

Conformity Assessment of Directive 2009/110/EC SWEDEN

Final Report
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NATIONAL IMPLEMENTING MEASURES

List of the national implementing measures notified to the European Commission	General observations
<p>Lag (2011:755) om elektroniska pengar Electronic Money Act (2011:755) (referred throughout the report as “LEP”)</p>	<p>The LEP is the main Swedish Act implementing the Directive. This Act has been adopted for the sole purpose of transposing the Directive into Swedish law.</p> <p>The LEP was adopted on 9 June 2011 and entered into force on 1 July 2011. Consequently it was not adopted within the time frame required in Article 22 of the Directive. It was last amended on 12 August 2012.</p> <p>The Act, in Swedish, may be found on the following website: http://www.notisum.se/rnp/sls/lag/20110755.htm</p>
<p>Lag (2010:751) om betaltjänster Act (2010:751) on Payment Services (referred throughout the report as “LB”)</p>	<p>The LB was adopted for the transposition of Directive 2007/64/EC. LB is relevant in this context as there are numerous references from LEP to LB. It is particularly relevant in relation to the capital requirements set out in Article 5 of the Directive and the safeguarding requirements in Article 7. The LB was also amended so that electronic money institutions would be included in the definition of payment service providers.</p> <p>LB was adopted on 23 June 2009 and entered into force on 1 August 2010. It was last amended on 21 June 2011.</p> <p>The Act, in Swedish, may be found on the following website: http://www.notisum.se/rnp/sls/lag/20100751.htm</p>
<p>Lag (2004:297) om bank- och finansieringsrörelse Banking and Financing Business Act (2004:297) (referred throughout the report as “BFL”)</p>	<p>BFL governs bank and financing business. BFL is relevant in this context as there are numerous references from LEP to BFL. It is particularly relevant in relation to the provisions of ownership assessment in Article 3(3) of the Directive. BFL has also been amended in order to include issuance of electronic money as an activity that may be carried out by credit institutions.</p> <p>BFL was adopted on 19 May 2004 and entered into force on 1 July 2004. It was last amended on 15 June 2012.</p> <p>The Act, in Swedish, may be found on the following website: http://www.notisum.se/rnp/sls/lag/20040297.htm</p>

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<p>Lag (2009:62) om åtgärder mot penningtvätt och finansiering av terrorism Money Laundering and Terrorist Financing (Prevention) Act (2009:62)</p>	<p>This Act transposes Directive 2005/60/EC. It is relevant in this context as there are numerous references from LEP to this Act. It is in particular relevant in relation to Article 9(8) of the Directive. It has also been amended in order to transpose the minor changes in Directive 2005/60/EC that follows from this Directive.</p> <p>The Act was adopted on 12 February 2009 and entered into force on 15 March 2009. It was last amended on 15 June 2012.</p> <p>The Act, in Swedish, may be found on the following website: http://www.notisum.se/rnp/sls/lag/20090062.htm</p>
<p>Lag om ändring i konkurslagen (1987:672) Act (2011:762) amending the Bankruptcy Act (1987:672)</p> <p>Lag om ändring i lagen (1995:1559) om årsredovisning i kreditinstitut och värdepappersbolag Act (2011:764) amending the Act (1995:1559) on annual accounts in credit institutions and investment firms</p> <p>Lag om ändring i lagen (2000:35) om byte av redovisningsvaluta i finansiella företag Act (2011:765) amending the Act (2000:35) on change in accounting currency in financial companies</p> <p>Lag om ändring i lagen (2006:531) om särskild tillsyn över finansiella konglomerat Act (2011:769) amending the Act (2006:531) on special supervision of financial conglomerates</p>	<p>Sweden has notified a number of national implementing measures (“NIMs”) where minor changes have been made in order to make sure that these acts refer to LEP instead of the former Act (2002:149) on issuance of electronic money. In addition, minor changes have been made to accommodate the fact that electronic money institutions no longer fall within the definition of credit institutions. Some provisions have also been removed as they are no longer applicable according to the Directive. These NIMs do not affect the conformity analysis of Directive and have therefore not been included in the analysis.</p>
<p style="text-align: center;">List of additional national implementing measures referred to in the conformity assessment</p>	<p style="text-align: center;">General observations</p>
<p>Finansinspektionens föreskrifter och allmänna råd om institut för elektroniska pengar och registrerade</p>	<p>The FIR is the main secondary legislation implementing the Directive. It has been adopted for the sole purpose of transposing the Directive into Swedish law.</p>

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<p>utgivare (FFFS 2011:49)</p> <p>Financial Supervisory Authority's regulations and general advice on electronic money institutions and registered issuers (FFFS 2011:49)</p> <p>(referred throughout the report as "FIR")</p>	<p>FIR was adopted on 9 November 2011 and entered into force on 1 December 2011. Consequently it was not adopted within the time frame required in Article 22 of the Directive. It was last amended on 15 June 2012.</p> <p>The Regulation, in Swedish, may be found on the following website: http://www.fi.se/upload/30_Regler/10_FFFS/2011/fs1149.pdf</p> <p>The Regulation, in English, may be found on the following website: http://www.fi.se/upload/90_English/30_Regulations/1_Regulatory%20code/2011/fs1149_eng.pdf</p>
<p>Finansinspektionens föreskrifter om ägar- och ledningsprövning (FFFS 2009:3)</p> <p>The Financial Supervisory Authority's regulations regarding ownership and management assessment (FFFS 2009:3)</p> <p>(referred throughout the report as FÄL)</p>	<p>FÄL is secondary legislation governing the information requirements for financial undertakings in ownership or management assessment. FÄL is relevant in relation to the provisions of ownership assessment in Article 3(3) of the Directive.</p> <p>FÄL was adopted on 7 October 2009 and entered into force on 1 December 2011. It was last amended on 1 December 2011.</p> <p>The Regulation, in Swedish, may be found on the following website: http://www.fi.se/upload/30_Regler/10_FFFS/10_konsoliderad_version/2009/fs0903k_v4.pdf</p> <p>The Regulation, in English, may be found on the following website: http://www.fi.se/upload/90_English/30_Regulations/1_Regulatory%20code/2011/fs1149_eng.pdf</p>
<p>Finansinspektionens föreskrifter och allmänna råd om betalningsinstitut och registrerade betaltjänstleverantörer (FFFS 2010:3)</p> <p>The Financial Supervisory Authority's regulations and general guidelines governing payment institutions and registered payment service providers (FFFS 2010:3)</p> <p>(referred throughout the report as FBRB)</p>	<p>FBRB was adopted to implement Directive 2007/64/EC. It is relevant in this context as electronic money institutions that also want to provide payment services must comply with the information requirements of this regulation. FBRB is relevant in relation to Article 5(4) of this Directive.</p> <p>FBRB was adopted on 7 October 2009 and entered into force on 1 December 2011. It was last amended on 1 December 2011.</p> <p>The Regulation, in Swedish, may be found on the following website: http://www.fi.se/upload/30_Regler/10_FFFS/10_konsoliderad_version/2010/fs1003kNY.pdf</p> <p>The Regulation, in English, may be found on the following website: http://www.fi.se/upload/90_English/30_Regulations/1_Regulatory%20code/FFFS_2010_3_eng.pdf</p>
<p>Finansinspektionens föreskrifter och allmänna råd (FFFS 2007:1) om kapitaltäckning och stora</p>	<p>FKSE sets out provisions for the calculation of capital requirements. In this context it is relevant in relation to the definition of low risk assets as set out Article 7(2), first subparagraph of the Directive</p>

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<p>exponeringar</p> <p>The Financial Supervisory Authority's Regulations and General guidelines governing capital adequacy and large exposures (FFFS 2007:1)</p> <p>(referred throughout the report as FKSE)</p>	<p>FKSE was adopted on 22 January 2007 and entered into force on 1 February 2007. It was last amended on 16 March 2012.</p> <p>The Regulation, in Swedish, may be found on the following website:</p> <p>http://www.fi.se/upload/30_Regler/10_FFFS/2007/fs0701k_20120516.pdf</p> <p>The Regulation, in English, may be found on the following website:</p> <p>http://www.fi.se/upload/90_English/30_Regulations/1_Regulatory%20code/FFFS_0701_eng_NY.pdf</p>
<p>Regeringens proposition 2010/11:124</p> <p>Government Proposal 2010/11:124</p> <p>(referred throughout the report as Government Proposal)</p>	<p>The Government Proposal is the preparatory work issued by the Government for the implementation of LEP. Government Proposals constitute a legal source and are used in the Swedish legal system when interpreting legal acts. It provides information on the Government's reasoning behind its implementation decisions as regards the Directive provisions. It is referred to throughout the report to further explain how the Swedish provisions should be interpreted.</p> <p>The Government Proposal is available in Swedish on the following web site:</p> <p>http://www.regeringen.se/content/1/c6/16/58/05/79273e1a.pdf</p>

SUMMARY

1. Executive summary

The Directive has generally been well transposed into Swedish law. The full harmonization nature of the Directive has been taken into account when taking decisions on how to implement the Directive provisions. Minor differences that may affect the correctness of the application of the Swedish provision have, however, been detected in relation to 13 of the Directive provisions. On 2 occasions the Swedish provisions have been considered not to conform with the Directive provisions. It is also important to note that the Directive was not implemented on time in Sweden. The Swedish primary legislation transposing the Directive entered into force on 1 of July, 2011 and the secondary legislation entered into force on December 1, the same year.

The Directive has mainly been transposed into Swedish law through the LEP which is the primary Act setting out the provisions governing issuance of electronic money. LEP was adopted specifically for the implementation of the Directive and replaces the previous Act (2002:149) on issuance of electronic money. Many of the Directive provisions have also been implemented through the secondary legislation, FIR, adopted by the Financial Supervisory Authority ("FSA"). It should be noted that there has not been much activity within the field of electronic money issuance in Sweden. So far, no electronic money institutions have been granted authorisation or exemption from authorisation in Sweden. There is consequently no practical experience to draw conclusions from. The Swedish legislation governing electronic money will likely go through some changes if and when the legislation actually starts to be applied in practise.

The many referrals in the Directive to the provisions of Directive 2007/64/EC have been addressed in two different ways in the Swedish legislation. The Swedish government decided that rather than referring to the Swedish legislation implementing Directive 2007/64/EC, the provisions should be repeated in LEP and FIR and adapted to the specific issues related to issuance of electronic money. In some instances, referrals have been considered more efficient and the LEP therefore has numerous references to the LB, implementing Directive 2007/64/EC. Swedish undertakings that are authorised as electronic money institutions or that are exempted from authorisation, may also provide payment services under LB, without any additional authorisation requirements. These undertakings must, however, submit separate information to the FSA regarding its payment service business in order to ensure that the FSA may adequately supervise this business.

In addition to LB and secondary legislation governing payment services, there are also references in LEP to BFL, governing the bank and financing business. These references mainly concern ownership and management assessment. Some of the Directive provisions in this area have been implemented through the secondary legislation, FÄL, adopted by the FSA.

As regards capital requirements and safeguarding of funds, these provisions are dealt with through referrals to LB as well as the secondary legislation FKSE. FKSE defines low risk assets.

In most cases the transposition of the Directive has been rather literal. Some Swedish provisions are, however, more general than the Directive provisions. It has been the intention of the Swedish legislature that these general provisions shall cover the more detailed provisions of the Directive. When available, references to the Government Proposal have been provided to explain how the Swedish provisions shall be interpreted. Given that the Government proposal is used as a legal source in Sweden, the use of general terms that are further specified in the Government Proposal should not affect the correct transposition of the Directive. Some Swedish provisions provide additional details not covered by the Directive. When these details merely specify how the Directive provision shall be practically applied, this is not an issue. However, on some occasions the Swedish provisions add additional requirements not covered by the Directive Article, which is contrary to the Directive's full harmonization obligation. Also by omitting certain requirements, the Swedish provisions occasionally do not meet the full harmonization obligation.

2. The implementation of Directive 2009/110/EC

2.1. Scope

The scope of LEP corresponds with the scope of the Directive. All the categories of issuers of electronic money listed in Article 1(1) of the Directive are recognised in LEP.

2.2. Terminology

In general the Swedish legislation uses the terminology of the Directive. There are, however, some differences in the use of certain terms, but nothing that would affect the correct transposition of the Directive. Some of the terms used in the Swedish legislation will be described below in order to facilitate the reading of the analysis.

Registered issuers - The undertakings that have been exempted from authorisation through the use of the waiver option in Article 9 of the Directive, have in LEP been defined as *registered issuers*. The Directive provisions applicable to undertakings exempted under Article 9 of the Directive have generally not been separately implemented in the LEP. In the LEP, both electronic money institutions and registered issuers have been governed in the same provisions. Where the provision is not applicable to Article 9 undertakings, *registered issuers* have not been included in these specific Swedish implementing provisions. There are also some provisions that are only applicable to *registered issuers*.

Payment services – This term has not been separately defined in LEP. However, given the numerous references from LEP to LB it must be assumed that the definition of payment services set out in LB also applies in the context of LEP. The definition of payment services set out in Chapter 1, Section 2 of LB corresponds with the definition set out in Article 6(1)(a) of the Directive, referring to the Annex of Directive 2007/64/EC.

Related services – The general term *related services* has been used in the LEP to cover the services related to issuance of electronic money and provision of payment services listed in Article 6(1) first subparagraph (c) and (d) of the Directive. As the Government proposal further explains what services shall be covered by this term, the use of a more general term does not appear to affect the correctness of the transposition of the Directive.

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

A summary of the transposition of each title of the Directive into Swedish law will be provided below.

2.4.1. Title I – Scope and definitions

The scope of the Directive and the definitions have generally been well transposed into Swedish law.

2.4.1.1. Article 1 – Subject

As explained above, the scope of LEP corresponds with the scope of the Directive. All the categories of issuers of electronic money listed in Article 1(1) of the Directive are recognised in LEP.

It is, however, somewhat difficult to determine in which category of issuers of electronic money branches of credit institutions, established within the EEA, shall be included. However, no matter under which Swedish provision they should be included, they are always allowed to issue electronic money in Sweden without first obtaining authorisation. Therefore, this issue does not appear to affect the correctness of the transposition of the Directive.

As regards the scope in the context of the types of monetary value that should be considered electronic money, as set out in Article 1(4) and 1(5) of the Directive, the Swedish provisions transpose the Directive provisions in a literal manner.

Sweden has chosen not to apply the option in Article 1(3) of Directive 2009/110/EC. Consequently, Sweden has not waived the requirement for *Svenska Skeppshypotekskassan* to comply with all, or part, of the provisions of Title II of the Directive. However, given the nature of this institution's business, financing of ship building, where its purpose has been regulated by law, it does not appear to be possible for this institution to issue electronic money.

2.4.1.2. Article. 2 – Definitions

All the definitions set out in Article 2 of the Directive have been correctly transposed into LEP.

In the definition of electronic money there is a minor difference between the Swedish definition and the definition set out in the Directive. The Swedish provision does not use the term *magnetically stored*. It only refers to *electronically stored* monetary value. In Swedish legislative language, the term *electronically* is generally considered a generic term for all automated information processing, irrespective of whether the registration is made electronically, optically or in any other similar manner. The term *electronically stored* should therefore be considered to include also *magnetically stored* monetary value. Consequently, this difference does not give rise to any concerns as regards the correctness of the transposition of the Directive.

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 has generally been well transposed into Swedish legislation. As will be described below, some of the Swedish provisions implementing Title II lack certain elements and therefore only partially conform with the Directive provisions. There is also one occasion of non-conformity. Where the Directive prohibits or allows certain activities the Swedish provisions do not always expressly prohibit or allow the activity in question. The prohibition or permission may in these cases follow from what isn't covered by the Swedish provision, *i.e.* what has not been prohibited or permitted.

2.4.2.1. Article 3 – General prudential rules

Article 3(1) has a reference to Articles 5, 10-15, 17.7 and 18-25 of Directive 2007/64/EC. As described above, these provisions have been transposed into Swedish law, in relation to electronic money, by repeating them in LEP. A great number of provisions have therefore been implemented in LEP, or in the secondary legislation FIR, to transpose Article 3(1) of the Directive into Swedish legislation.

The transposition has for obvious reasons been similar to the transposition of Directive 2007/64/EC into LB, the Swedish Act governing payment services. The provisions in LEP have, however, been adapted to cover the specific issues of electronic money institutions which means that the transposition of LEP is somewhat different in certain areas.

In relation to the requirements of the content of the authorisation application (Article 5 of Directive 2007/64/EC), there are some elements missing in FIR. The elements that are required to be included in the application that are missing in the Swedish provisions are the following: evidence that the electronic money institution holds the required initial capital, explanation on how the institution intends to comply with Regulation (EC) No 1781/2008 on information on the payer accompanying transfer of funds, description of intended participation in national and international payment systems and information on the identity of the statutory auditors (It is, however, only the requirement to supply the identity of the

auditor in the application that is missing in the Swedish provision. The obligation to appoint a statutory auditor is set out in LEP). These missing elements mean that the Swedish provisions only partially conform with Article 5 of Directive 2007/64/EC.

Another case of partial conformity has been established in relation to Article 10(5) of Directive 2007/64/EC, which allows competent authorities to require the separation of the payment service business (and in this case the issuance of electronic money) into a separate entity if the institution carries out *other* business and this *other* business may impair the financial soundness of the institution. The Swedish provision appears to go further than the Directive provision and allows the FSA to prohibit the conduct of the other business. The institution may, however, decide whether it wishes to cease the other business or the business of issuance of electronic money. In any case the possibility for the FSA to prohibit the business appears to go further than the Directive and would be contrary to the full harmonization obligation.

Finally, Sweden has not implemented any provisions covering the liability for acts of employees, agents, branches and entities to which activities are outsourced, as set out in Article 18(2) of Directive 2007/64/EC. Swedish law may be considered partially conform with the Directive provision as there are general principles of vicarious liability and other general liability principles, which may cover these liability obligations. The objective of this Directive provision, however, seems to be to gather all liability obligations and to clarify the liability obligations of an electronic money institution. The lack of a comparable Swedish provision therefore appears to result in partial conformity with the Directive.

The provisions on ownership assessment and the measures that may be taken if these provisions are not complied with, set out in Article 3(2) to (3) of the Directive, have been correctly transposed into LEP. The same is true for the provisions on agents in Article 3(4) to (5).

2.4.2.2. Article 4 – Initial Capital

Article 4 has been correctly transposed into LEP. The minimum initial capital of 350 000 EUR has been introduced and the definition of initial capital, has through referral to LEB, been based on the definition set out in Directive 2006/48/EC.

2.4.2.3. Article 5 – Own funds

Also Article 5 has been correctly transposed into LEP. Methods A, B, C and D, used for the calculation of own funds, have all been introduced in the Swedish legislation. The use of the special rules in Article 5(4) for calculating own funds of an electronic money institution (carrying out the activities referred to in Article 6(1)(a)) when the amount of outstanding electronic money is unknown in advance, have not been expressly implemented in the LEP. There are, however, Swedish provisions that ensure that the information required in order to make these calculations is collected and it is therefore likely that the own funds are calculated in accordance with the Directive in the relevant situations.

2.4.2.4. Article 6 – Activities

Article 6 has generally been well transposed into LEP. There is one issue in relation to the provisions on granting of credit by electronic money institutions. Article 6(1) subparagraph b refers to Article 16(3)(c) of Directive 2007/64/EC, specifying the types of funds that may not be used for granting of credit, *i.e.* funds *received* or *held* for the purpose of executing a payment transaction. In LEP there is only a reference to funds *held*. Because funds that are held, first must have been received, the omission of *received* in the Swedish provision does not appear to give rise to any conformity issues in this context. However, in Article 16(1) second subparagraph, a similar restriction for granting of credits has been introduced in relation to electronic money. In this context, credit may not be granted from funds *received* in exchange of electronic money and *held* in accordance with Article 7(1). In the transposition of this Directive provision, funds *held* have been omitted in the LEP and the Swedish provision therefore only refers to funds *received*. When funds no longer have to be held according to Article 7(1) of the Directive, it seems that they should be available for the granting of credit. Because the Swedish provision only refers to funds received, the law does not seem to make them available for granting of credit even after they no longer have to be held. In practise, this problem would probably be solved, but as the LEP is currently drafted, it only seems to be partially conform with Article 6(1) of the Directive.

The provisions on deposits and issuance of electronic money in Articles 6(2) to (4) have been correctly transposed in LEP.

