate to require a head office in the Member State of pursuing business, it only requires that the payment service provider must provide services in the Netherlands, which could also be <i>via</i> a branch office in this regard.</p> <p>Therefore, only partial conformity can be observed with Article 9 paragraph 2 of the Directive.</p>
<b>Art. 9(3)</b>	3. A legal person registered in accordance with paragraph 1 shall be treated as an electronic money institution. However, Article 10(9) and Article 25 of Directive 2007/64/EC shall not apply to it.	3. Een rechtspersoon met registerinschrijving overeenkomstig lid 1 wordt behandeld als een instelling voor elektronisch geld. Artikel 10, lid 9, en artikel 25 van Richtlijn 2007/64/EG zijn echter niet op hem van toepassing	<b>Art. 1c Rules on Exemptions of the Financial Supervision Act</b>	<p><b>Article 1c Rules on Exemptions of the Financial Supervision Act</b></p> <p>(1) Exempted of Article 2:10a first paragraph of the Act shall be electronic money institutions with legal personality, if:</p> <p>(a) the combined value of the financial liabilities of the undertaking in connection with issuing electronic money are on average not higher than €</p>	<p><b>Artikel 1c Vrijstellingsregeling Wet op het Financieel Toezicht</b></p> <p>(1) Van artikel 2:10a, eerste lid, van de wet zijn vrijgesteld elektronischgeldinstellingen met rechtspersoonlijkheid, indien:</p> <p>(a) de gezamenlijke waarde van de financiële verplichtingen van de onderneming die met de uitgifte van elektronisch</p>	<p><b>PARTIALLY CONFORM</b></p> <p>Article 1c of the Rules on Exemptions of the Financial Supervision Act transposes Article 9 paragraph 3 of the Directive.</p> <p>Article 1c paragraph 1 and under (a) of the Rules on Exemptions of the Financial Supervision Act requires that only electronic money institutions with legal personality shall be exempted if they meet those requirements identical to those in paragraph 1 of Article 9 of this Directive.</p> <p>However, Article 1c paragraph 1 the Rules on Exemptions of the Financial Supervision Act does not explicitly indicate that such exempted electronic money institutions shall</p>

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				5.000.000;	geld verband houden, gemiddeld niet hoger is dan € 5.000.000;	also not be authorised to provide services in other Member States and may not exercise the right of freedom of establishment as indicated in Articles 10 paragraph 9 and 25 of Directive 2007/64/EC.  Therefore, only partial conformity is observed with Article 9(3) of the Directive.
<b>Art. 9(4)</b>	4. Member States may provide for a legal person registered in accordance with paragraph 1 to engage only in some of the activities listed in Article 6(1).	4. De lidstaten kunnen bepalen dat een rechtspersoon met een registerinschrijving overeenkomstig lid 1 alleen sommige van de in artikel 6, lid 1, opgesomde activiteiten mag ontplooiën.	<b>N/A</b>	N/A	N/A	Article 9(4) of the Directive sets out an option. Owing to this option, the Netherlands has not chosen to apply it. In this regard, no corresponding provision could be located in the legislation of the Netherlands.
<b>Art. 9(5) intr. wording</b>	5. A legal person referred to in paragraph 1 shall:	5. De in lid 1 bedoelde rechtspersonen:	<b>N/A</b>	N/A	N/A	<b>CONFORM</b>  Due to the different structure of Dutch law, no provisions could be identified, however conformity is not affected.
<b>Art. 9(5)(a)</b>	(a) notify the competent authorities of any change in its situation which is relevant to the conditions specified in paragraph 1; and	a) stellen de bevoegde autoriteiten in kennis van elke verandering in hun situatie die relevant is voor de in lid 1 gespecificeerde voorwaarden; en	<b>Art. 1c Rules on Exemptions of the Financial Supervision Act</b>	<b>Article 1a Rules on Exemptions of the Financial Supervision Act</b>  (4) A payment service provider, as defined in the first paragraph, shall inform the Dutch Central Bank of any change in its situation relevant to the fulfillment of the	<b>Artikel 1a Vrijstellingsregeling Wet op het Financieel Toezicht</b>  (4) Een betaaldienstverlener als bedoeld in het eerste lid stelt de Nederlandsche Bank in kennis van elke verandering in zijn situatie die relevant is voor het	<b>CONFORM</b>  Article 1a and 1c of the Rules on Exemptions of the Financial Supervision Act transposes Article 9 paragraph 5 subparagraph (a) of the Directive.  Article 1a and 1c paragraph 4 of the Rules on Exemptions of the Financial Supervision Act indicate that payment service providers and electronic money institutions respectively as defined in the first paragraph of that Article, shall inform the Dutch Central Bank of any

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			<b>Art. 1a Rules on Exemptions of the Financial Supervision Act</b>	requirements in the first paragraph.  <b>Article 1c Rules on Exemptions of the Financial Supervision Act</b>  (4) An electronic money institution, as defined in the first paragraph, will inform the Dutch Central Bank of any change in its situation relevant for the fulfillment of the requirements in the first paragraph.	naleven van de in het eerste lid gestelde voorschriften.  <b>Artikel 1c Vrijstellingsregeling Wet op het Financieel Toezicht</b>  (4) Een elektronischgeldinstelling als bedoeld in het eerste lid stelt de Nederlandsche Bank in kennis van elke verandering in zijn situatie die relevant is voor het naleven van de in het eerste lid gestelde voorschriften.	change in its situation relevant to the fulfilment of the requirements of the first paragraph of that Article.  Conformity with the Directive requirement of notifying change in situations relevant to the conditions of paragraph 1 is observed.
<b>Art. 9(5)(b)</b>	(b) at least annually, on date specified by the competent authorities, report on the average outstanding electronic money.	b) brengen ten minste jaarlijks op een datum die is vastgelegd door de bevoegde autoriteiten verslag uit over het gemiddeld uitstaand elektronisch geld.	<b>Art. 3:71 Financial Supervision Act</b>	<b>Article 3:71 Financial Supervision Act</b>  (1) A payment institution (...) electronic money institution (...) with a seat in the Netherlands shall provide within 6 months after the financial year to the Dutch Central Bank the annual accounts, an annual report, and the remaining information (...)	<b>Artikel 3:71 Wet op het Financieel Toezicht</b>  (1) Een betaalinstitution, (...) elektronischgeldinstelling, (...) met zetel in Nederland verstrekt binnen zes maanden na afloop van het boekjaar aan de Nederlandsche Bank de jaarrekening, het jaarverslag, en de overige informatie (...)	<b>CONFORM</b>  Article 3:71 of the Financial Supervision Act transposes Article 9 paragraph 5 subparagraph (b) of the Directive.  Article 3:71 paragraph 1 of the Financial Supervision Act requires all legal persons with a seat in the Netherlands, including all electronic money institutions, to provide within 6 months after the financial year to the Dutch Central Bank the annual accounts and annual reports, which can be considered to include the average outstanding electronic money as required by the Directive and electronic money institutions with exemptions of paragraph 1 of the Directive, as these are not excluded from the general reporting requirements for financial

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						undertakings. Conformity with Article 9 paragraph 5 subparagraph (b) of the Directive is observed.
<b>Art. 9(6)</b>	6. Member States shall take the necessary steps to ensure that where the conditions set out in paragraphs 1, 2 and 4 are no longer met, the legal person concerned shall seek authorisation within 30 calendar days in accordance with Article 3. Any such person that has not sought authorisation within that period shall be prohibited, in accordance with Article 10, from issuing electronic money.	6. De lidstaten nemen de nodige maatregelen om ervoor te zorgen dat de rechtspersonen in kwestie, wanneer de in de leden 1, 2 en 4 gestelde voorwaarden niet langer zijn vervuld, binnen 30 kalenderdagen een vergunning aanvragen overeenkomstig artikel 3. Een dergelijke persoon die niet binnen dit tijdsbestek een vergunning heeft aangevraagd, wordt het overeenkomstig artikel 10 verboden om elektronisch geld uit te geven.	<b>Art. 2:10a Financial Supervision Act</b> <b>Art. 1c Rules on Exemptions of the Financial Supervision Act</b> <b>Art. 1a Rules on Exemptions of the Financial Supervision Act</b>	<b>Article 2:10a of the Financial Supervision Act</b> (1) Any person with a seat in the Netherlands is prohibited to issue electronic money without prior authorisation from the Dutch Central Bank. <b>Article 1a Rules on Exemptions of the Financial Supervision Act</b> (4) A payment service provider, as defined in the first paragraph, shall inform the Dutch Central Bank of any change in its situation relevant to the fulfilment of the requirements in the first paragraph. <b>Article 1c Rules on Exemptions of the Financial Supervision Act</b> (4) A electronic money institution, as defined in the first paragraph, shall inform the Dutch Central	<b>Artikel 2:10a Wet op het Financieel Toezicht</b> (1) Het is een ieder met zetel in Nederland verboden zonder een daartoe door de Nederlandsche Bank verleende vergunning elektronisch geld uit te geven. <b>Artikel 1a Vrijstellingsregeling Wet op het Financieel Toezicht</b> (4) Een betaaldienstverlener als bedoeld in het eerste lid stelt de Nederlandsche Bank in kennis van elke verandering in zijn situatie die relevant is voor het naleven van de in het eerste lid gestelde voorschriften. <b>Artikel 1c Vrijstellingsregeling Wet op het Financieel Toezicht</b> (4) Een elektronischgeldinstelling	<b>CONFORM</b> Articles 2:3a of the Financial Supervision Act and Article 1a and 1c of the Rules on Exemptions of the Financial Supervision Act transposes Article 9 paragraph 6 of the Directive. Article 1a and 1c paragraph 4 of the Rules on Exemptions of the Financial Supervision Act require payment service providers and electronic money institutions respectively to inform the Dutch Central Bank of any change in its situation relevant for the fulfilment of the requirements of the first paragraph of that Article, which includes the conditions set out in Article 9 of the Directive. Therefore, if any of the conditions which must be met change, the competent authorities shall be notified and can act accordingly. Conformity with Article 9 paragraph 6 first sentence of the Directive is thus observed. Article 2:10a paragraph 1 of the Financial Supervision Act states that any person with a seat in the Netherlands is prohibited to issue electronic money without prior authorisation. Conformity with Article 9 paragraph 6 second sentence of the Directive is also observed. Overall, based on the above observations,

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				Bank of any change in its situation relevant to the fulfillment of the requirements in the first paragraph.	als bedoeld in het eerste lid stelt de Nederlandsche Bank in kennis van elke verandering in zijn situatie die relevant is voor het naleven van de in het eerste lid gestelde voorschriften.	conformity with the Directive is observed.
<b>Art. 9(7)</b>	7. Member States shall ensure that their competent authorities are sufficiently empowered to verify continued compliance with the requirements laid down in this Article.	7. De lidstaten zorgen ervoor dat hun bevoegde autoriteiten voldoende gemachtigd zijn om na te gaan of de vereisten die in dit artikel zijn vastgelegd, voortdurend worden nageleefd.	<b>Art. 1c Rules on Exemptions of the Financial Supervision Act</b>  <b>Art. 1a Rules on Exemptions of the Financial Supervision Act</b>  <b>Art. 1:24 Financial Superv</b>	<b>Article 1a Rules on Exemptions of the Financial Supervision Act</b>  (4) A payment service provider, as defined in the first paragraph, shall inform the Dutch Central Bank of any change in its situation relevant to the fulfilment of the requirements in the first paragraph.  <b>Article 1c Rules on Exemptions of the Financial Supervision Act</b>  (4) A electronic money institution, as defined in the first paragraph, shall inform the Dutch Central Bank of any change in its situation relevant for the fulfilment of the requirements in the first paragraph.	<b>Artikel 1a Vrijstellingsregeling Wet op het Financieel Toezicht</b>  (4) Een betaaldienstverlener als bedoeld in het eerste lid stelt de Nederlandsche Bank in kennis van elke verandering in zijn situatie die relevant is voor het naleven van de in het eerste lid gestelde voorschriften.  <b>Artikel 1c Vrijstellingsregeling Wet op het Financieel Toezicht</b>  (4) Een elektronischgeldinstelling als bedoeld in het eerste lid stelt de Nederlandsche Bank in kennis van elke verandering in zijn situatie die relevant is voor het naleven van de in het	<b>CONFORM</b>  Article 1a and 1c of the Rules on Exemptions of the Financial Supervision Act transposes Article 9 paragraph 7 of the Directive.  Article 1a and 1c paragraph 4 of the Rules on Exemptions of the Financial Supervision Act require payment service providers and electronic money institutions respectively to inform the Dutch Central Bank of any change in its situation relevant to the fulfilment of the requirements of the first paragraph of that Article, which includes the conditions set out in Article 9 of the Directive.  In this regard, the competent authorities are aware or can become aware of issues compromising continued compliance with the requirements of Article 9 of the Directive.  Furthermore, Article 1:24 paragraph 2 of the Financial Supervision Act indicates that the Dutch Central Bank shall have, by virtue of this Act, the task of exercising prudential supervision over financial undertakings and of deciding on matters of market entry of financial undertakings.  Therefore, if any problem arises concerning



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			<b>Financial Supervision Act</b>  <b>Article 1:24 Financial Supervision Act</b>  (2) The Dutch Central Bank shall have, by virtue of this Act, the task of exercising prudential supervision over financial undertakings and to decide on matters of market entry of financial undertakings.	eerste lid gestelde voorschriften.  <b>Artikel 1:24 Wet op het Financieel Toezicht</b>  (2) De Nederlandsche Bank heeft, op de grondslag van deze wet, tot taak het prudentieel toezicht op financiële ondernemingen uit te oefenen en te beslissen omtrent de toelating van financiële ondernemingen tot de financiële markten.	non-compliance of financial undertakings on the basis of the requirements of Article 9 of the Directive, the Dutch Central Bank is empowered to undertake action.  Article 1:24 paragraph 2 of the Financial Supervision Act can be considered to meet the Directive requirement of ensuring that competent authorities are sufficiently empowered to verify continued compliance with Article 9 of the Directive.  Conformity is thus observed.	
<b>Art. 9(8)</b>	8. This Article shall not apply in respect of the provisions of Directive 2005/60/EC or national anti-money-laundering provisions.	8. Dit artikel is niet van toepassing ten aanzien van de bepalingen van Richtlijn 2005/60/EG of ten aanzien van nationale bepalingen ter bestrijding van het witwassen van geld.	<b>Art. 1c Rules on Exemptions of the Financial Supervision Act</b>  <b>Art. 1a Rules on Exemptions of the Financial Supervision Act</b>	<b>Article 1c Rules on Exemptions of the Financial Supervision Act</b>  (1) Exempted of Article 2:10a first paragraph of the Act shall be electronic money institutions with legal personality, if:  (b) none of the persons determining policy or co-determining policy are persons with a history as indicated by Article 6 (a) – (d) of the Decree Prudential Rules of the Financial Supervision Act, in so far as they concern money laundering activities or financing of	<b>Artikel 1c Vrijstellingsregeling Wet op het Financieel Toezicht</b>  (1) Van artikel 2:10a, eerste lid, van de wet zijn vrijgesteld elektronischgeldinstellingen met rechtspersoonlijkheid, indien:  (b) geen van de personen die het beleid bepalen of mede bepalen personen zijn met antecedenten als bedoeld in artikel 6, onderdeel a, b of d, van het Besluit prudentiële regels Wft, voor zover deze betrekking hebben op	<b>CONFORM</b>  Article 1a and 1c of the Rules on Exemptions of the Financial Supervision Act transposes Article 9 paragraph 8 of the Directive.  Article 1a paragraph 1 subparagraph (c) and 1c paragraph 1 subparagraph (b) of the Rules on Exemptions of the Financial Supervision Act indicate that the exemptions apply to electronic money institutions and payment service providers respectively, if none of the persons determining or co-determining policy are persons with a history involving financial supervision crimes or tax and administrative crimes, in so far as they concern money laundering activities or financing of terrorism activities.  Therefore, the exemptions as referenced by Article 9 of the Directive shall not apply to the provisions of Directive 2005/60/EC,

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			<b>ision Act</b>  terrorism or economic offences or have been noted to be involved with misdemeanors of financial supervision laws;  <b>Article 1a Rules on Exemptions of the Financial Supervision Act</b>  (1) Exempted of Article 2:10a first paragraph of the Act shall be payment service providers:  (c) of which none of the persons determining policy or co-determining policy are persons with a history as indicated by Article 6 (a) –(d) of the Decree Prudential Rules of the Financial Supervision Act, in so far as they concern money laundering activities or financing of terrorism or economic offences or have been noted to be involved with misdemeanors of financial supervision laws;	het witwassen van geld, terrorismefinanciering of vermogensmisdrijven of als misdrijf aangemerkte overtredingen van financiële toezichtswetgeving;  <b>Artikel 1a Vrijstellingsregeling Wet op het Financieel Toezicht</b>  (1) Van artikel 2:10a, eerste lid, van de wet zijn vrijgesteld betaaldienstverleners:  (c) waarvan geen van de personen die het beleid bepalen of mede bepalen personen zijn met antecedenten als bedoeld in artikel 6, onderdeel a, b of d, van het Besluit prudentiële regels Wft, voor zover deze betrekking hebben op het witwassen van geld, terrorismefinanciering of vermogensmisdrijven of als misdrijf aangemerkte overtredingen van financiële toezichtswetgeving;	unless the persons determining policy have a history involving crimes concerning money laundering or financing of terrorism.  In this regard, conformity with Article 9 paragraph 8 of the Directive is observed.	
<b>Art. 9(9)</b>	9. Where a Member State avails itself of the waiver	9. Indien een lidstaat van de bij lid 1 geboden	<b>N/A</b>	N/A	N/A	<b>CONFORM</b>  The Netherlands has made use of the waiver