2.4.2.5. Article 7 – Safeguarding requirements

In relation to Article 7, there are several instances where the Swedish provisions do not fully conform with the Directive provisions. Articles 7(1) and 7(3) (through reference to Article 9 of Directive 2007/64/EC) require insurances and guarantees obtained for the safeguarding of funds to be issued by third party providers. This requirement has not been

introduced in the LEP.

Article 7(2) first subparagraph sets out the definition of secure, low-risk assets. It refers to the Table 1 of point 14 of Annex I to Directive 2006/49/EC, where the types of assets considered secure, low-risk assets may be found. It is only those assets with a risk capital charge no higher than 1,6 % that should be included. The Swedish provision in the secondary legislation FKSE, implementing this Directive provision, does not appear to cover all the categories below 1.6% in Table 1 of point 14 of Annex I. This area is rather technical and it is possible that the omitted categories are covered in some manner, but in a comparison between the lists in Table 1 and the lists in FKSE, two sets of categories appear to be missing from the Swedish provision. This is further explained under the analysis of Article 7(2) first subparagraph of the Directive.

Moreover, Article 7(2) second subparagraph states that also units in an undertaking for collective investment in transferable securities (UCITS), which invests solely in secure low-risk assets shall be considered secure low-risk assets. Again this area is very technical, but UCITS do not appear to have been included in the list set out in FKSE. There are no references to UCITS in the Government proposal or the FSA's preparatory work. In the absence of any findings of Swedish provisions implementing this directive provision, Swedish law cannot be considered conform with the provision of the Directive.

2.4.2.6. Article 8 – Relations with third countries

Article 8 has been correctly transposed into LEP. It is important to note, however, that the Swedish translation of Article 8(1) of the Directive differs from the English version. The Swedish translation refers to branches of credit institutions where the English version refers to branches of electronic money institutions. The Swedish transposition of Article 8(1) appears to have followed the English version of the Directive.

As regards Article 8(2), concerning the notification obligation, towards the Commission, of authorisations of branches of companies established outside the Community, the Swedish the Government did not consider it necessary to implement legislation covering this reporting requirement. It does not, however, mean that Sweden does not plan to comply with this requirement. So far no electronic money institutions or branches of electronic money institutions established in other Member States have, however, been notified to the FSA (in the old or the new regime).

2.4.2.7. Article 9 – Optional exemptions

Sweden has decided to adopt the option set out in Article 9 and the Directive provision has generally been well transposed into Swedish legislation, in most cases in a rather literal manner. The undertakings exempted under Article 9 have been referred to *as registered issuers* in LEP. As explained above, the Directive provisions applicable to undertakings exempted under Article 9 of the Directive have generally not been separately implemented in the LEP. In the LEP, both electronic money institutions and registered issuers have been governed in the same provisions. Where the provision is not applicable to Article 9 undertakings, registered issuers have not been included in these specific provisions. There are also some provisions that are only applicable to registered issuers.

There is one case of partial conformity under Article 9, as the method for calculating the amount of outstanding electronic money, as set out in Article 9(1) second subparagraph of the Directive has not been properly transposed.

2.4.3. Title III – Issuance and redeemability of electronic money

There are some issues as regards the transposition of Title III of the Directive, especially in relation to Article 11 on issuance and redeemability. What was stated in relation to Title II, regarding prohibitions or permissions in the Directive not being expressly implemented in the Swedish provisions, is true also in relation to this Title. As explained, one has to consider what is not covered by the Swedish provision and sometimes *e contrario* interpretations are necessary.

2.4.3.1. Article 10 – Prohibition from issuing electronic money

Article 10 has been correctly transposed in LEP. Only issuers of electronic money are allowed to issue electronic money in Sweden.

2.4.3.2. Article 11 - Issuance and redeemability

Article 11(3) states that the contract between the electronic money issuer and the electronic money holder shall clearly and prominently state the conditions of redemption. In LEP, the element of *prominently* has been left out. The fact that a condition is clearly stated does not automatically mean that it is prominently stated. The conditions may be clear in

language but printed in small print and therefore not sufficiently visible.

Article 11(4), first subparagraph (b) states that a redemption fee may be charged if a contract is terminated by the holder before the termination date set out in the contract. The provision in LEP only appears to allow the charging of a fee for redemption that take place while the contract is still in force or one year after the termination of the contract. The Swedish provision therefore does not appear to be conform with the Directive provision.

The LEP provision implementing the rules on redeemability and related charges is very short and it has to be interpreted *e contrario* in order to cover all the Directive provisions in this area. Although it complies with the Directive provisions, the fact that it does not expressly cover all the Directive provisions, may lead to interpretative issues and lack of clarity for those affected by the legislation.

2.4.3.3. Article 12 – Prohibition of interest

Article 12 has been correctly transposed in LEP. Swedish issuers of electronic money may not pay interest or give other benefits that are related to how long the holder keeps the electronic money.

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

Sweden did not consider it necessary to implement any provisions covering this Directive provision, as it is covered by existing legislation. The Swedish Consumer Agency and the FSA already accepts complaints from the public in a manner that would cover the requirements in Article 80(1) of Directive 2007/64/EC. Out-of court procedures for disputes between consumers and service providers (including issuers of electronic money) are administrated by the National Board for Consumer Disputes. The Government concluded that the procedures already in place cover the requirements set out in Article 83(1). In the analysis of Article 13 it is further explained how Swedish legislation complies with all the elements of Article 83 of Directive 2007/64/EC.

2.4.4. Title IV – Final provisions and implementing measures

Title IV has in general been well transposed into Swedish legislation. Swedish legislation is, however, not in total compliance with the full harmonization obligation. As regards the transitional provisions there are some minor issues, but these should not have a material practical impact.

2.4.4.1. 2.4.4.1 Article 16 – Full harmonization

As described above the Swedish government has been taking the full harmonization obligation into account when drafting the Swedish legislation implementing the Directive. However, because there are cases of partial and non-conformities, the Swedish legislation cannot be considered to fully comply with Article 16 of the Directive.

2.4.4.2. 2.4.4.2. Article 18 – Transitional provisions

The transitional provisions have been correctly transposed, with one exception. It appears that the LEP exempts electronic money institutions and registered issuers, which have been authorised or exempted from authorisation under the previous Act, only from the authorisation requirement in LEP. The Directive provisions set out in Article 18(1) first subparagraph and 18(3), exempt these undertakings from the application of all of the provisions in Title II of the Directive. This difference should not, however, have any practical impact as no Swedish undertakings have so far been authorised as electronic money institutions or been exempted from authorisation.

3. Conclusions on conformity

3.1. Cases of partial conformity

- **Article 3(1) of the Directive referring to Article 5 (c) of Directive 2007/64/EC** setting out requirements for the content of the authorisation application: The requirement of including evidence in the application of holding of the required initial capital is missing in the Swedish provision.
- **Article 3(1) of the Directive referring to Article 5 (f) of Directive 2007/64/EC** setting out requirements for the content of the authorisation application: The requirement of

providing in the application information on how to comply with Regulation (EC) No 1781/2006 is missing in the Swedish provision.

- **Article 3(1) of the Directive referring to Article 5 (g) of Directive 2007/64/EC** setting out requirements for the content of the authorisation application: The requirement of providing in the application information on intended participation in national or international payment systems is missing in the Swedish provision.
- **Article 3(1) of the Directive referring to Article 5 (j) of Directive 2007/64/EC** setting out requirements for the content of the authorisation application: The requirement of providing in the application information on the identity of the statutory auditor is missing in the Swedish provision.
- **Article 3(1) of the Directive referring to Article 10 (5) of Directive 2007/64/EC** regarding establishment of a separate entity for the payment services business: The Swedish provision goes further than the Directive and allows the FSA to prohibit the carrying out of *other* business, whereas the Directive only gives the power to require separation of the *other* business in another entity.
- **Article 3(1) of the Directive referring to Article 18 (2) of Directive 2007/64/EC** regarding liability for any acts of employees, agents, branches, etc.: No specific Swedish provision has been implemented to cover the liability of electronic money institutions in relation to their employees, agents, branches and contractors. General Swedish principles of liability do not appear to fully cover the Directive provision.
- **Article 6(1) second subparagraph (a) of the Directive** regarding the prohibition of granting credit from funds received in exchange for electronic money and held in accordance with Article 7(1): The Swedish provision only refers to funds *received* in exchange for electronic money when stating which funds may not be used for granting of credit. The Directive provision refers to funds *received* and *held in accordance with Article 7(1)*.
- **Article 7(1) of the Directive** regarding safeguarding requirements: The Swedish provision does not require the insurance or guarantee, safeguarding the funds, to be provided from a third party entity.
- **Article 7(2) first subparagraph of the Directive** regarding the definition of low risk assets: The Swedish provision does not appear to cover all of the categories of secure, low-risk assets set out in the Directive provision.
- **Article 7(3) of the Directive** regarding the application of the safeguarding requirements set out in Article 9 of Directive 2007/64/EC: The Swedish provision does not require the insurance or guarantee, safeguarding the funds, to be provided from a third party entity.
- **Article 9(1) second subparagraph of the Directive** regarding calculation of outstanding electronic money for activities other than issuance of electronic money: The method for calculating the amount of outstanding electronic money has not been properly transposed in the Swedish provision.
- **Article 11(3) of the Directive** regarding the requirements of the contract between the electronic money issuer and the electronic money holder: The Directive provision states that the contract between the electronic money issuer and the electronic money holder shall clearly and prominently state the conditions of redemption. In the Swedish provision, the element of *prominently* has been left out.
- **Article 16 of the Directive** setting out the full harmonization obligation: Because there are cases of partial and non-conformities, the Swedish legislation cannot be considered to fully comply with the Directive provision.
- **Article (18)(1) first subparagraph of the Directive** setting out the requirements for the transitional provisions: The Swedish provision exempts electronic money institutions that have been authorised before April 30, 2011 from the authorisation requirement in LEP. The Directive provision, however, exempts these undertakings from the application of all of the provisions in Title II of the Directive.
- **Article (18)(3) of the Directive** setting out the requirements for the transitional provisions: The Swedish provision exempts registered issuers that have been exempted from authorisation before April 30, 2011 from the authorisation requirement in LEP. The Directive provision, however, exempts these undertakings from the application of all of the provisions in Title II of the Directive.

3.2. Cases of non-conformity

- **Article 7(2) second subparagraph of the Directive** requiring that investments in units in an undertaking for collective investment in transferable securities (UCITS) shall be regarded as low risk assets: UCITS, which invests solely in secure low-risk assets do not appear to have been included in the Swedish definition of low-risk assets.
- **Article 11(4), first subparagraph (b) of the Directive** regarding the taking out of a fee for the redemption of electronic money: The Directive provision states that a redemption fee may be charged if a contract is terminated by the holder before the termination date set out in the contract. The Swedish provision only appears to allow the charging of a fee for redemption that take place while the contract is still in force or one year after the termination of the contract.

3.3. Option ('May' clause)

3.3.1. *Sweden has chosen to transpose the following options into its national legislation*

Article 5(5) of the Directive: Sweden has chosen to implement the option of allowing for an increase or decrease of the own funds up to 20%. The Swedish provision has correctly transposed all the elements of the Directive provision.

Article 7(3) of the Directive: In relation to payments services, Sweden has implemented the option in Article 9(2) of Directive 2007/64/EC as well as the option set out in Article 9(4). The elements of both options have been correctly transposed. The Swedish provision refers to a cap of 300 EUR instead of the 600 EUR set out in the Directive. Because the introduction of this cap is an option and because not introducing a cap would be the most stringent implementation of the Directive provision, the Directive appears to allow a cap below 600 EUR.

Article 9(1) first subparagraph of the Directive: Sweden has chosen to allow undertakings to apply for exemption from the authorisation requirement.

Article 18(2) of the Directive: Sweden has implemented the option of automatic authorisation. The Swedish provision appears to cover all elements of the Directive provision. It has not been expressly stated that the authorised electronic money institutions shall be entered in the register. Registration of all electronic money institutions is, however, required according to LEP, Chapter 5, Section 5.

3.3.2. *Sweden has not chosen to transpose the following options into its national legislation*

Article 1(3) of the Directive – Waiver for institutions under Article 2 of Directive 2006/46/EC.

Article 3(3), sixth subparagraph of the Directive – Waiver of acquisition obligations under Article 3(3) for hybrid electronic money institutions.

Article 5(7) of the Directive – Non application of capital requirements when an electronic money institution is included in the consolidated supervision of the parent credit institution.

Article 7(1) of the Directive (as regards the option contained in Article 9(2) of Directive 2007/64/EC) – Calculation of safeguarding requirements when funds can be used for future payment transactions and for non-payment services.

Article 7(2), third subparagraph of the Directive – Determination of assets which do not constitute secure, low-risk assets for the purposes of subparagraph 1.

Article 7(4) of the Directive – Determination of the safeguarding method allowed by Member States in accordance with Article 9(1) and 9(2) of Directive 2007/64/EC.

Article 9(1), third subparagraph of the Directive – Additional requirement of a maximum storage per customer for benefitting g of the waiver referred to in subparagraph 1.

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

4. List of acronyms

BFL - Banking and Financing Business Act (2004:297)

Chap - Chapter

FBRB - The Financial Supervisory Authority's regulations and general guidelines governing payment institutions and registered payment service providers (FFFS 2010:3)

FIR - Financial Supervisory Authority's regulations and general advice on electronic money institutions and registered issuers (FFFS 2011:49)

FKSE - The Financial Supervisory Authority's Regulations and General guidelines governing capital adequacy and large exposures (FFFS 2007:1)

FSA - Financial Supervisory Authority

FÄL - Financial Supervisory Authority's regulations and general advice on electronic money institutions and registered issuers (FFFS 2011:49)

Government Proposal - Government Proposal 2010/11:124

LB - Act (2010:751) on Payment Services

LEP - Electronic Money Act (2011:755)

Para – Paragraph

Pt - Point

Sec – Section

Sen - Sentence

Directive 2009/110/EC			National Implementing Measures			Conformity Assessment
Article No.	EN	SV	Act, Article No.	EN	SV	Observations
Art. 1(1) intr. wording	<p>TITLE I</p> <p>SCOPE AND DEFINITIONS</p> <p><i>Article 1</i></p> <p>Subject matter and scope</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>AVDELNING I</p> <p>TILLÄMPNINGSSOMRÅDE OCH DEFINITIONER</p> <p><i>Artikel 1</i></p> <p>Syfte och tillämpningsområde</p> <p>1. I detta direktiv fastställs reglerna om rätten att driva verksamhet för utgivning av elektroniska pengar enligt vilka medlemsstaterna ska erkänna följande kategorier av utgivare av elektroniska pengar:</p>	N/A	N/A	N/A	<p>CONFORM</p> <p>The structure of the Swedish law differs from the Directive article and therefore does not contain an equivalent introductory wording.</p>
Art. 1(1)(a)	<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</p>	<p>a) Kreditinstitut, enligt definitionen i artikel 4.1 i direktiv 2006/48/EG, inklusive, i enlighet med nationell lagstiftning, filialer enligt artikel 4.3 i det direktivet, som är lokaliserade i gemenskapen och som har huvudkontor utanför</p>	LEP, Chap. 2, Sec.1 and Sec. 2, 1st para. pt. 1, 3, 6	LEP, Chapter 2, Authorisation, prerequisites for authorisation and exemption from authorisation Authorisation Section 1	LEP, Kapitel 2, Tillståndsplikt, förutsättningar för tillstånd och undantag från tillståndsplikt Tillståndsplikt 1 § Elektroniska pengar får	<p>CONFORM</p> <p>Chapter 2, Section 1, Section 2, points 1, 3, 6 and the second paragraph of LEP as well as Chapter 3, Section 26 and Chapter 1, Section 2, point 11 transpose Article 1(1)(a) of the Directive.</p> <p>Swedish banks and credit market companies (together defined as credit institutions), credit institutions from other countries in the EEA</p>

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the Community and its head office is located outside the Community, in accordance with Article 38 of that Directive;	gemenskapen i enlighet med artikel 38 i det direktivet.	<p>and 2nd para.</p> <p>LEP, Chap. 3, Sec.26</p> <p>LEP, Chap. 1, Sec. 2, pt. 11</p>	<p>Electronic money may only be issued after authorisation from the Financial Supervisory Authority, unless Sections 2 or 3 are applicable.</p> <p>Authorisation may be given to a Swedish limited liability company or economic association.</p> <p>LEP, Chapter 2, Authorisation, prerequisites for authorisation and exemption from authorisation</p> <p>Exemption from authorisation</p> <p>Section 2</p> <p>Authorisation to distribute electronic money is not required for</p> <p>Point 1</p> <p>1. banks and credit market companies under Banking and Financing Business Act (2004:297),</p> <p>Point 3</p> <p>3. foreign natural and legal persons and authorities within the EEA that correspond to those set out</p>	<p>ges ut endast efter tillstånd av Finansinspektionen, om inte annat följer av 2 eller 3 §.</p> <p>Tillstånd får ges till ett svenskt aktiebolag eller en svensk ekonomisk förening.</p> <p>LEP, Kapitel 2, Tillståndsplikt, förutsättningar för tillstånd och undantag från tillståndsplikt</p> <p>Undantag från tillståndsplikt</p> <p>2 §</p> <p>Tillstånd att ge ut elektroniska pengar behövs inte för</p> <p>Punkt 1</p> <p>1. banker och kreditmarknadsföretag enligt lagen (2004:297) om bank- och finansieringsrörelse,</p> <p>Punkt 3</p> <p>3. sådana utländska fysiska och juridiska personer och myndigheter inom EES som motsvarar dem i 1 och 2</p>	<p>that are equivalent to Swedish credit institutions, as well as Swedish branches of credit institutions established outside the EEA, all have the right to provide electronic money in Sweden without first obtaining authorisation from the FSA according to LEP, Chapter 2, Section 2..</p> <p>In order to determine whether Swedish branches of credit institutions established outside the EEA are given a more favourable treatment than branches of EEA credit institutions, it is necessary to determine under which category branches of EEA credit institutions are regulated. This is not entirely clear and it would need to be verified. It is possible that these branches shall fall under the exemption in point 3. However, this is not expressly stated. Point 3 refers, in relation to credit institutions, to point 1. Point 1 deals with the credit institutions themselves and not their branches. Point 1 deals with Swedish companies which obviously do not have branches in Sweden. Branches are therefore not mentioned in this provision.</p> <p>It is possible that branches of EEA credit institutions shall be considered to fall within the category in point 3. But if that would not be the case they would instead be regulated in LEP, Chapter 3, Section 26. If that is the case these branches may only initiate their business in Sweden once the FSA has received notice from the relevant authority in the company's home member state.</p> <p>The notice referred to in Article 26, does not appear to be required for the establishment of</p>

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		<p>in point 1 and 2.</p> <p>Point 6</p> <p>6. branches of credit institutions from countries outside of the EEA.</p> <p>Second paragraph</p> <p>Special provisions on foreign companies are set out in Chapter 3, Sections 26-28.</p> <p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Special provisions relating to foreign companies established in the EEA</p> <p>Section 26</p> <p>A foreign company established in the EEA which, in the home country, has authorisation to issue electronic money does not need an authorisation under Chapter 2, Section 1 in order to issue electronic money or provide payment services in Sweden.</p> <p>Such foreign company may issue electronic money or provide payment</p>	<p>branches of credit institutions from outside the EEA. However, even if Article 26 would be applicable to branches of EEA credit institutions, the notice requirement does not appear to be sufficiently burdensome to give rise to a situation of different treatment between EEA and non-EEA branches.</p> <p>Issuers of electronic money have been defined in LEP, Chapter 1, Section 2, point 11. This definition includes those exempted from authorisation under Chapter 2, <i>i.e.</i> Swedish and EEA credit institutions and branches of credit institutions established outside the EEA. In Chapter 2, Section 2 last paragraph there is a reference to Chapter 3, Sections 26-28. Through this reference, branches of companies established within the EEA appear to fall within the categories of companies exempted under Chapter 2 and therefore within the definition of issuers of electronic money.</p> <p>Therefore, irrespective of under which category branches of EEA credit institutions shall be considered to fall, they will be included in the definition of registered issuers.</p> <p>All of the entities listed in the Directive provision are therefore allowed to issue electronic money in Sweden according to LEP, Chapter 1, Section 2.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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			<p>services through a branch in Sweden, as well as offer payment services, distribute electronic money or redeem electronic money through an agent in Sweden, when the Financial Supervisory Authority has received notice from the relevant authority in the company's home country which contains</p> <p>1. a plan for the intended business with information on the organisation of the branch or the agent and the services that the branch or the agent intends to provide, and</p> <p>2. information on the address and the management in charge of the branch or the agent.</p> <p>LEP, Chapter 1, Scope and definitions</p> <p>Definitions</p> <p>Section 2</p> <p>Point 11</p> <p>11. issuer of electronic money: electronic money institutions, registered issuers, those issuing</p>	<p>elektroniska pengar eller lösa in elektroniska pengar genom ombud i Sverige, efter det att Finansinspektionen har tagit emot en underrättelse från den behöriga myndigheten i företagets hemland som innehåller</p> <p>1. en plan för den avsedda verksamheten med uppgift om filialens eller ombudets organisation och de tjänster som filialen eller ombudet avser att tillhandahålla, och</p> <p>2. uppgifter om filialens eller ombudets adress och ansvariga ledning.</p> <p>LEP, Kapitel 1, Tillämpningsområde och definitioner</p> <p>Definitioner</p> <p>2 §</p> <p>Punkt 11</p> <p>11. utgivare av elektroniska pengar: institut för elektroniska pengar, registrerade utgivare, den som ger ut elektroniska pengar och är undantagen från tillståndsplikt enligt 2 kap.</p>	

Directive 2009/110/EC			National Implementing Measures		Conformity Assessment	
				electronic money that are exempted from authorisation under Chapter 2, Section 2 and companies that have received authorisation to issue electronic money according to Chapter 3, Section 28.	2 § och företag som enligt 3 kap. 28 § fått tillstånd att ge ut elektroniska pengar.	
Art. 1(1)(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) Institut för elektroniska pengar enligt definitionen i artikel 2.1 i detta direktiv inklusive, i enlighet med artikel 8 i detta direktiv och nationell lagstiftning, filialer lokaliserade inom gemenskapen och som har huvudkontor utanför gemenskapen.	<p>LEP, Chap. 2, Sec. 1 and Sec. 2, 2nd para.</p> <p>LEP, Chap. 1, Sec. 2, pt. 7 and 11</p> <p>LEP, Chap. 3, Sec. 26 and 28</p>	<p>LEP, Chapter 2, Authorisation, prerequisites for authorisation and exemption from authorisation</p> <p>Authorisation</p> <p>Section 1</p> <p>Electronic money may only be issued after authorisation from the Financial Supervisory Authority, unless Sections 2 or 3 are applicable.</p> <p>Authorisation may be given to a Swedish limited liability company or economic association.</p> <p>Exemption from authorisation</p> <p>Section 2</p> <p>Second paragraph</p> <p>Special provisions on</p>	<p>LEP, Kapitel 2, Tillståndsplikt, förutsättningar för tillstånd och undantag från tillståndsplikt</p> <p>Tillståndsplikt</p> <p>1 §</p> <p>Elektroniska pengar får ges ut endast efter tillstånd av Finansinspektionen, om inte annat följer av 2 eller 3 §.</p> <p>Tillstånd får ges till ett svenskt aktiebolag eller en svensk ekonomisk förening.</p> <p>LEP, Kapitel 2, Tillståndsplikt, förutsättningar för tillstånd och undantag från tillståndsplikt</p> <p>Undantag från tillståndsplikt</p>	<p>CONFORM</p> <p>Chapter 1, Section 2, points 7 and 11 and Chapter 3, Sections 26 and 28 of LEP transpose Article 1(1)(b) of the Directive.</p> <p>Electronic money institutions have been defined in LEP, Section 1, Point 7 as <i>a Swedish limited liability company or a Swedish economic association that has received authorisation to distribute electronic money under this Act.</i></p> <p>Electronic money institutions from other EEA Member States may issue electronic money in Sweden without obtaining authorisation, according to LEP, Chapter 3, Section 27.</p> <p>According to LEP, Chapter 3, Section 26, branches of electronic money institutions established within the EEA may issue electronic money in Sweden without, authorisation, but after giving notice of the activities to the FSA through the authority in their home member state.</p> <p>Branches of electronic money institutions established outside the EEA are allowed to issue electronic money in Sweden after</p>

Directive 2009/110/EC		National Implementing Measures	Conformity Assessment	
		<p>foreign companies are set out in Chapter 3, Sections 26-28.</p> <p>LEP, Chapter 1, Scope and definitions</p> <p>Definitions</p> <p>Section 2</p> <p>Point 7</p> <p>7. electronic money institutions: a Swedish limited liability company or a Swedish economic association that has received authorisation to issue electronic money under this Act</p> <p>Point 11</p> <p>11. issuer of electronic money: electronic money institutions, registered issuers, those issuing electronic money that are exempted from authorisation under Chapter 2, Section 2 and companies that have received authorisation to issue electronic money according to Chapter 3, Section 28.</p> <p>LEP, Chapter 3, Activities in electronic money institutions and</p>	<p>2 §</p> <p>Andra stycket</p> <p>Särskilda bestämmelser om utländska företag finns i 3 kap. 26–28 §§.</p> <p>LEP, Kapitel 1, Tillämpningsområde och definitioner</p> <p>Definitioner</p> <p>2 §</p> <p>Punkt 7</p> <p>7. institut för elektroniska pengar: ett svenskt aktiebolag eller en svensk ekonomisk förening som har fått tillstånd att ge ut elektroniska pengar enligt denna lag</p> <p>Punkt 11</p> <p>11. utgivare av elektroniska pengar: institut för elektroniska pengar, registrerade utgivare, den som ger ut elektroniska pengar och är undantagen från tillståndsplikt enligt 2 kap. 2 § och företag som enligt 3 kap. 28 § fått tillstånd att ge ut elektroniska pengar.</p> <p>LEP, Kapitel 3, Verksamheten i institut</p>	<p>authorisation by the FSA under LEP, Chapter 3, Section 28.</p> <p>Consequently, branches of non-EEA electronic money institutions are not given a more favourable treatment under Swedish law.</p> <p>Issuers of electronic money have been defined in LEP, Chapter 1, Section 2, point 11. This definition includes those exempted from authorisation under Chapter 2, <i>i.e.</i> Swedish electronic money institutions. In Chapter 2, Section 2 last paragraph there is a reference to Chapter 3, Sections 26-28. Through this reference EEA electronic money institutions as well as branches of electronic money institutions established within and outside the EEA appear to fall within the categories of companies exempted under Chapter 2 and therefore within the definition of issuers of electronic money.</p> <p>All of the entities listed in the Directive provision are therefore allowed to issue electronic money in Sweden according to LEP, Chapter 1, Section 2.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

Directive 2009/110/EC			National Implementing Measures		Conformity Assessment
			<p>registered issuers</p> <p>Special provisions relating to foreign companies established in the EEA</p> <p>LEP, Chapter 3, Activities in an electronic money institutions and registered issuers</p> <p>Special provisions relating to foreign companies established in the EEA</p> <p>Section 26</p> <p>A foreign company established in the EEA which, in the home country, has authorisation to issue electronic money does not need an authorisation under Chapter 2, Section 1 in order to issue electronic money or provide payment services in Sweden.</p> <p>Such foreign company may issue electronic money or provide payment services through a branch in Sweden, as well as offer payment services, distribute electronic money or redeem electronic money through an agent in Sweden, when the Financial Supervisory</p>	<p>för elektroniska pengar och hos registrerade utgivare</p> <p>Särskilda bestämmelser om utländska företag hemmahörande inom EES</p> <p>26 §</p> <p>Ett utländskt företag som hör hemma inom EES och som i hemlandet har tillstånd att ge ut elektroniska pengar behöver inte tillstånd enligt 2 kap. 1 § för att ge ut elektroniska pengar eller tillhandahålla betaltjänster i Sverige.</p> <p>Ett sådant utländskt företag får ge ut elektroniska pengar eller tillhandahålla betaltjänster genom filial i Sverige, samt tillhandahålla betaltjänster, distribuera elektroniska pengar eller lösa in elektroniska pengar genom ombud i Sverige, efter det att Finansinspektionen har tagit emot en underrättelse från den behöriga myndigheten i företagets hemland som innehåller</p> <p>1. en plan för den avsedda</p>	

Directive 2009/110/EC			National Implementing Measures		Conformity Assessment
			<p>Authority has received notice from the relevant authority in the company's home country which contains</p> <ol style="list-style-type: none"> 1. a plan for the intended business with information on the organisation of the branch or the agent and the services that the branch or the agent intends to provide, and 2. information on the address and the management in charge of the branch or the agent. <p style="text-align: center;">Section 27</p> <p>A foreign company referred to in Section 26 may issue electronic money or provide payment services in Sweden from its home country as soon as the Financial Supervisory Authority has received notification from the competent authority in the company's home country which states what services the electronic money institution intends to supply in Sweden.</p> <p style="text-align: center;">Section 28</p> <p>Another foreign company</p>	<p>verksamheten med uppgift om filialens eller ombudets organisation och de tjänster som filialen eller ombudet avser att tillhandahålla, och</p> <ol style="list-style-type: none"> 2. uppgifter om filialens eller ombudets adress och ansvariga ledning. <p style="text-align: center;">27 §</p> <p>Ett utländskt företag som avses i 26 § första stycket får ge ut elektroniska pengar eller tillhandahålla betaltjänster i Sverige från sitt hemland så snart Finansinspektionen har tagit emot en underrättelse från behörig myndighet i företagets hemland som anger vilka tjänster institutet för elektroniska pengar avser att tillhandahålla i Sverige.</p> <p style="text-align: center;">28 §</p> <p>Ett annat utländskt företag än ett sådant som avses i 26 § första stycket får efter ansökan ges tillstånd att ge ut elektroniska pengar från filial i Sverige. Tillstånd får ges bara om</p> <ol style="list-style-type: none"> 1. företaget ger ut elektroniska pengar i det 	

Directive 2009/110/EC			National Implementing Measures		Conformity Assessment	
				<p>than that referred to in Section 26, first paragraph may after application be given authorisation to issue electronic money from a branch in Sweden. Authorisation may only be given if</p> <ol style="list-style-type: none"> 1. the company issues electronic money in the country where it is established and in that country is under adequate supervision by a competent authority which has approved the company's establishment in Sweden. 2. there are reasons to believe that the planned business will be carried out in a manner that complies with Chapter 2, Sections 6 and 7 and Sections 1-4 in this Chapter. 	<p>land där det har sitt säte och i det landet står under betryggande tillsyn av en behörig myndighet som har medgett att företaget etablerar sig i Sverige, och</p> <ol style="list-style-type: none"> 2. det finns skäl att anta att den planerade verksamheten kommer att drivas på ett sätt som är förenligt med 2 kap. 6 och 7 §§ och 1-4 §§ detta kapitel. 	
Art. 1(1)(c)	(c) post office giro institutions which are entitled under national law to issue electronic money;	Postgiroinstitut som enligt nationell lagstiftning har rätt att ge ut elektroniska pengar.	LEP, Chap. 2, Sec. 2, pt. 5	<p>LEP, Chapter 2, Authorisation, prerequisites for authorisation and exemptions from authorisation</p> <p>Authorisation</p>	<p>LEP, Kapitel 2, Tillståndsplikt, förutsättningar för tillstånd och undantag från tillståndsplikt</p> <p>Tillståndsplikt</p> <p>2 §</p>	<p>CONFORM</p> <p>Chapter 2, Section 2, point 5 of LEP transposes Article 1(1)(c) of the Directive.</p> <p>The Swedish provision allows post office giro institutions to issue electronic money in Sweden without first obtaining authorisation from the FSA.</p>

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				<p>Section 2</p> <p>Authorisation to issue electronic money is not required for</p> <p>Point 5</p> <p>5. post office giro institutions within the EEA which are entitled under national law to issue electronic money</p>	<p>Tillstånd att ge ut elektroniska pengar behövs inte för</p> <p>Punkt 5</p> <p>5. postgiroinstitut inom EES som enligt nationell lagstiftning har rätt att ge ut elektroniska pengar</p>	<p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>
Art. 1(1)(d)	(d) the European Central Bank and national central banks when not acting in their capacity as monetary authority or other public authorities;	d) Europeiska centralbanken och nationella centralbanker, när de inte agerar i egenskap av monetär myndighet eller andra offentliga myndigheter.	LEP, Chap. 2, Sec. 2, pt. 4	<p>LEP, Chapter 2, Authorisation, prerequisites for authorisation and exemptions from authorisation</p> <p>Authorisation</p> <p>Section 2</p> <p>Authorisation to issue electronic money is not required for</p> <p>Point 4</p> <p>4. the European Central Bank and national central banks when not acting in their capacity as monetary or public authority.</p>	<p>LEP, Kapitel 2, Tillståndsplikt, förutsättningar för tillstånd och undantag från tillståndsplikt</p> <p>Tillståndsplikt</p> <p>2 §</p> <p>Tillstånd att ge ut elektroniska pengar behövs inte för</p> <p>Punkt 4</p> <p>4. Europeiska centralbanken och nationella centralbanker i andra EES-länder, när de inte agerar i egenskap av monetär eller offentlig myndighet.</p>	<p>CONFORM</p> <p>Chapter 2, Section 2, point 4 of LEP transposes Article 1(1)(d) of the Directive.</p> <p>The Swedish provision allows the European Central Bank and national central banks, when not acting in their capacity as monetary or public authority, to issue electronic money in Sweden without first obtaining authorisation from the FSA.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>
Art. 1(1)(e)	(e) Member States or their regional or local authorities when acting in	e) Medlemsstaterna eller deras regionala eller lokala myndigheter, när de agerar	LEP, Chap. 2, Sec.	<p>LEP, Chapter 2, Authorisation, prerequisites for</p>	<p>LEP, Kapitel 2, Tillståndsplikt, förutsättningar för</p>	<p>CONFORM</p> <p>Chapter 2, Section 2, points 2 and 3 of LEP</p>

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	their capacity as public authorities.	i egenskap av offentliga myndigheter.	2, pt. 2 and 3	<p>authorisation and exemptions from authorisation</p> <p>Authorisation</p> <p>Section 2</p> <p>Authorisation to issue electronic money is not required for</p> <p>Point 2</p> <p>2. state or regional authorities, in their exercise of public authority.</p> <p>Point 3</p> <p>foreign natural and legal persons and authorities within the EEA that correspond to those set out in point 1 and 2.</p>	<p>tillstånd och undantag från tillståndsplikt</p> <p>Tillståndsplikt</p> <p>2 §</p> <p>Tillstånd att ge ut elektroniska pengar behövs inte för</p> <p>Punkt 2</p> <p>2. statliga och kommunala myndigheter, när de ägnar sig åt myndighetsutövning</p> <p>Punkt 3</p> <p>sådana utländska fysiska och juridiska personer och myndigheter inom EES som motsvarar dem i 1 och 2</p>	<p>transpose Article 1(1)(e) of the Directive.</p> <p>Point 2 deals with Swedish state and regional authorities and point 3 deals with authorities in other EEA member states.</p> <p>It should be noted that the Swedish provision has not referred to Member States as such but to state authorities. The Swedish government has interpreted this Directive provision as relating to state authorities rather than Member States themselves. (See Government Proposal, p. 78). Because it is most likely that it will be the authorities of the Member States that issue the electronic money, this difference should not give rise to any conformity issues.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>
Art. 1(2)	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. I avdelning II i detta direktiv fastställs även reglerna om rätten att starta och driva affärsverksamhet i institut för elektroniska pengar samt om tillsyn av sådan verksamhet.	N/A	N/A	N/A	<p>CONFORM</p> <p>The structure of the Swedish law differs from the Directive article and does thus not contain an equivalent wording.</p> <p>Title II of the Directive is mainly transposed through Chapters 2 and 3 of LEP.</p>
Art. 1(3)	3. Member States may waive the application of all or part of the provisions of Title II of	3. Medlemsstaterna får undanta alla institut som avses i artikel 2 i direktiv 2006/48/EG från	N/A	N/A	N/A	<p>Article 1(3) of the Directive sets out an option. Owing to this option Sweden has chosen not to apply. Therefore the entire Directive applies to the relevant Swedish</p>

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	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.	tillämpningen av alla eller vissa av bestämmelserna i avdelning II i detta direktiv, med undantag för dem som avses i första och andra strecksatserna i den artikeln.				institution, <i>Svenska Skeppshypotekskassan</i> . However, given the nature of this institution's business, financing of ship building, where its purpose has been regulated by law, it does not appear to be possible for this institution to issue electronic money.
Art. 1(4)	4. This Directive does not apply to monetary value stored on instruments exempted as specified in Article 3(k) of Directive 2007/64/EC.	4. Detta direktiv ska inte tillämpas på penningvärde som lagrats på instrument som omfattas av undantag enligt artikel 3 k i direktiv 2007/64/EG.	LEP, Chap. 1, Sec. 1, pt. 1	<p>LEP, Chapter 1, Scope and definitions</p> <p>The scope of the Act</p> <p>1 §</p> <p>In this Act there are provision on the issuance of electronic money as well as for electronic money institutions and issuers of electronic money.</p> <p>The Act is not applicable to electronically stored monetary value which</p> <p>Point 1</p> <p>1. is stored on instruments that may be used only within a limited network of suppliers, at a supplier in his place of business or in relation to a limited range of goods or services,</p>	<p>LEP, Kapitel 1, Tillämpningsområde och definitioner</p> <p>Lagens tillämpningsområde</p> <p>1 §</p> <p>I denna lag finns bestämmelser om utgivning av elektroniska pengar samt om institut för elektroniska pengar och registrerade utgivare.</p> <p>Lagen gäller inte elektroniskt förvarat penningvärde som</p> <p>Punkt 1</p> <p>1. lagras på instrument som kan användas endast inom ett begränsat nätverk av leverantörer, hos en leverantör i dennes affärsställe eller i fråga om ett begränsat varu- eller tjänsteutbud,</p>	<p>CONFORM</p> <p>Chapter 1, Section 1, point 1 of LEP transposes Article 1(4) of the Directive.</p> <p>The Swedish provision has in a rather literal manner transposed Article 3(k) of Directive 2007/64/EC.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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Art. 1(5)	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 2007/64/EC.	5. Detta direktiv ska inte tillämpas på penningvärde som används för att göra betalningstransaktioner som omfattas av undantag enligt artikel 3 i direktiv 2007/64/EG.	LEP, Chap. 1, Sec. 1, pt. 2	<p>LEP, Chapter 1, Scope and definitions</p> <p>The scope of the Act</p> <p>1 §</p> <p>In this Act there are provision on the issuance of electronic money as well as for electronic money institutions and issuers of electronic money.</p> <p>The Act is not applicable to electronically stored monetary value which</p> <p>Point 2</p> <p>2. is used for payment transactions executed by means of equipment for telecommunication, digital technology or information technology, when the purchased goods or services are delivered to and are intended to be used by means of such equipment, given that the operator of the equipment does not merely act as an intermediary between the payment service user and the supplier of the goods or services.</p>	<p>LEP, Kapitel 1, Tillämpningsområde och definitioner</p> <p>Lagens tillämpningsområde</p> <p>1 §</p> <p>I denna lag finns bestämmelser om utgivning av elektroniska pengar samt om institut för elektroniska pengar och registrerade utgivare.</p> <p>Lagen gäller inte elektroniskt förvarat penningvärde som</p> <p>Punkt 2</p> <p>2. används för betalningstransaktioner som genomförs med hjälp av utrustning för telekommunikation, digital teknik eller informationsteknik, när de köpta varorna eller tjänsterna levereras till och är avsedda att användas med hjälp av sådan utrustning, förutsatt att operatören för utrustningen inte agerar enbart som en mellanhand mellan betaltjänstanvändaren och</p>	<p>CONFORM</p> <p>Chapter 1, Section 1, point 2 of LEP transposes Article 1(5) of the Directive.</p> <p>The Swedish provision has in a rather literal manner transposed Article 3(1) of Directive 2007/64/EC.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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					leverantören av varorna eller tjänsterna.	
Art. 2 intr. wording	<i>Article 2</i> Definitions For the purposes of this Directive, the following definitions shall apply:	<i>Artikel 2</i> Definitioner I detta direktiv avses med	N/A	N/A	N/A	CONFORM The structure of the Swedish law differs from the Directive article and does thus not contain an equivalent introductory wording.
Art. 2 pt. (1)	1. "electronic money institution" means a legal person that has been granted authorisation under Title II to issue electronic money;	1. institut för elektroniska pengar: en juridisk person som i enlighet med avdelning II har beviljats auktorisation att ge ut elektroniska pengar,	LEP, Chap. 1, Sec. 2, pt. 7	LEP, Chapter 1, Scope and definitions Definitions Section 2 Point 7 7. electronic money institutions: a Swedish limited liability company or a Swedish economic association that has received authorisation to distribute electronic money under this Act	LEP, Kapitel 1, Tillämpningsområde och definitioner Definitioner 2 § Punkt 7 7. institut för elektroniska pengar: ett svenskt aktiebolag eller en svensk ekonomisk förening som har fått tillstånd att ge ut elektroniska pengar enligt denna lag	CONFORM Chapter 1, Section 2, point 7 of LEP transposes Article 2(1) of the Directive. The Swedish definition of electronic money institutions only includes Swedish electronic money institutions as they are the ones that receive authorisation under the LEP. Electronic money institutions from other EEA Member States are allowed to issue electronic money in Sweden under LEP Chapter 3, Section 26 and 27, but are not defined as electronic money institutions under this Act. They fall within the definition of issuers of electronic money. Consequently, the Swedish law is in conformity with the provision of the Directive.
Art. 2 pt (2)	2. "electronic money" means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued	elektroniska pengar: varje elektroniskt eller magnetiskt lagrat penningvärde i form av en fordran på utgivaren som ges ut mot erhållande av	LEP, Chap. 1, Sec. 2, pt. 2	LEP, Chapter 1, Scope and definitions Definitions Section 2	LEP, Kapitel 1, Tillämpningsområde och definitioner Definitioner 2 §	CONFORM Chapter 1, Section 2, point 2 of LEP transposes Article 2(2) of the Directive. The definition of electronic money in the Swedish provision corresponds almost