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	provided for in paragraph 1, it shall notify the Commission accordingly by 30 April 2011. The Member State shall notify the Commission forthwith of any subsequent change. In addition, the Member State shall inform the Commission of the number of legal persons concerned and, on an annual basis, of the total amount of outstanding electronic money issued at 31 December of each calendar year, as referred to in paragraph 1.	ontheffingsmogelijkheid gebruikmaakt, stelt hij de Commissie uiterlijk op 30 april 2011 daarvan in kennis. De lidstaat deelt de Commissie onverwijld elke latere wijziging mee. Voorts stelt de lidstaat de Commissie in kennis van het aantal betrokken rechtspersonen en doet hij jaarlijks mededeling van het totale bedrag van hetuitstaand elektronisch geld dat is uitgegeven op 31 december van elk kalenderjaar, als bedoeld in lid 1.			provided for in paragraph 1 of this Article of the Directive.  The Netherlands has notified the Commission of all the required information or subsequent changes.	
<b>Art. 10</b>	<p><b>TITLE III ISSUANCE AND REDEEMABILITY OF ELECTRONIC MONEY</b></p> <p><i>Article 10</i> <b>Prohibition from issuing electronic money</b></p> <p>Without prejudice to Article 18, Member States shall prohibit natural or legal persons who are not electronic money issuers from issuing electronic money.</p>	<p><b>TITEL III UITGIFTE EN TERUGBETAALBAAR HEID VAN ELEKTRONISCH GELD</b></p> <p><i>Artikel 10</i> <b>Verbod op de uitgifte van elektronisch geld</b></p> <p>Onverminderd artikel 18, verbieden de lidstaten natuurlijke en rechtspersonen die geen uitgevers van elektronisch geld zijn om elektronisch geld uit te geven.</p>	<b>Art. 2:10a of the Financial Supervision Act</b>	<p><b>Article 2:10a of the Financial Supervision Act</b></p> <p>(1) Any person with a seat in the Netherlands is prohibited to issue electronic money without prior authorisation from the Dutch Central Bank.</p> <p>(2) The first paragraph shall not apply to financial undertakings which hold in the exercise of an undertaking as a bank an authorisation from the Dutch Central Bank, in so far as this authorisation</p>	<p><b>Artikel 2:10a Wet op het Financieel Toezicht</b></p> <p>(1) Het is een ieder met zetel in Nederland verboden zonder een daartoe door de Nederlandsche Bank verleende vergunning elektronisch geld uit te geven.</p> <p>(2) Het eerste lid is niet van toepassing op financiële ondernemingen die voor het uitoefenen van het bedrijf van bank een door de Nederlandsche Bank op</p>	<b>CONFORM</b>  Article 2:10a of the Financial Supervision Act transposes Article 10 of the Directive.  Article 2:10a, paragraph 1 of the Financial Supervision Act prohibits any person with a seat in the Netherlands to issue electronic money without prior authorisation from the Dutch Central Bank.  The wording ‘any person’ refers to natural and legal persons and therefore meets the Directive requirement of prohibiting natural or legal persons who are not electronic money issuers from issuing electronic money.  Furthermore, in accordance with Article 2:10a paragraph 2 of the Financial Supervision Act, also undertakings without a

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				grants the issuance of electronic money.	grond van dit deel verleende vergunning hebben, voor zover het aan hen ingevolge die vergunning is toegestaan elektronisch geld uit te geven.	seat in the Netherlands will be in principle prohibited from issuing electronic money, except if these undertakings have been authorised and this authorisation grants the possibility to issue electronic money.  Conformity with Article 10 of the Directive is thus observed.
<b>Art. 11(1)</b>	<b>Article 11 Issuance and redeemability</b>  1. Member States shall ensure that electronic money issuers issue electronic money at par value on the receipt of funds.	<b>Artikel 11 Uitgifte en terugbetaalbaarheid</b>  1. De lidstaten zorgen ervoor dat uitgevers van elektronisch geld elektronisch geld uitgeven tegen de nominale waarde, in ruil voor ontvangen geld.	<b>Art. 4:31a of the Financial Supervision Act</b>	<b>Article 4:31 of the Financial Supervision Act</b>  (1) An electronic money institution shall issue electronic money exclusively at par value and in exchange of the receipt of funds.	<b>Artikel 4:31 Wet op het Financieel Toezicht</b>  (1) Een elektronischgeldinstelling geeft elektronisch geld uitsluitend uit tegen de nominale waarde en in ruil voor ontvangen geld.	<b>CONFORM</b>  Article 4:31 of the Financial Supervision Act literally transposes Article 10 of the Directive.  The transposition is identical and therefore conformity is observed.  Furthermore, recital 18 can be considered to be taken into account concerning making electronic money redeemable in order to preserve the confidence of the holder; that the funds received in exchange for electronic money are not regarded as deposits or other repayable funds for the purpose of Directive 2006/48/EC; and that redemption is possible at any time at par value, without a minimum threshold for redemption, and in general free of charge.
<b>Art. 11(2)</b>	2. Member States shall ensure that, upon request by the electronic money holder, electronic money issuers redeem, at any moment and at par value, the monetary value of the electronic money held.	2. De lidstaten zien erop toe dat uitgevers van elektronisch geld de nominale monetaire waarde van het aangehouden elektronisch geld op elk ogenblik terugbetalen wanneer de houder van het	<b>Art. 4:31a of the Financial Supervision Act</b>	<b>Article 4:31a of the Financial Supervision Act</b>  An electronic money institution shall refund at par value the held electronic money upon request of the holder of the	<b>Artikel 4:31a Wet op het Financieel Toezicht</b>  Een elektronischgeldinstelling betaalt de nominale waarde van het aangehouden elektronisch geld terug wanneer de	<b>CONFORM</b>  Article 4:31a of the Financial Supervision Act transposes Article 10 of the Directive.  Article 4:31a of the Financial Supervision Act requires electronic money institutions to refund at par value at request of the holder of electronic money, taking into account Article

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		elektronisch geld daarom verzoekt.		electronic money taking into account Article 521a of Book 7 of the Civil Code.	houder van het elektronisch geld daarom verzoekt en neemt daarbij artikel 521a van Boek 7 van het Burgerlijk Wetboek in acht.	<p>521a of Book 7 of the Civil Code.</p> <p>The obligation of electronic money institutions to repay at the request of the holder can be considered to meet the requirements of repayment upon request and ‘at any moment’ the requestor so requests.</p> <p>Therefore, conformity is observed with Article 11 paragraph 2 of the Directive.</p> <p>Furthermore, recital 18 can be considered to be taken into account concerning making electronic money redeemable in order to preserve the confidence of the holder; that the funds received in exchange for electronic money are not regarded as deposits or other repayable funds for the purpose of Directive 2006/48/EC; and that redemption is possible at any time at par value, without a minimum threshold for redemption, and in general free of charge.</p> <p>Overall, taking into account the above observations, conformity is observed with Article 11 paragraph 2 of the Directive.</p>
<b>Art. 11(3)</b>	3. The contract between the electronic money issuer and the electronic money holder shall clearly and prominently state the conditions of redemption, including any fees relating thereto, and the electronic money holder shall be informed of those conditions before being bound by any contract or	3. De terugbetalingsvoorwaarden, met inbegrip van vergoedingen die hiermee samenhangen, worden duidelijk en opvallend vermeld in de overeenkomst tussen de uitgever van elektronisch geld en de houder van elektronisch geld, en de houder van het	<b>Art. 521a of Book 7 of the Civil Code</b>	<b>Article 521a of Book 7 of the Civil Code</b> (2) In the contract between the electronic money issuer and the electronic money holder the conditions of redemption shall be clearly and prominently stated and the holder of the electronic money shall be informed	<b>Artikel 521a van Boek 7 van het Burgerlijk Wetboek</b> (2) In de overeenkomst tussen de elektronischgeldinstelling en de houder van het elektronisch geld worden de terugbetalingsvoorwaarden duidelijk en opvallend	<b>CONFORM</b> Article 521a of Book 7 of the Civil Code of transposes Article 10 of the Directive.  Article 521a paragraph 2 of Book 7 of the Civil Code indicates that the contract between the electronic money institutions and the holder of electronic money, the conditions of redemption shall be clearly and prominently stated and the holder shall be informed of those conditions before being bound by any

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	offer.	elektronisch geld wordt in kennis gesteld van deze voorwaarden voordat hij wordt gebonden door een overeenkomst of een aanbod.		of those conditions, before being bound by any contract or offer.	vermeld en de houder van het elektronisch geld wordt in kennis gesteld van deze voorwaarden, voordat hij wordt gebonden door een overeenkomst of een aanbod.	offers or contract.  The requirement of indicating any fees is transposed in the context of Article 521a paragraph 3 of Book 7 of the Civil Code, which is assessed below under Article 11(4) first subparagraph of the Directive.  Therefore, based on the above observations, conformity with Article 11 paragraph 3 of the Directive is observed.
<b>Art. 11(4) 1<sup>st</sup> subpar a. intr. wording</b>	4. Redemption may be subject to a fee only if stated in the contract in accordance with paragraph 3 and only in any of the following cases:	4. Voor terugbetaling kan enkel een vergoeding worden gevraagd indien dit in de overeenkomst is vermeld overeenkomstig lid 3, en enkel in een van de volgende gevallen:	<b>Art. 521a of Book 7 of the Civil Code</b>	<b>Article 521a of Book 7 of the Civil Code</b>  (3) Redemption may be subject to a fee only if stated in the contract in accordance with paragraph 2 and only in any of the following cases:	<b>Artikel 521a van Boek 7 van het Burgerlijk Wetboek</b>  (3) Voor terugbetaling kan slechts een vergoeding worden gevraagd, indien dit in de overeenkomst is vermeld overeenkomstig lid 2 en uitsluitend in de volgende gevallen:	<b>CONFORM</b>  Article 521a of Book 7 of the Civil Code of transposes Article 11 paragraph 4 subparagraph 1 introductory wording of the Directive.  Article 521a paragraph 3 of Book 7 of the Civil Code states that redemption may be subject to a fee only if stated in the contract in accordance with paragraph 2 and only in the cases that follow.  Conformity is thus observed with the Directive.
<b>Art.11 (4) 1<sup>st</sup> subpar a. (a)</b>	(a) where redemption is requested before the termination of the contract;	a) indien om terugbetaling wordt gevraagd vóór de overeenkomst is beëindigd;	<b>Art. 521a of Book 7 of the Civil Code</b>	<b>Article 521a of Book 7 of the Civil Code</b>  (3)(a) where redemption is requested before the day on which the contract is terminated;	<b>Artikel 521a van Boek 7 van het Burgerlijk Wetboek</b>  (3)(a) indien wordt gevraagd om terugbetaling vóór de dag waarop de overeenkomst eindigt;	<b>CONFORM</b>  Article 521a of Book 7 of the Civil Code of transposes Article 11 paragraph 4 subparagraph 1 under (a) of the Directive.  As the transposition is identical, conformity with the Directive is observed.
<b>Art. 11(4)</b>	(b) where the contract provides for a termination	b) indien de overeenkomst voorziet in een	<b>Art. 521a</b>	<b>Article 521a of Book 7 of the Civil Code</b>	<b>Artikel 521a van Boek 7 van het Burgerlijk</b>	<b>CONFORM</b>  Article 521a of Book 7 of the Civil Code of