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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 legal person other than the electronic money issuer;	medel i syfte att genomföra betalningstransaktioner i enlighet med artikel 4.5 i direktiv 2007/64/EG och som godtas av en annan fysisk eller juridisk person än utgivaren av elektroniska pengar,	<p>Point 2</p> <p>2. electronic money: an electronically stored monetary value which</p> <p>a) represents a claim on the issuer,</p> <p>b) is issued in exchange for funds for the purpose of making payment transactions as defined in Act (2010:751) on payment services, and</p> <p>c) is accepted as means of payment by others than the issuer,</p>	<p>Punkt 2</p> <p>2. elektroniska pengar: ett elektroniskt förvarat penningvärde som</p> <p>a) representerar en fordran på utgivaren,</p> <p>b) ges ut i utbyte mot medel i syfte att genomföra betalningstransaktioner enligt lagen (2010:751) om betaltjänster, och</p> <p>c) godtas som betalningsmedel av andra än utgivaren,</p>	<p>literally with the Directive's definition.</p> <p>Consequently Sweden appears to have taken into consideration recital 7 of the Directive when transposing this definition and has ensured that it covers all situations where the payment service provider issues a pre-paid stored value in exchange for funds, which can be used for payment purposes because it is accepted by third persons as a payment</p> <p>The definition of payment transactions in point 5 of Article 4 of Directive 2007/64/EC corresponds with the Swedish definition in Act (2010:751) on payment services. In this Act, payment transactions has been defined as <i>a deposit, withdrawal or transfer of funds initiated by the payer or the payee, irrespective of possible underlying obligations between the payer and the payee.</i></p> <p>One difference in the Swedish definition of electronic money is that the term "magnetically stored" has not been introduced. The government concluded in the Government Proposal page 108, that the term <i>electronically</i> is generally considered a generic term for all automated information processing, irrespective of whether the registration is made electronically, optically or in any other similar manner. Consequently the Swedish provision is to be interpreted to also cover <i>magnetically stored</i>.</p> <p>Moreover it should be noted that Sweden considered the Directive's requirement in recital 8 that the definition should cover "<i>electronic money whether it is held on a payment device in the electronic money</i></p>

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						<p><i>holder's possession or stored remotely at a server and managed by the electronic money holder through a specific account for electronic money</i>".</p> <p>When transposing Directive 2000/46/EC, Sweden introduced a definition of electronic money which meant that electronic money could not be held on an individualised account. As it is specified in recital 8 that the definition of electronic money in this Directive should include electronic money stored <i>through a specific account</i>, the above mentioned part of the Swedish definition was removed. It has been explained in the Government Proposal, Section 7.6, page 117, that electronic money can also be stored on payment accounts or payment instruments.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>
Art. 2 pt (3)	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. utgivare av elektroniska pengar: enheter som avses i artikel 1.1, institut som omfattas av undantaget enligt artikel 1.3 och juridiska personer som omfattas av undan-taget enligt artikel 9,	LEP, Chap. 1, Sec. 2, pt. 11	LEP, Chapter 1, Scope and definitions Definitions Section 2 Point 11 11. issuer of electronic money: electronic money institutions, registered issuers, those issuing electronic money that are exempted from authorisation under Chapter 2, Section 2 and	LEP, Kapitel 1, Tillämpningsområde och definitioner Definitioner 2 § Punkt 11 11. utgivare av elektroniska pengar: institut för elektroniska pengar, registrerade utgivare, den som ger ut elektroniska pengar och är undantagen från	CONFORM Chapter 1, Section 2, point 11 of LEP transposes Article 2(3) of the Directive. Entities referred to in Article 1(1) of the Directive corresponds to <i>electronic money institutions and those issuing electronic money that are exempted from authorisation under Chapter 2, Section 2</i> , in the Swedish provision. The Swedish provision clarifies that those categories that are exempted from authorisation are only to be considered electronic money issuers if they actually

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				companies that have received authorisation to issue electronic money according to Chapter 3, Section 28.	tillståndsplikt enligt 2 kap. 2 § och företag som enligt 3 kap. 28 § fått tillstånd att ge ut elektroniska pengar.	<p>pursue such business. Branches of electronic money institutions that are established outside the EEA are covered by the reference to companies that have received authorisation to issue electronic money according to Chapter 3, Section 28.</p> <p>As explained further above under the analysis of Articles 1(1)(a) and (b) of the Directive, those issuing electronic money that are exempted from authorisation under Chapter 2, Section 2 includes electronic money institutions established in other EEA Member States as well as their Swedish branches.</p> <p>The Directive's reference to institutions benefiting from the waiver under Article 1(3) has not been included in the Swedish definition of issuer of electronic money. The relevant Swedish institution is <i>Svenska Skeppshypotekskassan</i>. As described above Sweden has decided not to make any waivers in relation to this institution. Given the nature of this institution's business, financing of ship building, where its purpose has been regulated by law, it does not appear to be possible for this institution to issue electronic money.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>
Art. 2 pt (4)	4. "average outstanding electronic money" means the average total amount of financial liabilities related to electronic	4. genomsnittligt utestående elektroniska pengar: genomsnittet av det sammanlagda belopp av skulder hänförliga till	LEP, Chap. 5, Sec. 27, pt. 1	LEP, Chapter 5, Supervision, intervention and delegation Delegation	LEP, Kapitel 5, Tillsyn, ingripanden och bemyndigande Bemyndigande	CONFORM Chapter 1, Section 4 of FIR (secondary legislation) via delegation in Chapter 5, Section 27, point 1 of LEP transposes Article

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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.	elektroniska pengar som getts ut vid utgången av varje kalenderdag under de sex föregående kalendermånaderna, beräknat den första kalenderdagen i varje kalendermånad och tillämpat för denna kalendermånad.	FIR, Chap. 1. Sec. 4	<p>Article 27</p> <p>The government or the authority appointed by the government may issue regulations on</p> <p>Point 1</p> <p>1. the calculation of the average outstanding debts under Chapter 2, Section 3, point 5.</p> <p>FIR, Chapter 1, Calculation of outstanding debts</p> <p>Section 4</p> <p>The average outstanding debts attributable to electronic money are calculated on the first calendar day of each month and shall be used during the calendar month.</p> <p>The average outstanding debt is calculated as the sum of the total amount of issued electronic money at the end of each calendar day over the past six months divided by the number of calendar days in the six month period in question.</p>	<p>27 §</p> <p>Regeringen eller den myndighet som regeringen bestämmer får meddela föreskrifter om</p> <p>Punkt 1</p> <p>1. beräkningen av genomsnittligt utestående skulder enligt 2 kap. 3 § 5</p> <p>FIR, Kapitel 1, Tillämpningsområde och definitioner</p> <p>Beräkning av utestående skulder</p> <p>4 §</p> <p>Genomsnittligt utestående skulder hänförliga till elektroniska pengar beräknas per den första kalenderdagen i varje månad, och ska användas under den kalendermånaden.</p> <p>Den genomsnittligt utestående skulden beräknas som summan av det sammanlagda beloppet av utgivna elektroniska pengar vid slutet av varje kalenderdag under de senaste sex månaderna, fördelat på antalet kalenderdagar under den</p>	<p>2(4) of the Directive.</p> <p>The Directive's provision has been properly transposed. The only difference is the description of <i>average total amount</i>. In the Directive it is merely stated that the average is to be used, but in the Swedish provision it has been explained how this average is to be calculated, by adding the total amount of issued electronic money during six months divided by the number of days in that period.</p> <p>This further description of the calculation of the average does not appear to impact the correctness of the transposition of the directive's provision.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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				aktuella sexmånadersperioden.		
Art. 3(1)	<p>TITLE II REQUIREMENTS FOR THE TAKING UP, PURSUIT AND PRUDENTIAL SUPERVISION OF THE BUSINESS OF ELECTRONIC MONEY INSTITUTIONS <i>Article 3</i> General prudential rules</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>AVDELNING II VILLKOR FÖR ATT STARTA OCH DRIVA AFFÄRSVERKSAMHET I INSTITUT FÖR ELEKTRONISKA PENGAR SAMT FÖRTILLSYN AV SÅDAN VERKSAMHET <i>Artikel 3</i> Allmänna tillsynsregler</p> <p>1. Utan att det påverkar tillämpningen av detta direktiv ska artiklarna 5 och 10–15, artikel 17.7 och artiklarna 18–25 i direktiv 2007/64/EG gälla, i tillämpliga delar, för institut för elektroniska pengar.</p>	<p>LEP, Chap. 2, Sec. 1 FIR, Chap. 2, Sec. 8 FIR, Chap. 2, Sec. 5 FIR, Chap. 2, Sec. 5</p> <p>LEP, Chap. 3, Sec. 1 FIR, Chap. 2, Sec. 11 FIR, Chap. 2, Sec. 16, 17 and 18 FIR, Chap. 7, Sec. 6 and 9 FIR,</p>	<p>LEP, Chapter 2, Section 1 FIR, Chapter 2, Section 8 FIR, Chapter 2, Section 5</p> <p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers Initial capital Section 1</p> <p>An electronic money institution shall when commencing its activities have an initial capital which at the time of the authorisation decision is equivalent to 350 000 EUR.</p> <p>FIR, Chapter 2, Section 11 FIR, Chapter 2, Section 16, 17 and 18 FIR, Chapter 7, Sections 6 and 9</p> <p>FIR, Chapter 2, Application for authorisation to issue</p>	<p>LEP, Kapitel 2, §1 FIR, Kapitel 2, §8 FIR, Kapitel 2, §5 LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare Startkapital 1 §</p> <p>Ett institut för elektroniska pengar ska när det påbörjar sin verksamhet ha ett startkapital som vid tiden för beslut om tillstånd motsvarar minst 350 000 euro.</p> <p>FIR, Kapitel 2, § 11 FIR, Kapitel 2, § 16, 17 och 18 FIR, Kapitel 7, § 6 och 9 FIR, Kapitel 2, Ansökan om tillstånd att ge ut elektroniska pengar Verksamhetsplan Åtgärder mot penningtvätt och</p>	<p>CONFORM</p> <p>In order to implement Article 3(1) of Directive 2009/110/EC, referring to Articles 5, 10-15, 17.7 and 18-25 of Directive 2007/64/EC, Sweden has adopted provisions within the LEP and FIR that transpose the above mentioned articles from Directive 2007/64/EC into Swedish law as regards electronic money institutions.</p> <p>This means that Sweden has chosen to repeat the requirements set out in Directive 2007/64/EC in the legislation relating to electronic money, rather than referring to the Swedish legislation regarding payment services. These new Swedish provisions are consequently adapted in order to better deal with the specific issues relating to issuance of electronic money. As far as possible the new provision relating to electronic money have been made similar to those applicable for payment service to ensure alignment, as referred to in recital 9 of the Directive. There are, however, minor differences in the two sets of legislations, due to specific characteristics of electronic money. Each of the relevant provisions of Directive 2007/64/EC have therefore been analysed in detail.</p> <p>LEP, Chapter 2, Section 1 transposes Article 5 introductory wording of Directive 2007/64/EC in a conform manner.</p> <p>Chapter 2, Section 8 of FIR transposes Article</p>

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		<p>Chap. 2, Sec. 20</p> <p>FIR, Chap. 2, Sec. 3 FIR, Chap. 5, Sec. 2</p> <p>FIR, Chap. 2, Sec. 4 FIR, Chap. 5, Sec. 4</p> <p>LEP, Chap. 3, Sec. 10</p> <p>FIR, Chap. 2, Sec. 2</p> <p>FIR, Chap. 2, Sec. 2</p> <p>FIR, Chap. 2, Sec. 2</p> <p>FIR, Chap. 2, Sec. 11, 16 and 17</p>	<p>electronic money</p> <p>Business plan</p> <p>Prevention of money laundering and financing of terrorism</p> <p>Section 20</p> <p>The business plan shall state how an undertaking intends to carry out the prevention of money laundering and financing of terrorism in its operations related to the issuance of electronic money. Information about the person at the undertaking responsible for the central function in these issues shall be identified.</p> <p>The undertaking shall also describe its risk assessment in its business plan pursuant to Chapter 2, section 3 of Finansinspektionen's regulations and general guidelines (FFFS 2009:1) governing measures against money laundering and terrorist financing (FFFS 2009:11) and append in a separate</p>	<p>finansiering av terrorism</p> <p>20 §</p> <p>Det ska framgå av verksamhetsplanen hur ett företag avser att driva arbetet med åtgärder mot penningtvätt och finansiering av terrorism i sin verksamhet med utgivning av elektroniska pengar. Uppgifter ska lämnas om vem som är företagets centralt funktionsansvarige i dessa frågor.</p> <p>Företaget ska i verksamhetsplanen även redogöra för sin riskbedömning enligt 2 kap. 3 § Finansinspektionens föreskrifter och allmänna råd (FFFS 2009:1) om åtgärder mot penningtvätt och finansiering av terrorism samt i en separat bilaga bifoga de interna regler företaget ska ha enligt 3 kap. 1 och 2 §§ samma föreskrifter.</p> <p>FIR, Kapitel 2, § 4</p> <p>FIR, Kapitel 5, § 4</p> <p>LEP, Kapitel 3,</p>	<p>5 (a) of the Directive in a conform manner. The Swedish provision has been adapted specifically to cover business plans for electronic money institutions and therefore states that activities of issuance of electronic money shall be described in the business plan.</p> <p>Chapter 2, Section 5 of FIR transposes Article 5 (b) of the Directive in a conform manner</p> <p>Article 5 (c) of Directive 2007/64/EC has not been explicitly transposed in FIR or LEP. Neither does the application form, provided by the FSA, contain any references to initial capital. Chapter 3, Section 1 of LEP deals with the requirement of having the required initial capital at the time of the issuance of the authorisation decision. This requirement implies that the FSA will ensure that the electronic money institution has the required initial capital. However, the fact that electronic money institutions are not explicitly required to provide evidence in the application as regards the initial capital means that the Swedish law only can be considered to be partially conform with the Directive provision.</p> <p>Chapter 2, Section 11 of FIR transposes Article 5 (d) of Directive 2007/64/EC in a conform manner.</p> <p>Chapter 2, Sections 16, 17 and 18 of FIR transpose Article 5 (e) of Directive 2007/64/EC in a conform manner.</p> <p>Chapter 2, Section 20 of FIR transposes in a partially conform manner Article 5 (f) of Directive 2007/64/EC. The Swedish provision</p>

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		<p>FIR, Chap. 7, Sec. 6 and 9</p> <p>LEP, Chap. 2, Sec. 1 and 2</p> <p>LEP, Chap. 2, Sec. 6 and 8, 1st para.</p> <p>LEP, Chap. 3, Sec.11</p> <p>LEP, Chap. 2, Sec. 6 FIR, Chap. 7, Sec. 2, 3 and 4</p> <p>LEP, Chap. 3, Sec. 5</p> <p>LEP, Chap.</p>	<p>appendix the internal rules the undertaking shall have pursuant to Chapter 3, sections 1 and 2 of the same regulations.</p> <p>FIR, Chapter 2, Section 3</p> <p>FIR, Chapter 5, Section 2</p> <p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers Auditing, accounting etc. Section 10</p> <p>An electronic money institution shall have a least one auditor who is appointed by the general meeting. The auditor must be authorised or approved. At least one of the auditors appointed by the general meeting must be an authorised auditor or an approved auditor who has passed the auditor exam.</p> <p>FIR, Chapter 2, Section 2</p> <p>FIR, Chapter 2, Section 2</p> <p>FIR, Chapter 2, Sections</p>	<p>Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Revision, redovisning m.m. 10 §</p> <p>Ett institut för elektroniska pengar ska ha minst en revisor som utses av stämman. Bara den som är auktoriserad eller godkänd revisor får vara revisor. Minst en revisor som stämman utsett ska vara auktoriserad revisor eller godkänd revisor som har avlagt revisorsexamen.</p> <p>FIR, Kapitel 2, § 2</p> <p>FIR, Kapitel 2, § 2</p> <p>FIR, Kapitel 2, § 11, 16 och 17</p> <p>FIR, Kapitel 7, § 6 och 9</p> <p>LEP, Kapitel 2, § 1, 2</p> <p>LEP, Kapitel 2, § 6 och 8, första stycket</p> <p>LEP, Kapitel 3, § 11</p> <p>LEP, Kapitel 2, § 6</p> <p>FIR, Kapitel 7, § 2, 3 och 4</p>	<p>accurately covers the requirements regarding descriptions of the mechanisms for handling money laundering and terrorist financing, referring to the Swedish Regulation implementing Directive 2005/60/EC. However, provisions regarding descriptions of how to comply with Regulation (EC) No 1781/2006 on information on the payer accompanying transfers of funds are missing.</p> <p>Chapter 2, Section 3 and Chapter 5, Section 2 of FIR transpose Article 5 (h) of Directive 2007/64/EC in a conform manner.</p> <p>Chapter 2, Section 4 and Chapter 5, Section 4 of FIR transpose Article 5 (i) of Directive 2007/64/EC in a conform manner.</p> <p>There are no provisions in FIR or LEP regarding the requirement to provide information on the identity of accountants in the application as set out by Article 5(j) of Directive 2007/64/EC. Moreover, this information is not requested in the application forms provided by the FSA. However, the requirement of appointing an authorised accountant is set out in LEP, Chapter 3, Section 10. However, because the identity of the accountant does not have to be provided in the application, Swedish law can only be considered to partially conform with the provision of Directive 2007/64/EC</p> <p>There is no express obligation in FIR to attach the articles of association to the application. Moreover, the application forms provided by the FSA do not contain any instructions for submitting the articles of association. However, the articles of</p>

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		<p>2, Sec. 6, pt. 3</p> <p>LEP, Chap. 2, Sec. 7, last para.</p> <p>LEP, Chap. 1, Sec. 3</p> <p>LEP, Chap. 2, Sec. 7, last para.</p> <p>LEP, Chap. 3, Sec. 26</p> <p>LEP, Chap. 2, Sec. 8</p> <p>LEP, Chap. 5, Sec. 11, 1st para.</p> <p>LEP, Chap. 5, Sec. 11, pt. 2, 3</p>	<p>11, 16 and 17</p> <p>FIR, Chapter 7, Sections 6 and 9</p> <p>LEP, Chapter 2, Section 1 and 2</p> <p>LEP, Chapter 2, Section 6 and Section 8, 1st para.</p> <p>LEP, Chapter 3, Section 11</p> <p>LEP, Chapter 2, Section 6</p> <p>FIR, Chapter 7, Sections 2, 3 and 4</p> <p>LEP, Chapter 3, Activities in electronic money institutions and registered issuer</p> <p>Related services and other business</p> <p>Section 5</p> <p>An electronic money institution and a registered issuer may also provide payment services and related services and conduct other business.</p> <p>A registered issuer may provide payment services that are not connected to issuing of electronic money only if the average</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Närliggande tjänster och annan verksamhet</p> <p>5 §</p> <p>Ett institut för elektroniska pengar och en registrerad utgivare får även tillhandahålla betaltjänster och närliggande tjänster samt driva annan verksamhet.</p> <p>En registrerad utgivare får dock tillhandahålla betaltjänster som inte är knutna till utgivning av elektroniska pengar bara om genomsnittet av de totala betalningstransaktionerna under de senaste 12 månaderna inte överstiger ett belopp motsvarande 3 miljoner euro per månad.</p> <p>Finansinspektionen får förbjuda ett institut för elektroniska pengar eller en registrerad utgivare att driva annan verksamhet. Ett sådant beslut får meddelas om</p>	<p>association can easily be obtained by the FSA and shall also be reviewed by the FSA in connection with the application process according to LEP, Chapter 2, Section 6, Point 1. Therefore, Article 5(k) of Directive 2007/64/EC has been reflected in a conform manner in the Swedish legislation.</p> <p>Chapter 2, Section 2 of FIR transposes in a conform manner Article 5(l) of Directive 2007/64/EC.</p> <p>Chapter 2, Sections 11, 16 and 17 as well as Chapter 6, Sections 6 and 9 of FIR transpose in a conform manner the last paragraph of Article 5(1) of Directive 2007/64/EC.</p> <p>Chapter 2, Sections 1 and 2 of LEP transpose in a conform manner Article 10(1) of Directive 2007/64/EC.</p> <p>As regards the categories exempted from authorisation, the categories set out in LEP Chapter 2, Section 2 correspond with those set out in this Directive, but not entirely with those set out in Directive 2007/64/EC.</p> <p>There appears to be a difference in how Member States and their regional or local authorities are treated in these two Directives. In this Directive, Member States and their local or regional authorities are to be recognised as issuers of electronic money when <u>acting</u> in their capacity as public authorities whereas in Directive 2007/64/EC the same category is to be exempted from authorisation only when <u>not acting</u> in their capacity as public authorities.</p> <p>The Swedish government was not sure how to</p>