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<b>1<sup>st</sup> subpar a. (b)</b>	date and the electronic money holder terminates the contract before that date; or	beëindigingsdatum en de houder van het elektronisch geld de overeenkomst vóór deze datum beëindigt; of	<b>of Book 7 of the Civil Code</b>	(3)(b) where the contract provides for a date on which the contract terminates and the holder of the electronic money terminates the contract before this date; or	<b>Wetboek</b>  (3)(b) indien de overeenkomst voorziet in een dag waarop de overeenkomst eindigt en de houder van het elektronisch geld vóór die dag tot beëindiging van de overeenkomst overgaat; of	transposes Article 11 paragraph 4 subparagraph 1 under (b) of the Directive.  As Article 521a of Book 7 of the Civil Code provides for identical transposition, conformity is observed with Article 11(4) first subparagraph under (b) of the Directive.
<b>Art. 11(4) 1<sup>st</sup> subpar a. (c)</b>	(c) where redemption is requested more than one year after the date of termination of the contract.	c) indien meer dan een jaar na de beëindiging van de overeenkomst om terugbetaling wordt gevraagd.	<b>Art. 521a of Book 7 of the Civil Code</b>	<b>Article 521a of Book 7 of the Civil Code</b>  (3)(c) where redemption is requested after more than one year after the day of the termination of the contract.	<b>Artikel 521a van Boek 7 van het Burgerlijk Wetboek</b>  (3)(c) indien het verzoek tot terugbetaling meer dan een jaar na de dag van de beëindiging van de overeenkomst wordt gedaan.	<b>CONFORM</b>  Article 521a of Book 7 of the Civil Code of transposes Article 11 paragraph 4 subparagraph 1 under (c) of the Directive.  As Article 521a of Book 7 of the Civil Code provides for identical transposition of the requirements of Article 11(4) first subparagraph under (c) of the Directive, conformity is observed.
<b>Art. 11(4) 2<sup>nd</sup> subpar a.</b>	Any such fee shall be proportionate and commensurate with the actual costs incurred by the electronic money issuer.	Dergelijke vergoeding staat in verhouding tot de kosten die de uitgever van elektronisch geld feitelijk heeft gemaakt.	<b>Art. 521a of Book 7 of the Civil Code</b>	<b>Article 521a of Book 7 of the Civil Code</b>  (3) (...) Any fee demanded shall have a reasonable and proportionate relationship to the costs incurred by the electronic money issuer.	<b>Artikel 521a van Boek 7 van het Burgerlijk Wetboek</b>  (3) (...) Een vergoeding als hier bedoeld staat in redelijke verhouding tot de kosten die de elektronischgeldinstelling feitelijk heeft gemaakt.	<b>CONFORM</b>  Article 521a of Book 7 of the Civil Code of transposes Article 11 paragraph 4 subparagraph 2 of the Directive.  Article 11 paragraph 4 subparagraph 2 of the Directive states that any fees must be proportionate and commensurate with the actual costs incurred by the issuer.  Article 521a paragraph 3 second paragraph of Book 7 of the Civil Code states that any fee shall have a reasonable and proportionate relationship to the costs incurred by the issuer.

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						In this regard, Dutch law transposes the requirements of the Directive concerning proportionality between the fee demanded and costs incurred by the issuer.  Conformity is thus observed.
<b>Art. 11(5)</b>	5. Where redemption is requested before the termination of the contract, the electronic money holder may request redemption of the electronic money in whole or in part.	5. Wanneer wordt verzocht om de terugbetaling vóór de beëindiging van de overeenkomst, kan de houder van elektronisch geld verzoeken om de gedeeltelijke of volledige terugbetaling van het elektronisch geld.	<b>Art. 521a of Book 7 of the Civil Code</b>	<b>Article 521a of Book 7 of the Civil Code</b>  (4) Where the holder of the electronic money requests redemption before the termination of the contract, he may request redemption in part or in whole.	<b>Artikel 521a van Boek 7 van het Burgerlijk Wetboek</b>  (4) Indien de houder van het elektronisch geld verzoekt om terugbetaling vóór de beëindiging van de overeenkomst, kan hij hetzij gedeeltelijke, hetzij volledige terugbetaling verlangen.	<b>CONFORM</b>  Article 521a of Book 7 of the Civil Code of transposes Article 11 paragraph 5 of the Directive.  Article 11 paragraph 5 of the Directive requires that where redemption is requested before the termination of the contract, the holder may request redemption in whole or in part.  Article 521a paragraph 4 of Book 7 of the Civil Code identically requires that where the holder requests redemption before termination of the contract, he may request redemption in whole or in part.  Therefore, conformity with Article 11 paragraph 5 of the Directive is observed.
<b>Art. 11(6) intr. wording</b>	6. Where redemption is requested by the electronic money holder on or up to one year after the date of the termination of the contract:	6. Wanneer tot een jaar na de beëindiging van de overeenkomst door de houder van het elektronisch geld om terugbetaling wordt gevraagd:	<b>Art. 521a of Book 7 of the Civil Code</b>	<b>Article 521a of Book 7 of the Civil Code</b>  (5) Where the holder of the electronic money requests redemption on the date on which the contract is terminated or within one year after this date:	<b>Artikel 521a van Boek 7 van het Burgerlijk Wetboek</b>  (5) Indien de houder van het elektronisch geld terugbetaling verzoekt op de dag waarop de overeenkomst is beëindigd of binnen één jaar na die dag:	<b>CONFORM</b>  Article 521a of Book 7 of the Civil Code of transposes Article 11 paragraph 6 introductory wording of the Directive.  Article 521a paragraph 5 of Book 7 of the Civil Code indicates the condition that the holder of the electronic money requests redemption within one year of the date of the contract, as identical to Article 11 paragraph 6 introductory wording of the Directive.



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						Conformity is thus observed.
<b>Art. 11(6)(a)</b>	a) the total monetary value of the electronic money held shall be redeemed; or	a) wordt de volledige monetaire waarde van het aangehouden elektronisch geld terugbetaald; of	<b>Art. 521a of Book 7 of the Civil Code</b>	<b>Article 521a of Book 7 of the Civil Code</b> (5)(a) the total monetary value of the electronic money held shall be redeemed; or	<b>Artikel 521a van Boek 7 van het Burgerlijk Wetboek</b> (5)(a) betaalt de elektronischgeldinstelling hem de volledige monetaire waarde van het uitgegeven elektronische geld terug; of	<b>CONFORM</b> Article 521a of Book 7 of the Civil Code of transposes Article 11 paragraph 6 subparagraph (a) of the Directive. As Article 521a paragraph 5 under (a) of Book 7 of the Civil Code literally transposes the requirements of Article 11(6) under (a) of the Directive, conformity is observed.
<b>Art. 11(6)(b)</b>	(b) where the electronic money institution carries out one or more of the activities listed in Article 6(1)(e) and it is unknown in advance what proportion of funds is to be used as electronic money, all funds requested by the electronic money holder shall be redeemed.	b) worden alle middelen terugbetaald waarom de houder van het elektronisch geld verzoekt, indien de instelling voor elektronisch geld een of meer van de in artikel 6, lid 1, onder e), genoemde activiteiten uitoefent, en het op voorhand niet geweten is welk deel van de middelen zal worden gebruikt als elektronisch geld.	<b>Art. 521a of Book 7 of the Civil Code</b>	<b>Article 521a of Book 7 of the Civil Code</b> (5)(b) the electronic money institution shall redeem all funds requested by the holder of electronic money, where the institution carries out one or more of the activities other than the issuance of electronic money taking into account the applicable rules and that it was unknown before the acceptance of the contract which part of those funds would have been used as electronic money.	<b>Artikel 521a van Boek 7 van het Burgerlijk Wetboek</b> (5)(b) betaalt de elektronischgeldinstelling hem alle middelen terug waarom de houder van het elektronisch geld verzoekt, indien deze instelling een of meer andere bedrijfsactiviteiten dan de uitgifte van elektronisch geld met inachtneming van de daarvoor geldende regels uitoefent en het vóór het aangaan van de overeenkomst niet duidelijk was welk deel van die middelen zou worden gebruikt als elektronisch geld.	<b>CONFORM</b> Article 521a of Book 7 of the Civil Code of transposes Article 11 paragraph 6 subparagraph (b) of the Directive. As Article 521a paragraph 5 under (b) of Book 7 of the Civil Code literally transposes Article 11(6) under (b) of the Directive, conformity is observed.

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<b>Art. 11(7)</b>	7. Notwithstanding paragraphs 4, 5 and 6, redemption rights of a person, other than a consumer, who accepts electronic money shall be subject to the contractual agreement between the electronic money issuer and that person.	7. Onverminderd de leden 4, 5 en 6, zijn de terugbetalingsrechten van personen die elektronisch geld aanvaarden en die geen consumenten zijn, vastgelegd in een contractueel beding tussen de uitgevers van elektronisch geld en die personen.	<b>Art. 521a of Book 7 of the Civil Code</b>	<b>Article 521a of Book 7 of the Civil Code</b> (6) The redemption rights of a person, other than a consumer, who accepts electronic money shall be subject to the contractual agreement between the electronic money issuer and that person, notwithstanding paragraphs 3, 4 and 5.	<b>Artikel 521a van Boek 7 van het Burgerlijk Wetboek</b> (6) De terugbetalingsrechten van een persoon die elektronisch geld aanvaardt en die geen consument is, worden, onverminderd de leden 3, 4 en 5, beheerst door wat is overeengekomen tussen de elektronischgeldinstelling en die persoon.	<b>CONFORM</b> Article 521a of Book 7 of the Civil Code of literally transposes Article 11 paragraph 7 of the Directive.  Article 521a paragraph 6 of Book 7 of the Civil Code requires that the redemption rights of persons other than consumers and who accepts electronic money, shall be subject to the contract between the issuer and that person, notwithstanding paragraphs 3, 4 and 5 of this Article.  The requirements of Article 521a paragraph 6 of Book 7 of the Civil Code are identical to the Directive requirements concerning the redemption rights of persons other than consumers, who accept electronic money and who shall be subject to the contractual agreement between the issuer and the person, notwithstanding paragraphs 4, 5 and 6 of the Directive.  Conformity is observed.
<b>Art. 12</b>	<b>Article 12 Prohibition of interest</b> Member States shall prohibit the granting of interest or any other benefit related to the length of time during which an electronic money holder holds the electronic money.	<b>Artikel 12 Verbod op rente</b> De lidstaten verbieden dat rente of andere voordelen worden toegekend die samenhangen met de lengte van de periode dat een houder van elektronisch geld het elektronisch geld aanhoudt.	<b>Art. 4:31 of the Financial Supervision Act</b>	<b>Article 4:31 of the Financial Supervision Act</b> (2) An electronic money institution shall not grant to an electronic money holder any benefit related to the length of time during which the holder holds the electronic money.	<b>Artikel 4:31 Wet op het Financieel Toezicht</b> (2) Een elektronischgeldinstelling kent aan een houder van elektronisch geld geen voordelen toe die samenhangen met de lengte van de periode dat die houder het elektronisch geld	<b>CONFORM</b> Article 4:31 of the Financial Supervision Act literally transposes Article 12 of the Directive.  Article 4:31 paragraph 2 of the Financial Supervision Act prohibits electronic money institutions to grant any benefits to holders of electronic money related to the length of time during which they hold such electronic money.  The wording 'any benefit' can be considered

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				aanhoudt.	to include the prohibition of granting of interest or any other benefits as required by Article 12 of the Directive.  Conformity is thus observed with Article 12 of the Directive.  Also recital 13 can be considered to have been taken into account, which indicates that the issuance of electronic money should not be allowed to constitute a deposit-taking activity or to grant credit from the funds received or held for the purpose of issuing electronic money.
<b>Art. 13</b>	<p><i>Article 13</i> <b>Out-of-court complaint and redress procedures for the settlement of disputes</b></p> <p>Without prejudice to this Directive, Chapter 5 of Title IV of Directive 2007/64/EC shall apply <i>mutatis mutandis</i> to electronic money issuers in respect of their duties arising from this Title.</p>	<p><i>Artikel 13</i> <b>Klachten- en buitengerechtelijke beroepsprocedures voor de beslechting van geschillen</b></p> <p>Onverminderd deze richtlijn is hoofdstuk 5 van titel IV van Richtlijn 2007/64/EG van overeenkomstige toepassing op uitgevers van elektronisch geld ten aanzien van hun verplichtingen die uit deze titel voortvloeien.</p>	<p><b>Art. 4:17 of the Financial Supervision Act</b></p> <p>(1) A financial service provider (...) shall take due care of complaints by clients, consumers or participants of payment services, financial services or financial products of the financial undertaking. To this end:</p> <p>(a) the financial undertaking shall hold an internal complaints procedure, aimed at a swift and thorough processing of complaints; and</p> <p>(b) the financial undertaking shall be part</p>	<p><b>Artikel 4:17 Wet op het Financieel Toezicht</b></p> <p>(1) Een (...) financieledienstverlener draagt zorg voor een adequate behandeling van klachten van cliënten, consumenten of deelnemers over betaaldiensten, financiële diensten of financiële producten van de financiële onderneming. Hiertoe:</p> <p>(a) beschikt de financiële onderneming over een interne klachtenprocedure, gericht op een spoedige en zorgvuldige behandeling van klachten; en</p> <p>(b) is de financiële</p>	<p><b>CONFORM</b></p> <p>Article 4:17 of the Financial Supervision Act transposes Article 13 of the Directive.</p> <p>Article 13 of the Directive indicates that Chapter 5 of Title IV of Directive 2007/64/EC shall apply <i>mutatis mutandis</i> to electronic money issuers.</p> <p>Chapter 5 of Title IV of Directive 2007/64/EC concerns the out of court complaint and redress procedures for the settlement of disputes.</p> <p>In this regard, Dutch law <i>via</i> Article 4:17 paragraph 1 of the Financial Supervision Act requires financial services providers to take due care of complaints by clients, consumer or participants of payment services, financial services or financial products of the financial undertaking.</p> <p>Electronic money institutions are recognised as financial service providers under Article</p>

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			<p>of a recognised body dealing with complaints designated by Our Minister, which shall deal with complaints concerning payment services or financial products of the financial undertaking, unless there is not such body.</p>	<p>onderneming aangesloten bij een door Onze Minister erkende geschilleninstantie die geschillen behandelt met betrekking tot betaaldiensten, financiële diensten of financiële producten van de financiële onderneming, tenzij er geen zodanige geschilleninstantie is.</p> <p>1:1 of the Financial Supervision Act, as they offer financial services or a financial product in the form of electronic money.</p> <p>Therefore, Article 4:17 paragraph 1 of the Financial Supervision Act covers electronic money institutions.</p> <p>Furthermore, Article 4:17 paragraph 1 under (a) indicates that to this end (of taking due care of complaints), the financial undertaking shall hold internal complaints procedures aimed at swift and thorough processing of complaints.</p> <p>Article 4:17 paragraph 1 under (b) also requires the undertaking to be part of a recognised body dealing with complaints of payment services or financial products of that undertaking, unless this does not exist.</p> <p>Article 4:17 of the Financial Supervision Act therefore transposes the requirements of Article 13 of the Directive for having an out of court complaints and redress procedure.</p> <p>Therefore, conformity is observed with Article 13 of the Directive.</p> <p>Furthermore, recital 19 indicates that out of court complaint and redress procedures for the settlement of disputes should be at the disposal of electronic money holders and should apply <i>mutatis mutatis</i> with regard to electronic money institutions.</p> <p>Recital 19 can be considered to have been taken into account by Article 4:17 of the Financial Supervision Act in this regard.</p>