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		<p>and 5 and last para.</p> <p>LEP, Chap. 5, Sec. 11, pt. 1</p> <p>LEP, Chap. 5, Sec. 8 and 10</p> <p>LEP, Chap. 5, Sec. 11, pt. 4</p> <p>LEP, Chap. 5, Sec. 11, pt. 6 and 7</p> <p>LEP, Chap. 5, Sec. 5</p> <p>FIR, Chap. 10, Sec. 3</p>	<p>of the total payment transactions during the last 12 months does not exceed an amount equal to 3 million euros per month.</p> <p>The Financial Supervisory Authority may prohibit an electronic money institution or a registered issuer from conducting other business. Such decision may be issued if the business impairs or might impair the financial soundness of the institution or the issuer or the Financial Supervisory Authority's possibilities to exercise supervision over the institution or the issuer.</p> <p>LEP, Chapter 2, Section 6, point. 3</p> <p>LEP, Chapter 2, Section 7, last para.</p> <p>LEP, Chapter 1, Section 3</p> <p>LEP, Chapter 2, Section 7, last para.</p> <p>LEP, Chapter 3, Section 26</p> <p>LEP, Chapter 2, Section 8</p>	<p>verksamheten försämrar eller kan komma att försämrade den finansiella sundheten i institutet eller utgivaren eller Finansinspektionens möjligheter att utöva tillsyn över institutet eller utgivaren.</p> <p>LEP, Kapitel 2, § 6, punkt 3</p> <p>LEP, Kapitel 2, § 7, sista stycket.</p> <p>LEP, Kapitel 1, § 3</p> <p>LEP, Kapitel 2, § 7, sista stycket</p> <p>LEP, Kapitel 3, § 26</p> <p>LEP, Kapitel 2, § 8</p> <p>LEP, Kapitel 5, § 11, första stycket</p> <p>LEP, Kapitel 5, § 11, punkt 2, 3 och 5 och sista stycket</p> <p>LEP, Kapitel 5, § 11, punkt 1</p> <p>LEP, Kapitel 5, § 8 och 10</p> <p>LEP, Kapitel 5, § 11, punkt 4</p> <p>LEP, Kapitel 5, § 11,</p>	<p>handle this issue, but decided, in relation to issuance of electronic money, to give exemption from authorisation to state and regional authorities when they <u>act</u> in their capacity as public authorities. See Government Proposal 2010/11:124, page 78.</p> <p>Because this report covers the transposition of this Directive, Article 10(1) of Directive 2007/64/EC must, in this context, be considered to have been reflected in a conform manner in the Swedish legislation.</p> <p>Chapter 2, Sections 6 and 8, 1st paragraph of LEP transposes in a conform manner Article 10(2) of Directive 2007/64/EC.</p> <p>Chapter 3, Section 11 of LEP transposes in a conform manner Article 10(3) of Directive 2007/64/EC.</p> <p>Chapter 2, Section 6 of LEP and Chapter 7, Sections 2,3 and 4 of FIR transpose in a conform manner Article 10(4) of Directive 2007/64/EC.</p> <p>Chapter 3, Section 5 of LEP, transposes in a partially conform manner Article 10(5) of Directive 2007/64/EC. The Directive provision states that where the conduct of business activities other than payment services may affect the financial soundness of the institution, the establishment of a separate entity for this particular business may be required by the competent authority. However, the Swedish provision states that in case the financial soundness is affected by the conduct of business, other than issuance of electronic money, the FSA may prohibit the</p>

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		<p>LEP, Chap. 3, Sec. 10</p> <p>LEP, Chap. 3, Sec. 29</p> <p>FIR, Chap. 8, Sec. 1-3</p> <p>FIR, Chap. 8, Sec. 2, pt. 1-6 and pt. 9 and Sec. 3</p> <p>FIR, Chap. 8, Sec. 2, pt. 1</p> <p>LEP, Chap. 3, Sec. 9 and</p> <p>FIR, Chap. 7 Sec. 13</p> <p>LEP,</p>	<p>LEP, Chapter 5, Section 11, 1st para.</p> <p>LEP, Chapter 5, Section 11, points 2, 3 and 5 and last para.</p> <p>LEP, Chapter 5, Section 11, point 1</p> <p>LEP, Chapter 5, Sections 8 and 10</p> <p>LEP, Chapter 5, Section 11, pt. 4</p> <p>LEP, Chapter 5, Section 11, points 6 and 7</p> <p>LEP, Chapter 5, Section 5</p> <p>FIR, Chapter 10, Section 3</p> <p>LEP, Chapter 3, Section 10</p> <p>LEP, Chapter 3, Section 29</p> <p>FIR, Chapter 8, Sections 1-3</p> <p>FIR, Chapter 8, Section 2, points 1-6 and point 9 and Section 3</p> <p>FIR, Chapter 8, Section 2, point 1</p> <p>LEP, Chapter 3, Section 9 and</p>	<p>punkt 6 och 7</p> <p>LEP, Kapitel 5, § 5</p> <p>FIR, Kapitel 10, § 3</p> <p>LEP, Kapitel 3, § 10</p> <p>LEP, Kapitel 3, § 29</p> <p>FIR, Kapitel 8, § 1-3</p> <p>FIR, Kapitel 8, § 2, punkt 1-6 och pt. 9 och § 3</p> <p>FIR, Kapitel 8, § 2, pt. 1</p> <p>LEP, Kapitel 3, § 9 och</p> <p>FIR, Kapitel 7 § 13</p> <p>LEP, Kapitel 5, § 1, första meningen.</p> <p>LEP, Kapitel 2, § 1, första meningen.</p> <p>Regulation (2009:93) with instructions for the Financial Supervisory Authority, § 14</p> <p>LEP, Kapitel 5, § 1, första meningen.</p> <p>LEP, Kapitel 2, § 1, första meningen.</p> <p>LEP, Kapitel 2, § 1, första och andra meningen.</p> <p>LEP, Kapitel 5, § 2</p>	<p>conduct of such other business. The Swedish provision therefore goes further than the Directive. It does not provide for a solution where the businesses may be separated, but instead provides the FSA with the authority to prohibit the other business. In the Government's Proposal 2010/11:124, page 84 it is stated that a company may choose either to discontinue the <i>other</i> business or the business of issuance of electronic money. Because the measures to be taken by the FSA according to the Swedish provision go further than the requirements of the Directive, the Swedish provision may only be considered to partially conform with the provision of the Directive.</p> <p>Chapter 2, Section 6, point 3 of LEP transposes in a conform manner Article 10(6) of Directive 2007/64/EC.</p> <p>Chapter 2, Section 7, last paragraph and Chapter 1, Section 3 of LEP transpose in a conform manner Article 10(7) of Directive 2007/64/EC.</p> <p>Chapter 2, Section 7, last paragraph of LEP transposes in a conform manner Article 10(8) of Directive 2007/64/EC.</p> <p>The Swedish provision does not specifically set out an obligation of taking into account of laws and regulations of third countries applicable to companies related to the electronic money institution when considering whether such relationships create obstacles to the supervision. The Swedish provision is, however, very general and may be interpreted to encompass this requirement.</p>

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		<p>Chap. 5, Sec. 1, 1st sen.</p> <p>LEP, Chap. 2, Sec. 1, 1st sen.</p> <p>Regulation (2009:93) with instructions for the Financial Supervisory Authority, Section 14</p> <p>LEP, Chap. 5, Section 1, 1st sentence</p> <p>LEP, Chapter 2, Section 1, 1st sentence</p> <p>LEP, Chapter 2, Section 1, 1st and 2nd sentences</p> <p>LEP, Chapter 5, Section 2</p> <p>LEP, Chapter 5, Section 3</p> <p>LEP, Chapter 5, Section 27, points 6 and 9</p> <p>LEP, Chapter 5, Section 11</p> <p>LEP, Chapter 5, Section 8, Section 5, 2nd para. and Section 21</p> <p>LEP, Chap. 2, Sec. 1, 1st sen.</p>	<p>FIR, Chapter 7 Section 13</p> <p>LEP, Chapter 5, Section 1, 1st sentence.</p> <p>LEP, Chapter 2, Section 1, 1st sentence</p> <p>Regulation (2009:93) with instructions for the Financial Supervisory Authority, Section 14</p> <p>LEP, Chapter 5, Section 1, 1st sentence</p> <p>LEP, Chapter 2, Section 1, 1st sentence</p> <p>LEP, Chapter 2, Section 1, 1st and 2nd sentences</p> <p>LEP, Chapter 5, Section 2</p> <p>LEP, Chapter 5, Section 3</p> <p>LEP, Chapter 5, Section 27, points 6 and 9</p> <p>LEP, Chapter 5, Section 11</p> <p>LEP, Chapter 5, Section 8, Section 5, 2nd para. and Section 21</p> <p>LEP, Chapter 5, Section 8, Section 5, 2nd para. and Section 21</p>	<p>LEP, Kapitel 5, § 3</p> <p>LEP, Kapitel 5, § 27, punkt 6 och 9</p> <p>LEP, Kapitel 5, § 11</p> <p>LEP, Kapitel 5, § 8, § 5, andra stycket och § 21</p> <p>LEP, Kapitel 5, § 8, § 5, andra stycket och § 21</p> <p>LEP, Kapitel 3, § 5</p> <p>OSL, Kapitel 2, § 1</p> <p>OSL, Kapitel 30, § 4</p> <p>OSL, Kapitel 30, § 7</p> <p>LEP, Kapitel 5, § 26</p> <p>LEP, Kapitel 5, § 4, första stycket.</p> <p>LEP, Kapitel 3, § 20, första stycket och § 21-23</p> <p>LEP, Kapitel 5, § 4</p> <p>LEP, Kapitel 3, § 13, § 19, tredje stycket., tredje meningen, § 20, tredje stycket., tredje meningen, § 21, första stycket</p> <p>LEP, Kapitel 3, § 9 och</p> <p>FIR, Kapitel 7, § 13</p> <p>LEP, Kapitel 3, § 9 och</p>	<p>Therefore, Article 10(8) of Directive 2007/64/EC has been reflected in a conform manner in the Swedish legislation.</p> <p>Chapter 3, Section 26 of LEP transposes in a conform manner Article 10(9) of Directive 2007/64/EC.</p> <p>Chapter 2, Section 8 of LEP transposes in a conform manner Article 11 of Directive 2007/64/EC.</p> <p>Chapter 5, Section 11, first sentence of LEP transposes in a conform manner the introductory wording of Article 12(1) of Directive 2007/64/EC.</p> <p>Chapter 5, Section 11, points 2, 3 and 5 of LEP transposes in a conform manner Article 12 (1)(a) of Directive 2007/64/EC.</p> <p>Chapter 5, Section 11, point 1 of LEP transposes in a conform manner Article 12 (1)(b) of Directive 2007/64/EC.</p> <p>Chapter 5, Sections 8 and 10 of LEP transpose in a conform manner Article 12 (1)(c) of Directive 2007/64/EC.</p> <p>Chapter 5, Section 11, point 1 of LEP transposes in a conform manner Article 12 (1)(d) of Directive 2007/64/EC.</p> <p>Chapter 5, Section 11, point 6 and 7 of LEP transpose in a conform manner Article 12 (1)(e) of Directive 2007/64/EC.</p> <p>Regarding Article 12(2) of Directive 2007/64/EC, LEP does not set out any provisions regarding reasoning behind and information regarding withdrawal of</p>

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		<p>sen. LEP, Chap. 2, Sec. 1, 1st and 2nd</p> <p>sen. LEP, Chap. 5, Sec. 2</p> <p>LEP, Chap. 5, Sec. 3</p> <p>LEP, Chap. 5, Sec. 27, pt 6 and 9</p> <p>LEP, Chap. 5, Sec. 11</p> <p>LEP, Chap. 5, Sec. 8, Section 5, 2nd para.</p>	<p>LEP, Chapter 3, Section 5</p> <p>OSL, Chapter 2, Section 1</p> <p>OSL, Chapter 30, Section 4</p> <p>OSL, Chapter 30, Section 7</p> <p>LEP, Chapter 5, Section 26</p> <p>LEP, Chapter 5, Section 4, 1st para.</p> <p>LEP, Chapter 3, Section 20, 1st para. and Section 21- 23</p> <p>LEP, Chapter 5, Section 4</p> <p>LEP, Chapter 3, Section 13, Section 19, 3rd para., 3rd sentence, Section 20, 3rd para., 3rd sentence, Section 21, 1st para.</p> <p>LEP, Chapter 3, Section 9 and</p> <p>FIR, Chapter 7, Section 13</p> <p>LEP, Chapter 5, Section 1, 1st sentence</p> <p>LEP, Chapter 2, Section 1, 1st sentence</p>	<p>FIR, Kapitel 7, § 13</p> <p>LEP, Kapitel 5, § 1, första meningen.</p> <p>LEP, Kapitel 2, § 1, första meningen</p> <p>Förordning (2009:93) med instruktion för Finansinspektionen, § 14</p> <p>LEP, Kapitel 5, § 1, första meningen</p> <p>LEP, Kapitel 2, § 1, första meningen</p> <p>LEP, Kapitel 2, § 1, första och andra meningarna</p> <p>LEP, Kapitel 5, § 2</p> <p>LEP, Kapitel 5, § 27, punkt 6 och 9</p> <p>LEP, Kapitel 5, § 11</p> <p>LEP, Kapitel 5, § 8, § 5, andra stycket och § 21</p> <p>LEP, Kapitel 5, § 8, § 5, andra stycket och § 21</p> <p>LEP, Kapitel 3, § 5</p> <p>OSL, Kapitel 2, § 1</p> <p>OSL, Kapitel 30, § 4</p> <p>OSL, Kapitel 30, § 7</p>	<p>authorisation. However, as a general rule under Swedish law, the FSA, as a public authority, must state the reasons behind its decision and it has to notify those affected by its decision.</p> <p>Regarding Article 12(3) of Directive 2007/64/EC, LEP does not set out any provisions regarding publication of authorisation withdrawals. However, as a general rule under Swedish law, such publication is required by the FSA as it is a public authority. FSA always publishes reasoned decisions on withdrawal on its website.</p> <p>Chapter 5, Section 5 of LEP transposes in a conform manner Article 13, first paragraph of Directive 2007/64/EC.</p> <p>Chapter 5, Section 5 of LEP transposes in a conform manner Article 13, second paragraph of Directive 2007/64/EC.</p> <p>Chapter 10, Section 3 of FIR transposes in a conform manner Article 14 of Directive 2007/64/EC.</p> <p>Regarding Article 15(1) of Directive 2007/64/EC, it has to be noted that the adoption of Directive 2009/110/EC meant that electronic money institutions no longer should be included within the term <i>credit institutions</i>. Consequently Sweden has made changes to its legislation transposing Directive 86/635/ EEC to ensure that electronic money institutions should no longer be regulated through this legislation. The accounting and audit legislation that is</p>

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		<p>and Sec. 21</p> <p>LEP, Chap. 5, Sec. 8, Section 5, 2nd para. and Sec. 21</p> <p>LEP, Chap. 3, Sec. 5</p> <p>OSL, Chap. 2, Sec. 1</p> <p>OSL, Chap. 30, Sec. 4</p> <p>OSL, Chap. 30, Sec. 7</p> <p>LEP, Chap. 5, Sec. 26</p>	<p>Regulation (2009:93) with instructions for the Financial Supervisory Authority, Section 14</p> <p>LEP, Chapter 5, Section 1, 1st sentence</p> <p>LEP, Chap. 2, Section 1, 1st sentence</p> <p>LEP, Chapter 2, Section 1, 1st and 2nd sentences.</p> <p>LEP, Chapter 5, Section 2</p> <p>LEP, Chapter 5, Section 27, points 6 and 9</p> <p>LEP, Chapter 5, Section 11</p> <p>LEP, Chapter 5, Section 8, Section 5, 2nd para. and Section 21</p> <p>LEP, Chapter 5, Section 8, Section 5, 2nd para. and Section 21</p> <p>LEP, Chapter 3, Section 5</p> <p>OSL, Chapter 2, Section 1</p> <p>OSL, Chapter 30, Section 4</p> <p>OSL, Chapter 30, Section 7</p>	<p>LEP, Kapitel 5, § 26</p> <p>LEP, Kapitel 5, § 4, första stycket</p> <p>LEP, Kapitel 5, § 4, första stycket</p> <p>LEP, Kapitel 5, § 4, första stycket</p> <p>LEP, Kapitel 5, § 4, första stycket</p> <p>LEP, Kapitel 5, § 4, första stycket</p> <p>LEP, Kapitel 3, § 20, första stycket och stycke 21- 23</p> <p>LEP, Kapitel 5, § 4, första stycket</p> <p>LEP, Kapitel 5, § 4</p> <p>LEP, Kapitel 5, § 4, första stycket</p> <p>LEP, Kapitel 3, § 13, § 19, tredje stycket, tredje meningen, § 20, tredje stycket, tredje meningen och § 21, första stycket.</p>	<p>now applicable to electronic money institutions is the general legislation applicable to all limited liability companies and economic associations. This legislation, 1995:1554 Annual Reports Act, transposes Directives 78/660/EC and 83/349/EC. Consequently Article 15(1) of Directive 2007/64/EC has been reflected in a conform manner in the Swedish legislation.</p> <p>Regarding Article 15(2) of Directive 2007/64/EC, the audit Act (1999:1079) is applicable to all limited liability companies and economic associations, including electronic money institutions.</p> <p>Chapter 3, Section 10 of LEP transposes in a conform manner Article 15(3) of Directive 2007/64/EC.</p> <p>Chapter 5, Section 6 of LEP transposes in a conform manner Article 15(4) of Directive 2007/64/EC.</p> <p>Chapter 3, Section 29 of LEP and Chapter 8, Sections 1 to 3 of FIR transpose in a conform manner Article 17(7) first, second subparagraphs and third subparagraph introductory wording of Directive 2007/64/EC.</p> <p>There is no Swedish provision corresponding to Article 17(7) third subparagraph point (a) of Directive 2007/64/EC. The Swedish government concluded in its Proposal (2009/10:220) when transposing this Directive into the Act on Payment Services that it was not necessary to implement a Swedish provision covering this Directive</p>