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<b>Art. 16(1)</b>	<p>TITLE IV <b>FINAL PROVISIONS AND IMPLEMENTING MEASURES</b></p> <p><i>Article 16</i> <b>Full harmonization</b></p> <p>1. Without prejudice to Article 1(3), the sixth subparagraph of Article 3(3), Article 5(7), Article 7(4), Article 9 and Article 18(2) and in so far as this Directive provides for harmonisation, Member States shall not maintain or introduce provisions other than those laid down in this Directive.</p>	<p>TITEL IV <b>SLOTBEPALINGEN EN UITVOERINGSMAAT REGELEN</b></p> <p>Artikel 16 <b>Volledige harmonisatie</b></p> <p>1. Onverminderd artikel 1, lid 3, artikel 3, lid 3, zesde alinea, artikel 5, lid 7, artikel 7, lid 4, artikel 9 en artikel 18, lid 2 en, in zoverre deze richtlijn in harmonisatie voorziet, mogen de lidstaten geen andere bepalingen handhaven of vaststellen dan die welke in deze richtlijn zijn vervat.</p>	N/A	N/A	N/A	<p><b>CONFORM</b></p> <p>No provisions could be identified in Dutch law transposing Article 16(1) of the Directive. However, conformity is not affected as no other measures are in place which go beyond the Directive or which are other than those laid down in this Directive.</p> <p>Therefore, as Dutch law respects the clause of full harmonisation of Article 16(1) of the Directive, in view of the above, conformity can be concluded.</p>
<b>Art. 16(2)</b>	<p>2. Member States shall ensure that an electronic money issuer does not derogate, to the detriment of an electronic money holder, from the provisions of national law implementing or corresponding to provisions of this Directive except where explicitly provided for therein.</p>	<p>2. De lidstaten zien erop toe dat een uitgever van elektronisch geld niet ten nadele van een houder van elektronisch geld afwijkt van de bepalingen van nationaal recht die uitvoering geven aan of overeenstemmen met bepalingen van deze richtlijn, tenzij laatstgenoemde bepalingen daarin uitdrukkelijk voorzien.</p>	<p><b>Art. 1:24 of the Financial Supervision Act</b></p> <p><b>Art. 1:25 of the Financial Supervision Act</b></p>	<p><b>Article 1:24 of the Financial Supervision Act</b></p> <p>(1) Prudential supervision is aimed at the solidarity of financial undertakings and providing stability to the financial sector.</p> <p>(2) The Dutch Central Bank shall have, by virtue of this Act, the task of exercising prudential supervision over financial undertakings and to take</p>	<p><b>Artikel 1:24 Wet op het Financieel Toezicht</b></p> <p>(1) Prudentieel toezicht is gericht op de soliditeit van financiële ondernemingen en het bijdragen aan de stabiliteit van de financiële sector.</p> <p>(2) De Nederlandsche Bank heeft, op de grondslag van deze wet, tot taak het prudentieel toezicht op financiële ondernemingen uit te</p>	<p><b>CONFORM</b></p> <p>No explicit provisions could be identified transposing Article 16(2) of the Directive. However, Dutch law designates the Dutch Central Bank and the Authority on Financial Markets as the surveillance authorities competent for ensuring that electronic money issuers do not derogate from the provisions of national law, except where explicitly provided for therein.</p> <p>Thus Dutch law can be considered in conformity with Article 16(2) of the Directive.</p>

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		<p><b>Act</b></p> <p><b>Art. 1: 51 of the Financial Supervision Act</b></p> <p><b>Art. 1:55 of the Financial Supervision Act</b></p> <p><b>Art. 1:58 of the Financial Supervision Act</b></p> <p><b>Art. 1:75 of the Financial Supervision Act</b></p>	<p>decisions concerning the market entry of financial undertakings.</p> <p>(3) The Dutch Central Bank may, if a Directive as indicated in Article 288 of the Treaty of the Functioning of the European Union concerns the solidarity of financial undertakings, the stability of the financial sector or financial undertakings as referenced in the second paragraph, by Order of Decree be tasked with the execution and enforcement of the rules set by virtue of that Order.</p> <p style="text-align: center;"><b>Article 1:25 of the Financial Supervision Act</b></p> <p>(1) Conduct supervision is aimed at orderly and transparent financial market processes, clear relations between market parties and careful handling of clients.</p> <p>(2) The Authority on Financial Markets shall have, by virtue of this Act, the task of exercising conduct supervision over financial markets and to</p>	<p>oefenen en te beslissen omtrent de toelating van financiële ondernemingen tot de financiële markten.</p> <p>(3) De Nederlandsche Bank kan, indien een verordening als bedoeld in artikel 288 van het Verdrag betreffende de werking van de Europese Unie betrekking heeft op de soliditeit van financiële ondernemingen, de stabiliteit van de financiële sector of financiële ondernemingen als bedoeld in het tweede lid, bij algemene maatregel van bestuur worden belast met de uitvoering en handhaving van de bij of krachtens die verordening gestelde regels.</p> <p style="text-align: center;"><b>Artikel 1:25 Wet op het Financieel Toezicht</b></p> <p>(1) Gedragstoezicht is gericht op ordelijke en transparante financiëlemarktprocessen, zuivere verhoudingen tussen marktpartijen en zorgvuldige behandeling van cliënten.</p> <p>(2) De Autoriteit Financiële Markten heeft,</p>	

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			<p>decide on the market entry of financial undertakings to those markets.</p> <p>(3) The Authority on Financial Markets may, if a if a Directive as indicated in Article 288 of the Treaty of the Functioning of the European Union concerns the orderly and transparent financial market processes, clear relations between market parties or careful handling of clients or financial undertakings as indicated in the second paragraph, by Order of Decree also be tasked with the execution and enforcement of the rules set by virtue of that Order.</p> <p><b>Article 1:51 Financial Supervision Act</b></p> <p>(1) The supervisor shall cooperate with the supervising authorities of other Member States, where this is required for its tasks by virtue of this Act or for the fulfilment of the tasks of a supervising body.</p> <p><b>Article 1:55 Financial</b></p>	<p>op de grondslag van deze wet, tot taak het gedragstoezicht op financiële markten uit te oefenen en te beslissen omtrent de toelating van financiële ondernemingen tot die markten.</p> <p>(3) De Autoriteit Financiële Markten kan, indien een verordening als bedoeld in artikel 288 van het Verdrag betreffende de werking van de Europese Unie betrekking heeft op ordelijke en transparante financiëlemarktprocessen, zuivere verhoudingen tussen marktpartijen, zorgvuldige behandeling van cliënten of financiële ondernemingen als bedoeld in het tweede lid, bij algemene maatregel van bestuur tevens worden belast met de uitvoering en handhaving van de bij of krachtens die verordening gestelde regels.</p> <p><b>Artikel 1:51 Wet op het Financieel Toezicht</b></p> <p>(1) De toezichthouder werkt samen met toezichthoudende</p>	

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			<p><b>Supervision Act</b></p> <p>(1) Where a (...) electronic money institution (...) with a seat in the Netherlands has a branch office in another Member State, the supervisor may on the basis of compliance with this Act by that financial undertaking:</p> <p>(a) request the supervising body of the other Member State to verify information at the branch office; or</p> <p>(b) after notice to the supervising authority of the other Member State verify information or data at the branch office itself.</p> <p><b>Article 1:58 of the Financial Supervision Act</b></p> <p>(1) If the governor of an institution for collective investments in stocks with a seat in another Member State of a credit institution, life insurance or liability insurance with its seat in another Member State that works from a branch in the Netherlands and provides financial services to the</p>	<p>instanties van andere lidstaten, indien dat voor het vervullen van zijn taak op grond van deze wet of voor de vervulling van de taak van die toezichhoudende instanties nodig is.</p> <p><b>Artikel 1:55 Wet op het Financieel Toezicht</b></p> <p>(1) Indien (...) elektronischgeldinstelling, (...) met zetel in Nederland een bijkantoor heeft in een andere lidstaat, kan de toezichthouder ten behoeve van het toezicht op de naleving van deze wet door die financiële onderneming:</p> <p>(a) de toezichhoudende instantie van de andere lidstaat verzoeken om bij het bijkantoor gegevens of inlichtingen te verifiëren; of</p> <p>(b) na kennisgeving aan de toezichhoudende instantie van de andere lidstaat zelf bij het bijkantoor gegevens of inlichtingen verifiëren of doen verifiëren.</p>	



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			<p>Netherlands, does not give effect to the directions of the authority (...), the Supervisor shall inform the supervising body of the Member State.</p> <p>(2) The supervisor may (...) and after the supervising bodies of the Member State where financial undertakings have their seat have been informed, take the decision that the involved financial undertakings may not sign new contracts in the Netherlands if these undertakings do not meet the requirements set out by this Act: (...)</p> <p>(5) The first and second paragraph shall also be applicable to:</p> <p>(c) electronic money institutions with a seat in another Member State, (...)</p> <p><b>Article 1:74 of the Financial Supervision Act</b></p> <p>(1) The supervisor can require anyone to provide information for the</p>	<p><b>Artikel 1:58 Wet op het Financieel Toezicht</b></p> <p>(1) Indien een beheerder met zetel in een andere lidstaat van een instelling voor collectieve belegging in effecten of een bank, levensverzekeraar of schadeverzekeraar met zetel in een andere lidstaat die vanuit een bijkantoor in Nederland zijn onderscheidenlijk haar bedrijf uitoefent of financiële diensten verleent dan wel diensten verricht naar Nederland, geen gevolg geeft aan een door de toezichthouder gegeven aanwijzing als bedoeld in artikel 1:75, stelt de toezichthouder de toezichthoudende instantie van de andere lidstaat daarvan in kennis.</p> <p>(2) De toezichthouder kan, onverminderd de artikelen 1:79 en 1:80, en na de toezichthoudende instantie van de lidstaat waar de financiële onderneming haar zetel heeft daarvan in kennis te hebben gesteld, het besluit nemen dat de betrokken financiële onderneming geen nieuwe</p>	

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			<p>supervision concerning compliance with the rules of and on the basis of this Act.</p> <p><b>Article 1:75 of the Financial Supervision Act</b></p> <p>(1) The supervisor can via giving indications require any person referred to below who is not in compliance with the rules set by virtue of this Act, to within a reasonable amount of time follow the indications provided and to conduct a certain policy;</p> <p>(a) a financial undertaking;</p> <p>(2) The Dutch Central Bank can give indications as referred to in the first paragraph also to financial undertakings if it detects a development that could endanger the equity, the solvability or the liquidity of the financial undertaking.</p> <p><b>Article 1:104 Financial Supervision Act</b></p> <p>(1) The supervisor may modify, limit, partially</p>	<p>overeenkomsten in Nederland mag afsluiten, indien deze niet voldoet aan hetgeen bij of krachtens deze wet is bepaald: (...)</p> <p>(5) Het eerste en tweede lid zijn van overeenkomstige toepassing op:</p> <p>(c) elektronischgeldinstellingen met zetel in een andere lidstaat, met dien verstande dat onder bijkantoor mede wordt verstaan betaaldienstagent of persoon aan wie werkzaamheden zijn uitbesteed;</p> <p><b>Artikel 1:75 Wet op het Financieel Toezicht</b></p> <p>(1) De toezichthouder kan ten behoeve van het toezicht op de naleving van de bij of krachtens deze wet gestelde regels van een ieder inlichtingen vorderen.</p> <p><b>Artikel 1:75 Wet op het Financieel Toezicht</b></p> <p>(1) De toezichthouder kan een hierna bedoelde persoon die niet voldoet</p>	