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		<p>LEP, Chap. 5, Sec. 4, 1st para.</p> <p>LEP, Chap. 3, Sec. 20, 1st para., Sec. 21- 23</p> <p>LEP, Chap. 5, Sec. 4</p> <p>LEP, Chap. 3, Sec. 13, Sec. 19, 3rd para., 3rd sen, Sec. 20, 3rd para., 3rd sen, Sec. 21, 1st para.</p>	<p>LEP, Chapter 5, Section 26</p> <p>LEP, Chapter 5, Section 4, 1st para.</p> <p>LEP, Chapter 5, Section 4, 1st para.</p> <p>LEP, Chapter 5, Section 4, 1st para.</p> <p>LEP, Chapter 5, Section 4, 1st para.</p> <p>LEP, Chapter 3, Section 20, 1st para., and Sections 21- 23</p> <p>LEP, Chapter 5, Section 4, 1st para</p> <p>LEP, Chapter 5, Section 4</p> <p>LEP, Chapter 5, Section 4, 1st para</p> <p>LEP, Chapter 3, Section 13, Section 19, 3rd para., 3rd sentence, Section 20, 3rd para., 3rd sentence and Section 21, 1st para.</p>	<p>provision as the management cannot delegate its responsibilities under Swedish company law. (See page 155 ff of the Proposal). The same approach has been taken when transposing the Directive in relation to issuance of electronic money. Consequently, Article 17(7) third subparagraph point (a) of Directive 2007/64/EC has been reflected in a conform manner in the Swedish legislation.</p> <p>Chapter 8, Sections 2, points 1-6 and point 9 as well as Section 3 of FIR transpose in a conform manner Article 17(7) third subparagraph point (b) of Directive 2007/64/EC.</p> <p>Chapter 8, Section 2, point 1 of FIR transpose in a conform manner Article 17(7) third subparagraph point (c) of Directive 2007/64/EC.</p> <p>There is no specific provision implementing Article 17(7) third subparagraph point (d) of Directive 2007/64/EC. The Swedish government concluded in its Proposal (2009/10:220) when transposing this Directive into the Act on Payment Services that an institution cannot under Swedish law circumvent its responsibilities under the law by concluding outsourcing agreements. It therefore did not believe that it was necessary to introduce any provisions in the law stating that agreements that are contrary to the law may not be concluded. Consequently, Article 17(7) third subparagraph point (d) of Directive 2007/64/EC has been reflected in a conform manner in the Swedish legislation.</p> <p>There is no Swedish provision specifically</p>

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			<p>LEP, Chap. 3, Sec. 9 and</p> <p>FIR, Chap. 7 Sec. 13</p> <p>LEP, Chap. 5, Sec. 1, 1st sen.</p> <p>LEP, Chap. 2, Sec. 1, 1st sen.</p> <p>Regulation (2009: 93) with instructions for the Financial Supervisory Authority, Sec. 14</p>		<p>corresponding to Article 18(1) of Directive 2007/64/EC. The Swedish government concluded in its Proposal (2009/10:220) when transposing Directive 2007/64/EC into the Act on Payment Services that provisions covering Article 18 of the Directive should, if required, be issued by the FSA. (See page 155 ff of the Proposal). The FSA has adopted FIR Chapter 8, Sections 1 to 3 in order to regulate how an electronic money institution may outsource its operations. The provisions in FIR are very detailed and the responsibilities set out in these provisions can be expected to ensure that the requirements of the Directive are fulfilled when an electronic money institution outsources its operations. Consequently, Article 18(1) of Directive 2007/64/EC has been reflected in a conform manner in the Swedish legislation.</p> <p>There is no Swedish provision specifically corresponding to Article 18(2) of Directive 2007/64/EC. The Swedish government concluded in its Proposal (2009/10:220) when transposing this Directive into the Act on Payment Services that the principles set out in Art 18 of the Directive could possibly be covered by general principles of vicarious responsibility. If that would not be the case, the government concluded that it would be up to the FSA to implement regulation covering Article 18 of the Directive. The FSA has not in its preparatory works considered whether there is a need for any provision covering Article 18(2) of the Directive. Neither does the FIR appear to contain any provision covering this specific Directive provision. It</p>

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			<p>LEP, Chap. 5, Sec. 1, 1st sen.</p> <p>LEP, Chap. 2, Sec. 1, 1st sen.</p> <p>LEP, Chap. 2, Sec. 1, 1st and 2nd sen.</p> <p>LEP, Chap. 5, Sec. 2</p> <p>LEP, Chap. 5, Sec. 27, pt. 6 and 9</p> <p>LEP, Chap. 5, Sec. 11</p> <p>LEP,</p>		<p>is likely that the liability obligations set out in the Directive are covered by general principles of vicarious liability and other general liability principles under Swedish law. However, if the purpose of this Directive provision is to clarify the liability and to gather all liability obligations in one and the same provision, Sweden's decision not to implement such a provision means that Swedish law only partially conforms with the Directive provision.</p> <p>Chapter 3, Section 9 of LEP and Chapter 7, Section 13 of FIR transpose, in a conform manner, Article 19 of Directive 2007/64/EC.</p> <p>As regards Article 20(1) of Directive 2007/64/EC, LEP, Chapter 2, Section 1, first sentence and Chapter 5, Section 1, first sentence makes it clear that Sweden has appointed the FSA as the competent authority for the authorisation and supervision of issuance of electronic money.</p> <p>As regards Article 20(2) of Directive 2007/64/EC, the Swedish government concluded in its Proposal (2009/10:220) when transposing this Directive into the Act on Payment Services that it was not necessary to implement a provision that explicitly covers this Directive provision. The same approach has been taken in relation to electronic money. LEP provides the FSA with sufficient powers to perform its duties in relation to issuance of electronic money.</p> <p>As regards Article 20(3) of Directive 2007/64/EC, the FSA appears to be the only authority in Sweden competent for matters</p>

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		<p>Chap. 5, Sec. 8, Section 5, 2nd para. and Sec. 21</p> <p>LEP, Chap. 5, Sec. 8, Sec. 5, 2nd para. and Sec. 21</p> <p>LEP, Chap. 3, Sec. 5</p> <p>OSL, Chap. 2, Sec. 1</p> <p>OSL, Chap. 30, Sec. 4</p> <p>OSL, Chap. 30, Sec. 7</p> <p>LEP,</p>		<p>related to issuance of electronic money.</p> <p>Chapter 2, Section 1, first sentence and Chapter 5, Section 1, first sentence of LEP transpose in a conform manner Article 20(4) of Directive 2007/64/EC.</p> <p>As regards Article 20(5) of Directive 2007/64/EC, the Swedish government concluded in its Proposal (2009/10:220) when transposing Directive 2007/64/EC into the Act on Payment Services that it was not necessary to implement a provision that explicitly covers this Directive provision. The same approach has been taken in relation to electronic money. The supervisory obligations of the FSA have in LEP, Chapter 2, Section 1, first sentence been limited to the supervision of compliance of the LEP and other internal or external regulations governing issuance of electronic money. Consequently the supervision is limited to the business of electronic money. It is specifically stated in the second sentence of the quoted LEP provision that, in relation to issuers of electronic money that also carry out other type of business, the Acts that govern this business shall be applied.</p> <p>There is no Swedish provision that expressly covers Article 21(1) of the Directive. The LEP, however, contains a great number of provisions setting out the measures used by the FSA when conducting its supervision. In general these measures appear to be proportionate, adequate and responsive to the risks the electronic money institutions are exposed to. In many instances the FSA has</p>

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			<p>Chap. 5, Sec. 26</p> <p>LEP, Chap. 5, Sec. 4, 1st para.</p> <p>LEP, Chap. 5, Sec. 4, 1st para.</p> <p>LEP, Chap. 5, Sec. 4, 1st para.</p> <p>LEP, Chap. 5, Sec. 4, 1st para.</p> <p>LEP, Chap. 5, Sec. 4, 1st para.</p> <p>LEP, Chap. 3, Sec. 20, 1st para and Sec. 21- 23</p> <p>LEP, Chap. 5, Sec.</p>		<p>the possibility to choose between stringent measures, such as withdrawal of authorisation, or less stringent measures, such as issuing of a warning. Consequently the FSA has been given the instruments to insure that the measures taken are adequate and proportionate.</p> <p>Article 21(1), second subparagraph, point (a) of Directive 2007/64/EC has been transposed through LEP, Chapter 5, Section 2.</p> <p>Chapter 5, Section 3 of LEP transpose in a conform manner Article 21(1), second subparagraph, point (b) of Directive 2007/64/EC.</p> <p>Chapter 5, Section 27, points 6 and 9 of LEP transpose in a conform manner Article 21(1),second subparagraph, point (c) of Directive 2007/64/EC.</p> <p>Chapter 5, Section 11 of LEP transpose in a conform manner Article 21(1), second subparagraph, point (d) of Directive 2007/64/EC.</p> <p>Chapter 5, Section 8, Section 5, second paragraph and Section 21 of LEP transpose in a conform manner Article 21(2) of Directive 2007/64/EC.</p> <p>Chapter 5, Section 8, Section 5, second paragraph and Section 21 as well as Chapter 3, Section 5 of LEP transpose in a conform manner Article 21(3) of Directive 2007/64/EC.</p> <p>Regarding Article 22(1) of Directive 2007/64/EC, the Swedish government</p>

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			<p>4, 1st para</p> <p>LEP, Chap. 5, Sec. 4</p> <p>LEP, Chap. 5, Sec. 4, 1st para.</p> <p>LEP, Chap. 3, Sec. 13, Sec. 19, 3rd para., 3rd sen, Sec. 20, 3rd para., 3rd sen and Sec. 21, 1st para.</p>	<p>concluded in its Proposal (2009/10:220), when transposing Directive 2007/64/EC into the Act on Payment Services, that this provision of the Directive has to be considered transposed through the entire Public Access to Information and Secrecy Act (2009:400)(Offentlighets- och sekretesslag (2009:400))(referred to as the OSL). OSL, Chapter 2, Section 1 ensures that employees of or experts acting on behalf of the FSA are covered by the obligation of secrecy. OSL, Chapter 30, Section 4 specifically sets out the type of information that is covered by secrecy in relation to financial business. Consequently, Article 22(1) of Directive 2007/64/EC has been reflected in a conform manner in the Swedish legislation. Regarding Article 22(2) of Directive 2007/64/EC, the Swedish government concluded in its Proposal (2009/10:220), when transposing Directive 2007/64/EC into the Act on Payment Services, that this provision of the Directive has to be considered transposed through the entire Public Access to Information and Secrecy Act (2009:400)(Offentlighets- och sekretesslag (2009:400))(referred to as the OSL). OSL, Chapter 30, Section 7 ensures that any information received as a result of Sweden's obligation to exchange information under Article 24 of the Directive would be covered by secrecy. An agreement approved by the government as referred to in OSL, Chapter 30, Section 7 covers directives adopted by EU institutions. (See for example Prop. 2006/07:5 page 349 f). Consequently, Article 22(2) of Directive 2007/64/EC has been reflected in a</p>

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						<p>conform manner in the Swedish legislation.</p> <p>Given the fact that Article 22(3) of Directive 2007/64/EC does not give rise to an obligation but instead provides guidelines for the application of Article 22 of this Directive, no Swedish provision corresponding to this Directive provision has been adopted. Articles 44-52 of Directive 2006/48/EC have been transposed into Swedish law and are therefore available to be taken into account when applying Article 22 of the this Directive.</p> <p>Chapter 5, Section 26 of LEP transposes in a conform manner Article 23(1) of Directive 2007/64/EC.</p> <p>Regarding Article 23(2) of Directive 2007/64/EC, the Swedish government concluded in its Proposal (2009/10:220), when transposing Directive 2007/64/EC into the Act on Payment Services, that it is not necessary to implement a provision expressly covering this Directive provision. If the failure to act has, in some way, been set out in a decision, this decision can be appealed according to LEP, Chapter 5, Section 26, as described above. However, if there is no decision it is not possible to appeal the failure to act to an administrative court. Only decisions can be appealed. If the failure to act concerns decisions on authorisation or exception from authorisation, this is dealt with in LEP, Chapter 2, Section 8, stating that an authorisation or an exception from authorisation shall be assumed to have been issued by the FSA if the FSA has not taken a</p>

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						<p>decision within 3 months from receiving the application. If the FSA fails to act in any other way there is a possibility to turn to the Parliamentary Ombudsmen or the Office of the Chancellor of Justice. These bodies may decide to start a court procedure against the FSA if the FSA's failure to act is deemed to be serious. Consequently Article 23(2) of Directive 2007/64/EC seems to have been reflected in a conform manner in the Swedish legislation. Chapter 5, Section 4, first paragraph of LEP transposes in a conform manner Article 24(1) of Directive 2007/64/EC.</p> <p>Chapter 5, Section 4, first paragraph of LEP transposes in a conform manner Article 24(2)(a), (b), (c) of Directive 2007/64/EC.</p> <p>Chapter 3, Section 20, first paragraph and Sections 21-23 of LEP transpose in a conform manner Article 25(1) of Directive 2007/64/EC.</p> <p>Chapter 5, Section 4, first paragraph of LEP transposes in a conform manner Article 25(2) of Directive 2007/64/EC.</p> <p>Chapter 5, Section 4 of LEP transposes in a conform manner Article 25(3) of Directive 2007/64/EC.</p> <p>Chapter 5, Section 4, first paragraph of LEP transposes in a conform manner Article 25(4) of Directive 2007/64/EC.</p> <p>Article 25(5) of Directive 2007/64/EC has been transposed through a number of provisions in LEP. LEP, Chapter 3, Section 13 refers to the Money Laundering and</p>

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						<p>Terrorist Financing (Prevention) Act (2009:62) implementing Directive 2005/60/EC, as a reminder that this law applies to electronic money institutions. As regards the cooperation with competent authorities in other EEA member states LEP, Chapter 3, Sections 19 and 20 sets out an obligation for the FSA to collect information regarding the risk for money laundering and financing of terrorism from the competent authorities in the home member state before registering an agent or a branch in Sweden. The FSA may refuse such registration if there is evidence of such activities. Furthermore the FSA has according to LEP, Chapter 5, Section 21, been given the power to intervene if a foreign company issuing electronic money in Sweden, directly or through a branch, does not comply with applicable rules on money laundering and financing of terrorism or Regulation (EC) No 1781/2006. Consequently, Article 25(5) of Directive 2007/64/EC has been reflected in a conform manner in the Swedish legislation.</p>
Art. 3(2)	2. 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.	2. Institut för elektroniska pengar ska informera de behöriga myndigheterna i förväg om alla väsentliga förändringar av åtgärderna för att skydda medel som erhållits i utbyte mot utgivna elektroniska pengar.	LEP, Chap. 3, Sec. 8 FIR, Chap. 6, Sec. 5	LEP, Chapter 3, Activities in electronic money institutions and registered issuers Protection requirements etc. Section 8 Electronic money institutions or registered issuers shall inform the	LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare Skyddskrav m.m. 8 § Institut för elektroniska pengar och registrerade utgivare ska informera	CONFORM Chapter 3, Section 8 of LEP and Chapter 6, Section 5 of FIR transpose Article 3(2) of the Directive. LEP, Chapter 3, Section 8 almost literally transposes the Directive provision. It has not been further specified in the Swedish legislation what type of changes should be considered material. However, given the literal transposition of the Directive

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			<p>Financial Supervisory Authority in advance of all material changes in measures taken for safeguarding of funds that have been received in exchange for electronic money issued.</p> <p>FIR, Chapter 6, Other procedures subject to a notification obligation</p> <p>Material changes in measures to safeguard funds</p> <p>Section 5</p> <p>An institution for electronic money or a registered issuer that intends to implement material changes to its measures to safeguard fund received in exchange for issued electronic money shall submit information to Finansinspektionen regarding the change in the manner set out in Chapter 2, section 11 no later than one month in advance.</p>	<p>Finansinspektionen i förväg om alla väsentliga förändringar i åtgärder för att skydda medel som tagits emot i utbyte mot utgivna elektroniska pengar.</p> <p>FIR, Kapitel 6, Övriga anmälningspliktiga förfaranden</p> <p>Väsentliga förändringar i åtgärder för att skydda medel</p> <p>5 §</p> <p>Ett institut för elektroniska pengar eller en registrerad utgivare som avser att genomföra väsentliga ändringar av sina åtgärder för att skydda medel som har tagits emot i utbyte mot utgivna elektroniska pengar, ska senast en månad i förväg lämna Finansinspektionen uppgifter kring förändringen på det sätt som anges i 2 kap. 11 §.</p>	<p>provision it must be assumed that the Swedish provision will apply to the type of changes referred to in recital 14 of the Directive.</p> <p>FIR, Chapter 6, Section 5 specifies that the information shall be given one month before implementing the change.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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<p>Art. 3(3) 1st subpar a.</p> <p>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 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>3. Alla fysiska eller juridiska personer som avser att direkt eller indirekt förvärva eller avyttra ett kvalificerat innehav i enlighet med artikel 4.11 i direktiv 2006/48/EG i ett institut för elektroniska pengar, eller avser att direkt eller indirekt öka eller minska ett sådant kvalificerat innehav, varigenom andelen av kapitalet eller röstetalet kommer att nå, överstiga eller understiga 20 %, 30 % eller 50 %, eller att institutet för elektroniska pengar därigenom kommer att få ställning av, eller upphöra att vara, dotterföretag, ska i förväg underrätta de behöriga myndigheterna om sina avsikter när det gäller sådana förvärv, avyttringar, ökningar eller minskningar.</p>	<p>LEP, Chap. 3, Sec. 4</p> <p>BFL, Chap. 14, Sec. 1, 1st para. And Sec. 3</p>	<p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Ownership assessment</p> <p>Section 4</p> <p>The provisions on assessment of the owner's suitability in credit institutions in Chapter 14 of the Banking and Financing Business Act (2004:297) shall apply also to electronic money institutions.</p> <p>BFL, Chapter 14, Regarding ownership assessment</p> <p>Section 1</p> <p>First paragraph</p> <p>A direct or indirect acquisition of shares in a credit institution as a result of which the acquirer's total holding becomes a qualified holding, may only take place after authorisation from the Financial Supervisory Authority. The same applies to acquisitions that increase a qualified</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Prövning av ägares lämplighet</p> <p>4 §</p> <p>Bestämmelserna om prövning av ägares lämplighet i kreditinstitut i 14 kap. lagen (2004:297) om bank- och finansieringsrörelse ska tillämpas även för institut för elektroniska pengar.</p> <p>BFL, Kapitel 14, Särskilt om prövningen av ägares lämplighet</p> <p>1 §</p> <p>Första stycket</p> <p>Ett direkt eller indirekt förvärv av aktier eller andelar i ett kreditinstitut, som medför att förvärvarens sammanlagda innehav utgör ett kvalificerat innehav, får ske bara efter tillstånd av Finansinspektionen. Detsamma gäller förvärv som innebär att ett</p>	<p>CONFORM</p> <p>Chapter 3, Section 4 of LEP, referring to BFL Chapter 14 transposes Article 3(3), first subparagraph of the Directive</p> <p>Relevant provisions in BFL Chapter 14 are Sections 1, first paragraph and Section 3.</p> <p>The information requirement set out in the Directive provision is dealt with through ownership assessment in the Swedish provisions.</p> <p>According to BFL, Chapter 14, Section 2 an application for authorisation must be submitted to the FSA when acquiring or increasing a qualified holding in an electronic money institution. As regards acquisition or increase of a qualified holding, the Swedish transposition of the Directive is almost literal using the same proportion percentages of 20, 30 or 50 per cent.</p> <p>As regards disposal of or reduction of a qualified holding, the notification requirement is set out in BFL, Chapter 14, Section 3. This Section refers to the proportion percentages set out in Section 1 and the Swedish provision therefore complies with the Directive also in relation to disposal and reduction of qualified holdings.</p> <p>Qualified holdings have been defined in LEP Chapter 1, Section 2, point 9 referring to BFL, Chapter 1, Section 5, point 14. The Swedish definition (a direct or indirect ownership which represents 10% or more of the capital or votes or which, in other ways,</p>

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				<p>holding</p> <p>1.so that it reaches or exceeds 20, 30 or 50 percent of the capital or the voting rights for all shares or,</p> <p>2. so that the institution becomes a subsidiary.</p> <p>Section 3</p> <p>A person who has decided to dispose of a qualified holding of shares in a credit institution or such a large part of a qualified holding that the holding as a result will be reduced below one of the levels specified in Section 1, first paragraph shall notify the FSA in writing of this transaction. Act (2009:361).</p>	<p>kvalificerat innehav ökas</p> <p>1. så att det uppgår till eller överstiger 20, 30 eller 50 procent av kapitalet eller röstetalet för samtliga aktier eller andelar, eller</p> <p>2. så att institutet blir dotterföretag.</p> <p>3 §</p> <p>Den som har beslutat att avyttra ett kvalificerat innehav av aktier eller andelar i ett kreditinstitut eller en så stor del av ett sådant kvalificerat innehav att innehavet därigenom kommer att understiga någon av de i 1 § första stycket angivna gränserna ska skriftligen underrätta Finansinspektionen om det. Lag (2009:361).</p>	<p>may influence the management) corresponds with the definition set out in point 11 of Article 4 of Directive 2006/48/EC.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>
Art. 3(3) 2nd subpar a.	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.	Den tilltänkte köparen ska lämna uppgifter till de behöriga myndigheterna om storleken på det tilltänkta innehavet samt relevanta uppgifter enligt artikel 19a.4 i direktiv 2006/48/EG.	FÄL, Sec. 3, Appen dix 1a, Sec. 2.1 and Appen dix 1b, Sec. 2	FÄL Scope Section 3 Finansinspektionen can decide to grant an exception from submitting certain information in Appendices 1a–c if the informational requirements are not	FÄL Tillämpningsområde 3 § Finansinspektionen kan besluta om undantag från att lämna viss information i bilagorna 1 a–c, om kraven på information inte kan anses motsvara den nytta Finansinspektionen	CONFORM Section 3, Section 2.1 in Appendix 1a, and Section 2 in Appendix 1b of FÄL transpose Article 3(3), second subparagraph of the Directive. Information requirements in relation to ownership assessment are set out in The Financial Supervisory Authority’s regulations regarding ownership and management assessment (FFFS 2009:3)(referred to as FÄL). The information requirements have

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		<p>considered to fulfill Finansinspektionen's purpose for information in conjunction with assessments or if the requirements are not considered to be adapted to the acquirer and to the nature of the acquisition.</p> <p>Appendix 1a Application for ownership assessment – natural person</p> <p>2. Information about the acquisition</p> <p>2.1. Specify the size of the holding you intend to acquire in the target firm. Participations shall be stated as a per cent of the issued shares. State the participation before and after the acquisition (direct and indirect). If the voting rights differ from the participation, also state the number of votes as a per cent of the total number of votes.</p> <p>Appendix 1b Application for ownership assessment – legal person</p>	<p>har av informationen vid prövningen eller om kraven inte kan anses vara anpassade till den som är förvärvare och till förvärvets art.</p> <p>Bilaga 1 a Ansökan ägarprövning – fysisk person</p> <p>2. Information om förvärvet</p> <p>2.1. Ange hur stort innehav du avser att förvärva i målbolaget. Antal ägarandelar ska anges i procent i förhållande till antal utgivna ägarandelar. Ange antal ägarandelar före och efter förvärvet (direkt och indirekt). Om antal rösträtter avviker från antal ägarandelar ange även antal röster i procent i förhållande till samtliga rösträtter.</p> <p>Bilaga 1 b Ansökan ägarprövning – juridisk person</p> <p>2. Information om förvärvet</p> <p>2.1. Ange hur stort innehav företaget avser att</p>	<p>been divided into two groups. One for legal persons and one for natural persons.</p> <p>Section 2 of Appendix 1a and 1b of the FÄL sets out the requirement to provide the size of the intended holding of natural and legal persons.</p> <p>FÄL, Section 3 sets out the proportionality requirement that follows from Article 19a(4) of Directive 2006/48/EC. The Swedish provision ensures that the information requested can be adapted to the specific acquirer and acquisition and that the information requirements do not become unnecessarily burdensome.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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				<p>2. Information about the acquisition</p> <p>Specify the size of the holding the firm intends to acquire in the target firm. Participations shall be stated as a per cent of the issued shares. State the participation before and after the acquisition (direct and indirect). If the voting rights differ from the participation, also state the number of votes as a per cent of the total number of votes.</p>	<p>förvärva i målbolaget. Antal ägarandelar ska anges i procent i förhållande till antal utgivna ägarandelar. Ange antal ägarandelar före och efter förvärvet (direkt och indirekt). Om antal rösträtter avviker från antal ägarandelar ange även antal röster i procent i förhållande till samtliga rösträtter.</p>	
<p>Art. 3(3) 3rd subpar a.</p>	<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</p>	<p>I fall då de personer som avses i andra stycket utövar sitt inflytande på ett sätt som sannolikt är till förfång för en sund och ansvarsfull ledning av institutet, ska de behöriga myndigheterna motsätta sig detta eller vidta åtgärder för att förhållandet ska upphöra. Sådana åtgärder får inkludera förelägganden, sanktioner gentemot styrelsen eller den verkställande ledningen, eller upphävande av rösträtt som är knuten till de aktier som innehas av</p>	<p>LEP, Chap. 3, Sec. 4</p> <p>BFL, Chap. 14, Sec. 6, 1st para.</p>	<p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Ownership assessment</p> <p>Section 4</p> <p>The provisions on assessment of the owner's suitability in credit institutions in Chapter 14 of the Banking and Financing Business Act (2004:297) shall apply also to electronic money institutions.</p> <p>BFL, Chapter 14, Regarding ownership</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Prövning av ägares lämplighet</p> <p>4 §</p> <p>Bestämmelserna om prövning av ägares lämplighet i kreditinstitut i 14 kap. lagen (2004:297) om bank- och finansieringsrörelse ska tillämpas även för institut för elektroniska pengar.</p> <p>BFL, Kapitel 14, Särskilt</p>	<p>CONFORM</p> <p>Chapter 3, Section 4 of LEP referring to BFL, Chapter 14 transposes Article 3(3), third subparagraph of the Directive.</p> <p>The relevant provision in BFL Chapter 14 is Section 6, first paragraph.</p> <p>The Swedish provision sets out a number of situations where a person holding a qualified holding shall be considered to operate or may be expected to operate to the detriment of the prudent and sound management of the institution.</p> <p>If any of these situations apply, the FSA may decide to reduce this person's voting rights in the general meeting. This person's voting rights are then reduced below a qualified holding. Those voting rights that give the</p>

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by the shareholders or members in question.	de berörda aktieägarna eller medlemmarna.	<p>assessment</p> <p>Section 6</p> <p>First paragraph</p> <p>The Financial Supervisory Authority may decide that a person holding a qualified holding of shares in a credit institution may, at the general meeting, only represent a number of shares representing less than a qualified holding</p> <p>1. if the holder works against or may be expected to work against the running of the credit institution in a manner compatible with the requirements of this Act and other regulation governing the business of the institution,</p> <p>2. if the holder has materially breached its obligations in business or other economic affairs or has committed serious crimes,</p> <p>3. if the holder is a financial holding company or a mixed financial holding company and its management does not meet the requirements</p>	<p>om prövningen av ägares lämplighet</p> <p>6 §</p> <p>Första stycket</p> <p>Finansinspektionen får besluta att den som har ett kvalificerat innehav av aktier eller andelar i ett kreditinstitut vid stämman inte får företräda fler aktier eller andelar än som motsvarar ett innehav som inte är kvalificerat</p> <p>1. om innehavaren motverkar eller kan antas komma att motverka att kreditinstitutets verksamhet drivs på ett sätt som är förenligt med kraven i denna lag och andra författningar som reglerar institutets verksamhet,</p> <p>2. om innehavaren i väsentlig utsträckning har åsidosatt sina skyldigheter i näringsverksamhet eller i andra ekonomiska angelägenheter eller gjort sig skyldig till allvarlig brottslighet,</p> <p>3. om innehavaren är ett finansiellt holdingföretag eller ett blandat finansiellt</p>	<p>person the possibility to influence decisions in the general meeting are thereby suspended.</p> <p>Although this measure is the only measure available to the FSA in order to deal with influences that may operate to the detriment of sound management, it should be sufficient as the list of measures in the Directive provision are merely examples of measures.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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				<p>imposed on the management of such a company according to Chapter 9, Section 13 of the Capital Adequacy and Large Exposures Act (2006:1371) and Chapter 5, Section 16 of the Act on special supervision of financial conglomerates, or,</p> <p>4. if there is reason to believe that the holding has any connection with or may increase the risk for</p> <p>a) money laundering according to Chapter 5, Section 6 Money Laundering and Terrorist Financing (Prevention) Act (2009:62), or</p> <p>b) crimes according to Chapter 2, paragraph 2, Sections 3 or 4 of the Act (2003:148) on Criminal Responsibility for the Financing of Particularly Serious Crime in some cases, etc.</p>	<p>holdingföretag och dess ledning inte uppfyller de krav som ställs på ledningen i ett sådant företag enligt 9 kap. 13 § lagen (2006:1371) om kapitaltäckning och stora exponeringar respektive 5 kap. 16 § lagen (2006:531) om särskild tillsyn över finansiella konglomerat, eller</p> <p>4. om det finns skäl att anta att innehavet har samband med eller kan öka risken för</p> <p>a) penningtvätt enligt 1 kap. 5 § 6 lagen (2009:62) om åtgärder mot penningtvätt och finansiering av terrorism, eller</p> <p>b) brott enligt 2 § 2, 3 § eller 4 § lagen (2002:444) om straff för finansiering av särskilt allvarlig brottslighet i vissa fall, såvitt avser brott enligt 2 § lagen (2003:148) om straff för terroristbrott.</p>	
Art. 3(3) 4th subpar a.	Similar measures shall apply to natural or legal persons who fail to comply with the obligation	Liknande åtgärder ska vidtas i fråga om fysiska eller juridiska personer som underlåter att lämna	LEP, Chap. 3, Sec. 4	LEP, Chapter 3, Activities in electronic money institutions and registered issuers	LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade	CONFORM Chapter 3, Section 4 of LEP referring to BFL, Chapter 14 transpose Article 3(3), fourth

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	to provide prior information, as laid down in this paragraph.	sådana underrättelser i förväg som avses i denna punkt.	BFL, Chap. 14, Sec. 6, 2nd para.	<p>Ownership assessment</p> <p>Section 4</p> <p>The provisions on assessment of the owner's suitability in credit institutions in Chapter 14 of the Banking and Financing Business Act (2004:297) shall apply also to electronic money institutions.</p> <p>BFL, Chapter 14, Regarding ownership assessment</p> <p>Section 6</p> <p>Second paragraph</p> <p>If the person holding a qualified holding of shares has not applied for authorisation for an acquisition referred to in Section 1, the Financial Supervisory Authority may decide that the holder may not, at the general meeting, represent the shares to the extent they are subject to an authorisation requirement.</p>	<p>utgivare</p> <p>Prövning av ägares lämplighet</p> <p>4 §</p> <p>Bestämmelserna om prövning av ägares lämplighet i kreditinstitut i 14 kap. lagen (2004:297) om bank- och finansieringsrörelse ska tillämpas även för institut för elektroniska pengar.</p> <p>BFL, Kapitel 14, Särskilt om prövningen av ägares lämplighet</p> <p>6 §</p> <p>Andra stycket</p> <p>Om den som har ett kvalificerat innehav av aktier eller andelar inte har ansökt om tillstånd till ett förvärv som avses i 1 §, får Finansinspektionen besluta att innehavaren vid stämman inte får företräda aktierna eller andelarna till den del de omfattas av ett krav på tillstånd.</p>	<p>subparagraph of the Directive.</p> <p>The relevant provision in BFL Chapter 14 is Section 6, second paragraph.</p> <p>The Swedish provision gives the FSA the power to decide that a person who has not provided information to the FSA regarding an acquisition of a qualified holding (as required in Article 3(3) first and second subparagraphs of the Directive), may not use the voting rights for these shares in the general meeting. These voting rights are thereby suspended and the person no longer has the possibility to influence decisions in the general meeting.</p> <p>Therefore Swedish law provides for similar measures in order to deal with influences that may operate to the detriment of the sound management as set out in Article 3(3) third subparagraph and breaches by natural or legal persons of the information requirement set out in Article 3(3) first and second subparagraphs.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>
Art. 3(3) 5th subpar	If a holding is acquired despite the opposition of the competent authorities, those authorities shall,	Om aktier eller andelar har förvärvats trots att behöriga myndigheter har motsatt sig förvärvet, ska	LEP, Chap. 3, Sec.	LEP, Chapter 3, Activities in electronic money institutions and	LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade	CONFORM Chapter 3, Section 4 of LEP referring to BFL, Chapter 14 transpose Article 3(3), fifth

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a.	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.	de behöriga myndigheterna, oavsett de åtgärder som i övrigt vidtas, föreskriva an-tingen att rösträtterna för sådana innehav inte får utövas eller att avgivna röster ska vara ogiltiga eller att de får förklaras ogiltiga.	4 BFL, Chap. 14, Sec. 6, 3rd para.	registered issuers Ownership assessment Section 4 The provisions on assessment of the owner's suitability in credit institutions in Chapter 14 of the Banking and Financing Business Act (2004:297) shall apply also to electronic money institutions. BFL, Chapter 14, Regarding ownership assessment Section 6 Third paragraph If someone, not complying with a decision by the Financial Supervisory Authority, has a qualifying holding of shares, the holder may not represent the shares at the general meeting to the extent the holding does not comply with the decision. Act (2009:361)	utgivare Prövning av ägares lämplighet 4 § Bestämmelserna om prövning av ägares lämplighet i kreditinstitut i 14 kap. lagen (2004:297) om bank- och finansieringsrörelse ska tillämpas även för institut för elektroniska pengar. BFL, Kapitel 14, Särskilt om prövningen av ägares lämplighet 6 § Tredje stycket Om någon i strid med ett beslut av Finansinspektionen har ett kvalificerat innehav av aktier eller andelar, får innehavaren inte företräda aktierna eller andelarna vid stämman till den del innehavet står i strid med beslutet. Lag (2009:361).	subparagraph of the Directive The relevant provisions in BFL Chapter 14 are Section 6, third paragraph. The third paragraph of BFL, Chapter 14 Section 6 gives the FSA the power to decide that a person who has been forbidden by the FSA to hold a qualified holding may not use the voting rights for these shares in the general meeting. Consequently, the Swedish law is in conformity with the provision of the Directive.
Art. 3(3) 6th subpar a.	The Member States may waive or allow their competent authorities to waive the application of	Medlemsstaterna får göra undantag eller tillåta sina behöriga myndigheter att göra undantag från	N/A	N/A	N/A	Article 3(3) sixth subparagraph of the Directive sets out an option. Owing to this option, Sweden has not chosen to apply. In this regard, no corresponding provision could

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	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).	samtlige eller en del av de förpliktelser som avses i denna punkt för institut för elektroniska pengar som bedriver en eller flera av de verksamheter som anges i artikel 6.1 e.				be located in the Swedish legislation either.
Art. 3(4)	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. Medlemsstaterna ska tillåta institut för elektroniska pengar att distribuera och lösa in elektroniska pengar via fysiska eller juridiska personer som agerar för deras räkning. Om institutet för elektroniska pengar vill distribuera elektroniska pengar i en annan medlemsstat genom att anlita en sådan fysisk eller juridisk person ska det tillämpa förfarandena enligt artikel 25 i direktiv 2007/64/EG.	LEP, Chap. 3, Sec. 17 and 19	<p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Agents</p> <p>Section 17</p> <p>Electronic money institutions and registered issuers may not issue electronic money through agents.</p> <p>Section 19</p> <p>First paragraph</p> <p>If an electronic money institution wants to distribute electronic money, redeem electronic money or provide payment services through an agent in another EEA Member State, the institution shall notify the Financial Supervisory Authority.</p> <p>The notification shall</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Agents</p> <p>17 §</p> <p>Institut för elektroniska pengar och registrerade utgivare får inte ge ut elektroniska pengar via ombud.</p> <p>19 §</p> <p>Första paragrafen</p> <p>Om ett institut för elektroniska pengar vill distribuera elektroniska pengar, lösa in elektroniska pengar eller tillhandahålla betaltjänster genom ombud i ett annat land inom EES, ska institutet underrätta Finansinspektionen om</p>	<p>CONFORM</p> <p>Chapter 3, Section 19 of LEP transposes Article 3(3), fourth subparagraph of the Directive. Also relevant for the analysis of this Directive provision is Section 17 in the same Chapter in LEP.</p> <p>Sweden has not introduced a provision specifically permitting the distribution and redemption of electronic money through natural or legal persons acting on behalf of the electronic money institution.</p> <p>A prohibition against issuing electronic money through an agent is set out in LEP, Chapter 3, Section 17. Because this provision does not prohibit the distribution and redemption of electronic money through agents, these activities are allowed. The Swedish term used in this provision, “ombud”, has been translated as agent as this is the closest translation. An “ombud” may, however, be a natural or legal person who merely represents the electronic money institution in providing the services in question.</p> <p>Thus, the Swedish provision complies with the requirement in the Directive provision as</p>

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			<p>include</p> <p>1. a plan for the intended business with information on the agent's organisation and the services the agent intends to offer, and</p> <p>2. information with the address of the agent and its management in charge.</p> <p>Before the Financial Supervisory Authority decides to register the representative according to Chapter 5, Section 5, the authority shall notify the competent authority in the other country. The notification shall include the information referred to in the second paragraph. [...]</p>	<p>detta.</p> <p>Underrättelsen ska innehålla</p> <p>1. en plan för den avsedda verksamheten med uppgift om ombudets organisation och de tjänster som ombudet avser att tillhandahålla, och</p> <p>2. uppgifter om ombudets namn och adress samt dess ansvariga ledning.</p> <p>Innan Finansinspektionen beslutar att registrera ombudet enligt 5 kap. 5 §, ska inspektionen underrätta den behöriga myndigheten i det andra landet. Underrättelsen ska innehålla uppgifterna enligt andra stycket.[...]</p>	<p>explained further in recital 10 of the Directive.</p> <p>It is only when using an agent in another EEA Member State that the agent must be notified. The government explained in the Government Proposal on page 99 f, that the use of agents within Sweden does not have to be notified to the FSA.</p> <p>The Directive provision refers to the electronic money institutions' requirement to follow the procedure set out in Article 25 of Directive 2007/64/EC. The notification requirements imposed on the electronic money institutions set out in LEP, Chapter 3, Section 19 appear to comply with the requirements of Article 25 of Directive 2007/64/EC.</p> <p>However, it should be noted that the time limit of one month within which the national authority shall send the information to the competent authority in the other country (set out in Article 25(1) second paragraph of Directive 2007/64/EC) is missing in the Swedish provision. Such a time limit has been introduced in the provisions regulating the same matter in relation to electronic money institutions wishing to establish a branch or provide services directly in another EEA Member State (Chapter 3, Sections 21 and 23 of the LEP).</p> <p>However, as this Directive provision deals with the obligations of the electronic money institutions and not the national authority, the Swedish provision nevertheless seems to be</p>

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						conform with the provision of the Directive.
Art. 3(5)	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. Utan hinder av punkt 4 får institut för elektroniska pengar inte ge ut elektroniska pengar via ombud. Institut för elektroniska pengar ska tillåtas att tillhandahålla sådana betaltjänster som avses i artikel 6.1 a via ombud endast om villkoren i artikel 17 i direktiv 2007/64/EG är uppfyllda.	LEP, Chap. 3, Sec. 17 and 18	<p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Agents</p> <p>Section 17</p> <p>Electronic money institutions and registered issuers may not issue electronic money through agents.</p> <p>Section 18</p> <p>If an electronic money institution or a registered issuer wants to provide payment services through an agent, the institution or issuer shall make an application for registration of the agent to the Financial Supervisory Authority.</p> <p>The notification shall include</p> <ol style="list-style-type: none"> 1. the address and name of the agent, 2. if the agent is a legal person, name, personal identification number or equivalent and address of 	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Ombud</p> <p>17 §</p> <p>Institut för elektroniska pengar och registrerade utgivare får inte ge ut elektroniska pengar via ombud.</p> <p>18 §</p> <p>Om ett institut för elektroniska pengar eller en registrerad utgivare vill tillhandahålla betaltjänster genom ombud, ska institutet eller utgivaren anmäla ombudet för registrering hos Finansinspektionen.</p> <p>Anmälan ska innehålla</p> <ol style="list-style-type: none"> 1. ombudets namn och adress, 2. om ombudet är en juridisk person, namn, personnummer eller motsvarande samt adress för dem som ingår i 	<p>CONFORM</p> <p>Chapter 3, Section 17 and 18 of LEP transposes Article 3(5) of the Directive, as further specified in Recital 10.</p> <p>Section 17 of the Swedish provision sets out the prohibition, hindering the issuance of electronic money through agents.</p> <p>Section 18 deals with the registration requirement for those electronic money institutions wishing to provide payment services through agents. The requirements set out in Section 18 appears to comply with the requirements of Article 17 of Directive 2007/64/EG.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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			<p>those who are members of the board of directors or is the executive director of the agent,</p> <p>3. information showing that the persons referred to in 2 are suitable for such a task or, if the agent is a natural person, that he or she is suitable for supplying payment services, and</p> <p>4. the agent's internal regulations governing how the agent will comply with the requirements of the Money Laundering and Terrorist Financing (Prevention) Act (2009:62).</p> <p>If the notification meets the requirements set out in the second paragraph the Financial Supervisory Authority shall register the agent in the register the authority keeps in accordance with Chapter 5 Section 5. Electronic money institutions and registered issuers shall ensure that the agents acting on their behalf inform the users of the payments services of this</p>	<p>ombudets styrelse eller är verkställande direktör,</p> <p>3. uppgifter som visar att de personer som avses i 2 är lämpliga för en sådan uppgift eller, om ombudet är en fysisk person, att han eller hon är lämplig att tillhandahålla betaltjänster, och</p> <p>4. ombudets interna regler för hur ombudet ska leva upp till de krav som anges i lagen (2009:62) om åtgärder mot penningtvätt och finansiering av terrorism.</p> <p>Om anmälan uppfyller kraven i andra stycket ska Finansinspektionen registrera ombudet i det register som inspektionen för med stöd av 5 kap. 5 §. Institut för elektroniska pengar och registrerade utgivare ska försäkra sig om att ombud som agerar för deras räkning informerar betaltjänstanvändarna om detta förhållande.</p>	