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				<p>withdraw or provide further requirements to an authorisation which it has granted (..)</p>	<p>aan hetgeen bij of krachtens deze wet is bepaald, door middel van het geven van een aanwijzing verplichten om binnen een door de toezichthouder gestelde redelijke termijn ten aanzien van in de aanwijzingsbeschikking aan te geven punten een bepaalde gedragslijn te volgen:</p> <p>(a) een financiële onderneming;</p> <p>(2) De Nederlandsche Bank kan een aanwijzing als bedoeld in het eerste lid eveneens aan een financiële onderneming geven indien zij tekenen ontwaart van een ontwikkeling die het eigen vermogen, de solvabiliteit of de liquiditeit, onderscheidenlijk de technische voorzieningen, van die financiële onderneming in gevaar kunnen brengen.</p>	
<b>Art. 18(1) 1<sup>st</sup> subpar</b>	<p><i>Article 18</i> <b>Transitional provisions</b></p> <p>1. Member States shall allow electronic money</p>	<p><i>Artikel 18</i> <b>Overgangsbepalingen</b></p> <p>1. De lidstaten bieden instellingen voor</p>	<b>Art. XIX of the Act of 22</b>	<b>Article XIX of the Act of 22 December 2011 amending the Financial Supervision Act and other laws, implementing</b>	<b>Artikel XIX Wet van 22 december 2011 tot wijziging van de Wet op het financieel toezicht en enige andere wetten ter</b>	<b>CONFORM</b>  Article 18(1) first subparagraph of the Directive sets out an option, which the Netherlands chose to apply.

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a.	<p>institutions that have taken up, before 30 April 2011, activities in accordance with national law transposing Directive 2000/46/EC in the Member State in which their head office is located, to continue those activities in that Member State or in another Member State in accordance with the mutual recognition arrangements provided for in Directive 2000/46/EC without being required to seek authorisation in accordance with Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive.</p>	<p>elektronisch geld die vóór 30 april 2011 hun werkzaamheden in overeenstemming met het intern recht tot omzetting van Richtlijn 2000/46/EG hebben aangevangen in de lidstaat waar hun hoofdkantoor is gevestigd, de gelegenheid die werkzaamheden in die lidstaat of elke andere lidstaat overeenkomstig de bepalingen van Richtlijn 2000/46/EG inzake wederzijdse erkenning voort te zetten zonder dat zij een vergunning krachtens artikel 3 van deze richtlijn hoeven te verkrijgen of zij hoeven te voldoen aan de overige bepalingen van titel II of waarnaar in titel II van deze richtlijn wordt verwezen.</p>	<p><b>december 2011 amending the financial supervision Act and other laws and implementing Directive 2009/110/EC</b></p>	<p><b>Directive 2009/110/EC</b> (3) Until 30 October 2001, institutions for electronic money may exercise their undertaking in accordance with the Section on Marketentry Financial Undertakings and the Section Prudential Supervision Financial Undertakings of the Financial Supervision Act as these apply on April 29 2011.</p>	<p><b>implementatie van richtlijn nr. 2009/110/EG</b> (3) Instellingen voor elektronisch geld mogen tot 30 oktober 2011 hun bedrijf uitoefenen in overeenstemming met de bepalingen uit het Deel Markttoegang Financiële Ondernemingen en het Deel Prudentieel Toezicht Financiële Ondernemingen van de Wet op het financieel toezicht zoals deze luiden op 29 april 2011.</p>	<p>The provisions for the transposition of Article 18 paragraph 1 subparagraph (a), which are found in Article XIX of the Act of 22 December 2011 amending the Financial Supervision Act and other laws, implementing Directive 2009/110/EC, transposes the option of Article 18 paragraph 1 subparagraph 1 of the Directive.</p> <p>Article XIX paragraph 3 indicates that until 30 October 2001, institutions for electronic money may exercise their undertaking in accordance with the Sections on Marketentry Financial Undertakings and on Prudential Supervision Financial Undertakings of the Financial Supervision Act as these apply on April 29 2011.</p> <p>In this regard, Article XIX paragraph 3 indicates that such electronic money institutions as indicated by Article 18 paragraph 1 first subparagraph of the Directive shall be exempt from the law in force after 30 April 2011 (i.e. Directive 2009/110/EC) and are therefore not required to seek authorisation in accordance with the Directive or to comply with other provisions laid down or referred to in Title II of the Directive.</p> <p>The option of Article 18 paragraph 1 first subparagraph is therefore transposed.</p> <p>Account is also taken of recital 23 with regard to transitional arrangements which should be made to ensure that electronic money institutions which have taken up their activities in accordance with the national laws transposing Directive 2000/46/EC are able to</p>

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						<p>continue those activities within the Member State concerned for a specified period.</p> <p>Also the requirement that this period should be longer for electronic money institutions that have benefited from the waiver provided for in Article 8 of Directive 2000/46/EC, can be considered met by extending the applicability of previous law to waived electronic money institutions to after 30 April 2011.</p>
<b>Art. 18(1) 2<sup>nd</sup> subpar a.</b>	Member States shall require such electronic money institutions to submit all relevant information to the competent authorities in order to allow the latter to assess, by 30 October 2011, whether the electronic money institutions comply with the requirements laid down in this Directive and, if not, which measures need to be taken in order to ensure compliance or whether a withdrawal of authorisation is appropriate.	De lidstaten verplichten die instellingen voor elektronisch geld ertoe de bevoegde autoriteiten alle dienstige gegevens te verstrekken om hen uiterlijk op 30 oktober 2011 in staat te stellen te beoordelen of de instellingen voor elektronisch geld aan de in deze richtlijn vastgestelde voorschriften voldoen en, zo niet, welke maatregelen moeten worden genomen om naleving te garanderen, dan wel of het aangewezen is de vergunning in te trekken.	<b>Art. XIX of the Act of 22 december 2011 amending the financial supervision Act and other laws and implementing Directive 2009/1</b>	<b>Article XIX of the Act of 22 December 2011 amending the Financial Supervision Act and other laws, implementing Directive 2009/110/EC</b>  (4) The Dutch Central Bank may decide to grant an electronic money institution authorisation as indicated by Article 2:10a of the Financial Supervision Act if to its judgment it has sufficient evidence that the institution in question meets the requirements of Article 2:10b of the Financial Supervision Act.	<b>Artikel XIX Wet van 22 december 2011 tot wijziging van de Wet op het financieel toezicht en enige andere wetten ter implementatie van richtlijn nr. 2009/110/EG</b>  (4) De Nederlandsche Bank kan besluiten een instelling voor elektronisch geld een vergunning als bedoeld in artikel 2:10a van de Wet op het financieel toezicht te verstrekken indien zij naar haar oordeel over voldoende bewijs beschikt dat de betreffende instelling voldoet aan de vereisten die zijn opgenomen in artikel 2:10b van de Wet op het financieel toezicht.	<b>CONFORM</b>  Article XIX of the Act of 22 December 2011 amending the Financial Supervision Act and other laws, implementing Directive 2009/110/EC transposes Article 18 paragraph 1 subparagraph 2 of the Directive.  Article XIX paragraph 4 indicates that the Dutch Central Bank may decide to grant authorisation to electronic money institutions (which are not required to fall under the Directive after 30 April 2011) if in the judgment of that supervisor it has sufficient evidence that the institution meets the requirements of Article 2:10b of the Financial Supervision Act concerning authorisation to issue electronic money.  Article XIX paragraph 4 indicates therefore that electronic money institutions are required to submit all relevant information for the supervisor to make a judgment by 30 October 2011 whether the institution complies with the requirements of this Directive in order to provide authorisation in this regard.

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			10/EC			<p>Conformity is observed with Article 18 paragraph 1, subparagraph 2 of the Directive.</p> <p>Account is also taken of recital 23 with regard to transitional arrangements which should be made to ensure that electronic money institutions which have taken up their activities in accordance with the national laws transposing Directive 2000/46/EC are able to continue those activities within the Member State concerned for a specified period.</p> <p>Also the requirement that this period should be longer for electronic money institutions that have benefited from the waiver provided for in Article 8 of Directive 2000/46/EC, can be considered met by extending the applicability of previous law to waived electronic money institutions to after 30 April 2011.</p> <p>Overall, based on the above observations, conformity with Article 18 paragraph 1 subparagraph 2 of the Directive is observed.</p>
<b>Art. 18(1) 3<sup>rd</sup> subpar a.</b>	Compliant electronic money institutions shall be granted authorisation, shall be entered in the register, and shall be required to comply with the requirements in Title II. Where electronic money institutions do not comply with the requirements laid down in this Directive by 30 October 2011, they shall	Instellingen voor elektronisch geld die aan de voorschriften voldoen, krijgen een vergunning en worden in het register ingeschreven en dienen te voldoen aan de bepalingen van titel II. Indien instellingen voor elektronisch geld niet uiterlijk op 30 oktober 2011 aan de in deze richtlijn neergelegde	<b>Art. XIX of the Act of 22 december 2011 amending the financial superv</b>	<b>Article XIX of the Act of 22 December 2011 amending the Financial Supervision Act and other laws, implementing Directive 2009/110/EC</b>  (3) Until 30 October 2001, institutions for electronic money may exercise their undertaking in accordance with the Section on Marketentry Financial Undertakings and the	<b>Artikel XIX Wet van 22 december 2011 tot wijziging van de Wet op het financieel toezicht en enige andere wetten ter implementatie van richtlijn nr. 2009/110/EG</b>  (3) Instellingen voor elektronisch geld mogen tot 30 oktober 2011 hun bedrijf uitoefenen in overeenstemming met de bepalingen uit het Deel	<b>CONFORM</b>  Article XIX of the Act of 22 December 2011 amending the Financial Supervision Act and other laws, implementing Directive 2009/110/EC transposes Article 18 paragraph 1 subparagraph 3 of the Directive.  Article XIX paragraph 3 indicates that until 30 October 2001, institutions for electronic money may exercise their undertaking on the basis of the rules applicable before April 30 2011 and therefore shall be exempt from the law applicable after 30 April 2011 (i.e.

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	be prohibited from issuing electronic money.	voorschriften voldoen, wordt het hen verboden elektronisch geld uit te geven.	<b>ision Act and other laws and implementing Directive 2009/110/EC</b>	Section Prudential Supervision Financial Undertakings of the Financial Supervision Act as these apply on April 29 2011.	Markttoegang Financiële Ondernemingen en het Deel Prudentieel Toezicht Financiële Ondernemingen van de Wet op het financieel toezicht zoals deze luiden op 29 april 2011.	<p>Directive 2009/110/EC). These institutions shall be registered and required to comply with the requirements in Title II as applicable to all electronic money institutions.</p> <p>It can be concluded that starting 30 October 2011 those undertakings must have authorisation based on the new applicable amendments. If these requirements are not met, those institutions shall be prohibited from issuing electronic money on the basis of lacking compliance with the mandatory requirements of Article 2:10a and 2:10b of the Financial Supervision Act as concerns operating as an electronic money issuer.</p> <p>Conformity with Article 18 paragraph 1 subparagraph 3 of the Directive is thus observed.</p> <p>Account is furthermore taken of recital 23 with regard to transitional arrangements which should be made to ensure that electronic money institutions which have taken up their activities in accordance with the national laws transposing Directive 2000/46/EC are able to continue those activities within the Member State concerned for a specified period.</p>
<b>Art. 18(2)</b>	2. Member States may provide for an electronic money institution to be automatically granted authorisation and entered in the register provided for in Article 3 if the competent authorities	2. De lidstaten kunnen bepalen dat een instelling voor elektronisch geld automatisch een vergunning krijgt en in het krachtens artikel 3 aangelegde register wordt ingeschreven indien de	<b>Art. XIX of the Act of 22 december 2011</b>	<b>Article XIX of the Act of 22 December 2011 amending the Financial Supervision Act and other laws, implementing Directive 2009/110/EC</b> (4) The Dutch Central Bank may decide to grant	<b>Artikel XIX Wet van 22 december 2011 tot wijziging van de Wet op het financieel toezicht en enige andere wetten ter implementatie van richtlijn nr. 2009/110/EG</b> (4) De Nederlandsche	<b>CONFORM</b> Article 18(2) of the Directive sets out an option, which the Netherlands chose to apply. Article XIX of the Act of 22 December 2011 amending the Financial Supervision Act and other laws, implementing Directive 2009/110/EC transposes Article 18 paragraph

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	already have evidence that the electronic money institution concerned complies with the requirements laid down in Articles 3, 4 and 5. The competent authorities shall inform the electronic money institutions concerned before the authorisation is granted.	bevoegde autoriteiten reeds over het bewijs beschikken dat de betrokken instelling voor elektronisch geld voldoet aan de in de artikelen 3, 4 en 5 gestelde eisen. De bevoegde autoriteiten informeren de betrokken instellingen voor elektronisch geld alvorens hun een vergunning wordt verleend.	<b>amending the financial supervision Act and other laws and implementing Directive 2009/110/EC</b>	an electronic money institution authorisation as indicated by Article 2:10a of the Financial Supervision Act if to its judgment it has sufficient evidence that the institution in question meets the requirements of Article 2:10b of the Financial Supervision Act.	Bank kan besluiten een instelling voor elektronisch geld een vergunning als bedoeld in artikel 2:10a van de Wet op het financieel toezicht te verstrekken indien zij naar haar oordeel over voldoende bewijs beschikt dat de betreffende instelling voldoet aan de vereisten die zijn opgenomen in artikel 2:10b van de Wet op het financieel toezicht.	2 of the Directive.  Article XIX paragraph 4 indicates that the Dutch Central Bank may decide to grant authorisation to an electronic money institution (which is not required to fall under the Directive after 30 April 2011) if in the judgment of that supervisor there is sufficient evidence that the institution meets the requirements of Article 2:10b of the Financial Supervision Act concerning authorisation to issue electronic money.  In this regard, authorisation shall be automatically granted if the supervisor already has evidence which to its judgment complies with the requirements of Title II of the Directive, as indicated by Article 18 paragraph 2 of the Directive.  The option of Article 18 paragraph 2 is transposed.
<b>Art. 18(3)</b>	3. Member States shall allow electronic money institutions that have taken up, before 30 April 2011, activities in accordance with national law transposing Article 8 of Directive 2000/46/EC, to continue those activities within the Member State concerned in accordance with Directive 2000/46/EC until 30 April 2012, without being required to seek	3. De lidstaten bieden instellingen voor elektronisch geld die in overeenstemming met het nationale recht dat artikel 8 van Richtlijn 2000/46/EG omzet, vóór 30 april 2011 hun werkzaamheden hebben aangevangen, de mogelijkheid deze werkzaamheden in de betrokken lidstaat voort te zetten tot 30 april 2012 in overeenstemming met	<b>Art. XIX of the Act of 22 december 2011 amending the financial supervision Act</b>	<b>Article XIX of the Act of 22 December 2011 amending the Financial Supervision Act and other laws, implementing Directive 2009/110/EC</b>  (6) The Section Marketentry Financial Undertakings and the Section Prudential Supervision Financial Undertakings shall remain applicable until 30 April 2012 to exempted issuers of electronic money as	<b>Artikel XIX Wet van 22 december 2011 tot wijziging van de Wet op het financieel toezicht en enige andere wetten ter implementatie van richtlijn nr. 2009/110/EG</b>  (6) Op vrijgestelde uitgevers van elektronisch geld blijven tot 30 april 2012 het deel Markttoegang Financiële Ondernemingen en het deel Prudentieel Toezicht Financiële	<b>CONFORM</b>  Article XIX of the Act of 22 December 2011 amending the Financial Supervision Act and other laws, implementing Directive 2009/110/EC transposes Article 18 paragraph 3 of the Directive.  Article XXI paragraph 6 indicates that the law as in force on 29 April 2011 shall remain applicable until 30 April 2012 to electronic money institutions which have taken up activities before 30 April 2011.  In this regard, those institutions are not required to seek authorisation for their activities or to comply with other provisions



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	<p>authorisation under Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive. Electronic money institutions which, during that period, have been neither authorised nor waived within the meaning of Article 9 of this Directive, shall be prohibited from issuing electronic money.</p>	<p>Richtlijn 2000/46/EG, zonder dat zij een vergunning krachtens artikel 3 van deze richtlijn hoeven te verkrijgen of hoeven te voldoen aan de overige bepalingen van titel II of die in titel II van deze richtlijn worden genoemd. Instellingen voor elektronisch geld die in die periode geen vergunning of ontheffing in de zin van artikel 9 van deze richtlijn hebben gekregen, wordt het verboden elektronisch geld uit te geven.</p>	<p><b>and other laws and implementing Directive 2009/110/EC</b></p>	<p>these Acts were in force before 29 April 2011.</p>	<p>Ondernemingen van de Wet op het financieel toezicht van toepassing zoals deze luiden op 29 april 2011.</p>	<p>referred to in Title II of the Directive, as these institutions already meet the requirements on the basis of their activities as taken up before 30 April 2011.</p> <p>At latest on 30 April 2012 those existing electronic money institutions with exemptions must have authorisation on the basis of the newly applicable amendments or be waived on the basis of Article 2:10d of the Financial Supervision Act.</p> <p>If these institutions have been neither authorised or waived, they can be considered to be prohibited from issuing electronic money as a result of no longer complying with the mandatory requirements of Article 2:10a and 2:10b of the Financial Supervision Act for issuing electronic money.</p> <p>In this regard, conformity with Article 18 paragraph 3 of the Directive is observed.</p> <p>Account is also taken of recital 23 with regard to transitional arrangements which should be made to ensure that electronic money institutions which have taken up their activities in accordance with the national laws transposing Directive 2000/46/EC are able to continue those activities within the Member State concerned for a specified period.</p>