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				liaison.		
Art. 4	<p><i>Article 4</i></p> <p>Initial capital</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></p> <p>Startkapital</p> <p>Medlemsstaterna ska kräva att institut för elektroniska pengar vid tidpunkten för auktorisationen har ett startkapital på minst 350 000 EUR, bestående av kapital och reserver som anges i artikel 57 a och b i direktiv 2006/48/EG.</p>	<p>LEP, Chap. 3, Sec. 1 and Sec. 2, pt. 10</p> <p>BFL, Chap. 1, Sec. 5, pt.17</p>	<p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Initial capital</p> <p>Section 1</p> <p>An electronic money institution shall when commencing its activities have an initial capital which at the time of the authorisation decision is equivalent to 350 000 EUR.</p> <p>Definitions</p> <p>Section 2</p> <p>10. initial capital: the same definition as in Chapter 1, Section 5, point 17 of the Banking and Financing Business Act (2004:297),</p> <p>BFL, Chapter 1, Introductory provisions</p> <p>Other definitions</p> <p>Section 5</p> <p>In this Act the following definitions shall apply</p> <p>17. initial capital: the</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Startkapital</p> <p>1 §</p> <p>Ett institut för elektroniska pengar ska när det påbörjar sin verksamhet ha ett startkapital som vid tiden för beslut om tillstånd motsvarar minst 350 000 euro.</p> <p>Definitioner</p> <p>2 §</p> <p>I denna lag betyder</p> <p>10. startkapital: detsamma som i 1 kap. 5 § 17 lagen om bank- och finansieringsrörelse,</p> <p>BFL, Kapitel 1, Inledande bestämmelser</p> <p>Övriga definitioner</p> <p>5 §</p> <p>I denna lag betyder</p>	<p>CONFORM</p> <p>Chapter 3, Section 1 of LEP and Section 2, point 10 referring to BFL, Chapter 1, Section 5, point 17 transpose Article 4 of the Directive, as further specified in Recital 11</p> <p>LEP Chapter 3, Section 1 sets out the requirement of an initial capital of 350 000 EUR.</p> <p>Initial capital has been defined in Section 2, point 10 with reference to BFL, Chapter 1, Section 5, point 17. The BFL provision refers to Article 57 (a) and (b) of Directive 2006/48/EC.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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				capital defined in Article 57(a) and (b) of Directive 2006/48/EC of the European Parliament and of the Council relating to the taking up and pursuit of the business of credit institutions (recast), last amended through Directive 2010/78/EU of the European Parliament and of the Council.	17. startkapital: det kapital som definieras i artikel 57 a och b i Europaparlamentets och rådets direktiv 2006/48/EG av den 14 juni 2006 om rätten att starta och driva verksamhet i kreditinstitut (omarbetning), senast ändrat genom Europaparlamentets och rådets direktiv 2010/78/EU,	
Art. 5(1)	<i>Article 5</i> Own funds 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 paragraphs 2 to 5 of this Article or under Article 4 of this Directive, whichever the higher.	<i>Artikel 5</i> Kapitalbas 1. Kapitalbasen för instituten för elektroniska pengar enligt artiklarna 57–61, 63, 64 och 66 i direktiv 2006/48/EG får inte understiga det högsta av de belopp som fastställs i punkterna 2–5 i den här artikeln eller artikel 4 i det här direktivet.	LEP, Chap. 3, Sec. 2, 1st para and 2nd para, 1st sen.	LEP, Chapter 3, Activities in electronic money institutions and registered issuers Capital requirements Section 2 First paragraph An electronic money institution shall at all times have a capital base equivalent to the initial capital referred to in Section 1 or a capital requirement calculated according to Section 3. The institution's capital base may not fall below the highest of these amounts.	LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare Kapitalkrav 2 § Första stycket Ett institut för elektroniska pengar ska vid varje tidpunkt ha en kapitalbas som lägst motsvarar startkapitalet enligt 1 § eller ett kapitalkrav beräknat enligt 3 §. Institutets kapitalbas får inte underskrida det högsta av dessa belopp. Andra stycket	CONFORM Chapter 3, Section 2, first paragraph and second paragraph, first sentence of LEP transposes Article 5(1) of the Directive as further specified in Recital 11. LEP Chapter 3, Section 2, second paragraph, first sentence deals with the calculation and composition of own funds. There is a reference to Chapter 3 of the Capital Adequacy and Large Exposures Act (2006:1371) and secondary legislation in this area, which implements the Articles of Directive 2006/48/EC dealing with own funds. The definition of own funds in LEP therefore corresponds with the relevant Articles of Directive 2006/48/EC. LEP Section 2 first paragraph requires the own funds not to fall below the amount of the initial capital or the capital base as calculated according to Section 3. As will be described

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				<p>Second paragraph</p> <p>First sentence</p> <p>In the calculation of the capital base and its composition Chapter 3 of the Capital Adequacy and Large Exposures Act (2006:1371) and the regulations that have been adopted under Chapter 13, Section 1 point 6 of that Act shall apply.</p>	<p>Andra meningen</p> <p>Vid beräkningen av kapitalbasen och dess sammansättning ska 3 kap. lagen (2006:1371) om kapitaltäckning och stora exponeringar och de föreskrifter som har meddelats med stöd av 13 kap. 1 § 6 den lagen tillämpas.</p>	<p>further below, Section 3 of the LEP covers the requirements in Article 5(2)-(5) of the Directive.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>
<p>Art. 5(2) 1st subpar a.</p>	<p>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.</p>	<p>2. För de verksamheter som avses i artikel 6.1 a och som inte är knutna till utgivning av elektroniska pengar ska kapitalbaskravet för ett institut för elektroniska pengar beräknas enligt en av de tre metoderna (A, B eller C) i artikel 8.1 och 8.2 i direktiv 2007/64/EG. De behöriga myndigheterna ska i enlighet med nationell lagstiftning avgöra vilken metod som är lämpligast.</p>	<p>LEP, Chap. 3, Sec. 3, 2nd para.</p> <p>LB, Chap. 3, Sec. 3</p>	<p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Capital requirements</p> <p>Section 3</p> <p>Second Paragraph</p> <p>If an electronic money institution provides payment services that are not connected to issuance of electronic money, the institution shall in addition calculate a capital requirement for that business applying Chapter 3, Section 3 of the Act on Payment Services (2010:751).</p> <p>LB, Chapter 3, Special</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Kapitalkrav</p> <p>3 §</p> <p>Andra stycket</p> <p>Om ett institut för elektroniska pengar tillhandahåller betaltjänster som inte är knutna till utgivning av elektroniska pengar, ska institutet dessutom beräkna ett kapitalkrav för den verksamheten med tillämpning av 3 kap. 3 § lagen (2010:751) om betaltjänster.</p>	<p>CONFORM</p> <p>Chapter 3, Section 3, second paragraph of LEP referring to LB, Chapter 3, Section 3 transposes Article 5(2) first subparagraph of the Directive as further specified in Recital 11.</p> <p>LEP Chapter 3, Section 3 has correctly transposed the additional capital requirements imposed on those institutions that also carry out payment services.</p> <p>The methods to be used are briefly referred to in LB, Chapter 3, Section 3. All three methods (A, B and C) are available according to the Swedish legislation. The Financial Supervisory Authority has issued regulations setting out the calculations used in each method (Regulations and general guidelines governing Payment Institutions and Registered Payment Service Providers (SFS 2009:93)). These calculations correspond with those set out in Article 8(1) and (2) of</p>

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			<p>provisions on payment institution's and registered payment service provider's business</p> <p>Capital requirements</p> <p>Section 3</p> <p>The capital requirement referred to in Section 2 shall be calculated on the basis of</p> <ol style="list-style-type: none"> 1. a share of the institutions' fixed overheads, 2. the payment volume in relation to the nature and extent of the payment service business, or 3. the sum of interest income, interest expenses, received commissions and received fees as well as other operational income in relation to the nature and extent of the payment service business. <p>The decision on what method a payment institution shall apply is issued by the Financial Supervisory Authority on a case by case basis.</p>	<p>LB, Kapitel 3, Särskilda bestämmelser om betalningsinstituts och registrerade betaltjänstleverantörers rörelse</p> <p>Kapitalkrav</p> <p>3 §</p> <p>Kapitalkravet enligt 2 § beräknas enligt en metod som utgår från</p> <ol style="list-style-type: none"> 1. en andel av institutets fasta omkostnader, 2. betalningsvolymen i förhållande till betaltjänstverksamhetens art och omfattning, eller 3. summan av ränteinkomster, ränteutgifter, mottagen kommission och mottagna avgifter samt övriga rörelseintäkter, i förhållande till betaltjänstverksamhetens art och omfattning. <p>Beslut om vilken metod som ett betalningsinstitut ska tillämpa i varje enskilt fall meddelas av Finansinspektionen.</p>	<p>Directive 2007/64/EC.</p> <p>LB, Chapter 3, Section 3, last paragraph also specifies that it is up to the FSA to decide what method should be used.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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Art. 5(2) 2nd subpar a.	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.	För verksamhet för utgivning av elektroniska pengar ska kapitalbas-kravet för institut för elektroniska pengar beräknas enligt metod D i punkt 3.	LEP, Chap. 3, Sec. 3, 1st para.	LEP, Chapter 3, Activities in electronic money institutions and registered issuers Capital requirements Section 3 First Paragraph The capital requirement amounts to two per cent of the average outstanding debts attributable to electronic money.	LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare Kapitalkrav 3 § Första stycket Kapitalkravet uppgår till två procent av genomsnittligt utestående skulder hänförliga till elektroniska pengar.	CONFORM Chapter 3, Section 3, first paragraph of LEP transposes Article 5(2), second subparagraph of the Directive. The requirement set out in the Swedish provision (2% of outstanding debts attributable to electronic money) corresponds with method D set out in paragraph 3 of Article 5 of the Directive. Consequently, the Swedish law is in conformity with the provision of the Directive.
Art. 5(2) 3rd subpar a.	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.	Institut för elektroniska pengar ska vid varje tidpunkt ha en kapitalbas som är högre än eller lika hög som summan av de krav som anges i första och andra styckena.	LEP, Chap. 3, Sec. 3, 1st and 2nd paras. LB, Chap. 3, Sec. 3	LEP, Chapter 3, Activities in electronic money institutions and registered issuers Capital requirements Section 3 First Paragraph The capital requirement amounts to two per cent of the average outstanding electronic money. Second Paragraph If an electronic money institution provides payment services that are not connected to issuance of electronic money, the	LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare Kapitalkrav 3 § Första stycket Kapitalkravet uppgår till två procent av genomsnittligt utestående skulder hänförliga till elektroniska pengar. Andra stycket Om ett institut för elektroniska pengar tillhandahåller	CONFORM Chapter 3, Section 3, first and second paragraphs of LEP referring to LB Chapter 3, Section 3 transposes Article 5(2), third subparagraph of the Directive. The Swedish provision ensures that an electronic money institution must at all times have a capital base amounting to the two percent of average outstanding debt (i.e. an amount calculated according to method D referred to in the second subparagraph of Article 5(2)) and in addition, if it provides payment services, the capital requirements calculated according to one of the methods set out in LB Chapter 3, Section 3 (covering methods A, B and C referred to in the first paragraph of Article 5(2) of the Directive). Consequently, the Swedish law is in conformity with the provision of the

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			<p>institution shall in addition calculate a capital requirement for that business applying Chapter 3, Section 3 of the Act on Payment Services (2010:751).</p> <p>LB, Chapter 3, Special provisions on payment institution's and registered payment service provider's business</p> <p>Capital requirements</p> <p>Section 3</p> <p>The capital requirement referred to in Section 2 shall be calculated on the basis of</p> <ol style="list-style-type: none"> 1. a share of the institutions' fixed overheads, 2. the payment volume in relation to the nature and extent of the payment service business, or 3. the sum of interest income, interest expenses, received commissions and received fees as well as other operational income in relation to the nature and extent of the payment 	<p>betaltjänster som inte är knutna till utgivning av elektroniska pengar, ska institutet dessutom beräkna ett kapitalkrav för den verksamheten med tillämpning av 3 kap. 3 § lagen (2010:751) om betaltjänster.</p> <p>LB, Kapitel 3, Särskilda bestämmelser om betalningsinstitutets och registrerade betaltjänstleverantörers rörelse</p> <p>Kapitalkrav</p> <p>3 §</p> <p>Kapitalkravet enligt 2 § beräknas enligt en metod som utgår från</p> <ol style="list-style-type: none"> 1. en andel av institutets fasta omkostnader, 2. betalningsvolymen i förhållande till betaltjänstverksamhetens art och omfattning, eller 3. summan av ränteinkomster, ränteutgifter, mottagen kommission och mottagna avgifter samt övriga rörelseintäkter, i förhållande till 	<p>Directive. Consequently, the Swedish law seems to be conform with the provision of the Directive.</p>

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				<p>service business.</p> <p>The decision on what method a payment institution shall apply is issued by the Financial Supervisory Authority on a case by case basis.</p>	<p>betaltjänstverksamhetens art och omfattning.</p> <p>Beslut om vilken metod som ett betalningsinstitut ska tillämpa i varje enskilt fall meddelas av Finansinspektionen.</p>	
Art. 5(3)	<p>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.</p>	<p>3. Metod D: Kapitalbasen för ett institut för elektroniska pengar ska för verksamhet för utgivning av elektroniska pengar uppgå till lägst 2 % av genomsnittet av de utestående elektroniska pengarna.</p>	<p>LEP, Chap. 3, Sec. 3, 1st para.</p>	<p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Capital requirements</p> <p>Section 3</p> <p>First Paragraph</p> <p>The capital requirement amounts to two per cent of the average outstanding debts attributable to electronic money.</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Kapitalkrav</p> <p>3 §</p> <p>Första stycket</p> <p>Kapitalkravet uppgår till två procent av genomsnittligt utestående skulder hänförliga till elektroniska pengar.</p>	<p>CONFORM</p> <p>Chapter 3, Section 3, first paragraph of LEP transposes Article 5(3) of the Directive as further specified in Recital 11.</p> <p>The description of the calculation method in the Swedish provision corresponds with the description of Method D in the Directive.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>
Art. 5(4)	<p>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 the activities referred to in Article 6(1)(b) to (e) and the amount of outstanding electronic money is unknown in advance, the</p>	<p>4. När institut för elektroniska pengar bedriver sådan verksamhet som anges i artikel 6.1 a som inte är kopplad till utgivning av elektroniska pengar eller någon av de verksamheter som anges i artikel 6.1 b-e och beloppet för utestående elektroniska pengar är okänt i förväg ska de</p>	<p>FBRB, Chap. 7, Sec. 5</p> <p>FIR, Chap. 2, Sec. 5</p>	<p>FBRB, Chapter 7 Other business activities subject to a notice or license obligation</p> <p>Possibility to estimate the portion of the payment service user's funds that shall be safeguarded</p> <p>Section 5</p> <p>A payment institution or a registered payment service</p>	<p>FBRB, Kapitel 7, Övriga anmälnings- och tillståndspliktiga förfaranden</p> <p>Möjlighet att uppskatta den andel av betaltjänstanvändares medel som ska skyddas</p> <p>5 §</p> <p>Ett betalningsinstitut eller en registrerad</p>	<p>CONFORM</p> <p>There is no Swedish provision expressly transposing Article 5(4) of the Directive.</p> <p>FBRB, Chapter 7, requires a payment institution or a registered payment service provider, and thereby an electronic money institution providing these types of services (through referral from FIR, Chapter 1, Section 2), to submit historical data on the portion of its funds that are used for payment services.</p>

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<p>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>behöriga myndigheterna tillåta dessa institut för elektroniska pengar att beräkna sitt kapitalbaskrav på grundval av en representativ andel som förväntas användas för utfärdande av elektroniska pengar, under förutsättning att det går att göra en rimlig uppskattning av en sådan representativ andel utifrån historiska uppgifter och på ett sätt som tillfredsställer de behöriga myndigheterna. Om ett institut för elektroniska pengar inte har varit verksamt tillräckligt länge ska dess kapitalbaskrav beräknas på grundval av beräknade utestående elektroniska pengar som ska framgå av institutets verksamhetsplan med förbehåll för eventuella ändringar som begärts av de behöriga myndigheterna.</p>	<p>provider shall furnish information in its application for a license to make an estimation based on historical information in accordance with Chapter 3, section 7, third paragraph of the Payment Services Act (2010:751) that shows the portion of funds per month the firm has used for payment transactions. As a minimum, the information shall refer to the two preceding financial years.</p> <p>FIR, Chapter 2, Application for authorisation to issue electronic money</p> <p>Section 5</p> <p>Economic situation</p> <p>An undertaking shall submit in its application a forecast for the next three financial years. The forecast shall include</p> <ol style="list-style-type: none"> 1. a balance sheet and profit and loss account, 2. a calculation of capital requirements, and 3. information regarding how the results of the 	<p>betaltjänstleverantör ska, i en ansökan om tillstånd enligt 3 kap. 7 § tredje stycket lagen (2010:751) om betaltjänster att göra en uppskattning på grundval av historiska uppgifter, lämna uppgifter som visar hur stor andel av medlen per månad som företaget har använt till betalningstransaktioner. Uppgifterna ska minst omfatta de två föregående verksamhetsåren.</p> <p>FIR, Kapitel 2, Ansökan om tillstånd att ge ut elektroniska pengar</p> <p>Ekonomiska förhållanden</p> <p>5 §</p> <p>Ett företag ska i sin ansökan lämna en prognos för de tre närmaste verksamhetsåren. Prognosen ska omfatta</p> <ol style="list-style-type: none"> 1. balans- och resultaträkning, 2. beräkning av kapitalkrav, samt 3. uppgifter om hur resultatet av balans- och resultaträkningen påverkar 	<p>FIR, Chapter 2, Section 5 requires an electronic money institution to submit, in its application for authorisation, a forecast including calculations of capital requirements. It shall state the assumptions regarding the average outstanding debts attributable to electronic money upon which it has based its forecast.</p> <p>The information requirements in these two Swedish provisions enable calculations of the capital base on the basis of projected outstanding debt as set out in the Directive provision. These Swedish provisions appear to indicate that electronic money institutions are allowed to calculate its own funds on the basis of the methods set out in the Directive provision when the amount of outstanding electronic money is not known in advance.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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				<p>balance sheet and profit and loss account impact the undertaking's initial capital.</p> <p>The undertaking shall account for the assumptions on which the forecast is based. In particular the undertaking shall state the assumptions regarding the average outstanding debts attributable to electronic money upon which it has based its forecast.[...]</p>	<p>företagets startkapital.</p> <p>Företaget ska redovisa vilka antaganden prognosen bygger på. Det ska särskilt anges vilket antagande om genomsnittet av utestående skulder hänförliga till elektroniska pengar som företaget bygger prognosen på.[...]</p>	
Art. 5(5)	<p>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</p>	<p>5. De behöriga myndigheterna får, på grundval av en utvärdering av institutets riskhanteringsprocesser, förlustdatabas och interna kontrollmekanismer, kräva att institutet för elektroniska pengar har en kapitalbas som är upp till 20 % högre än det belopp som skulle bli resultatet av tillämpningen av relevant metod i enlighet med punkt 2 eller tillåta institutet för elektroniska pengar att ha en kapitalbas som är upp till 20 % lägre än det belopp som skulle bli resultatet av</p>	<p>LEP, Chap. 3, Sec. 4</p> <p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Capital requirements</p> <p>Section 4</p> <p>On the basis of evaluations of the payment institution's risk management processes and internal control mechanisms the Financial Supervisory Authority may decide that the capital requirement referred to in Section 3 shall be raised or lowered. The increase or decrease may not exceed</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Kapitalkrav</p> <p>4 §</p> <p>På grundval av en utvärdering av betalningsinstitutets riskhanteringsprocesser och interna kontrollmekanismer får Finansinspektionen besluta att kapitalkravet, beräknat enligt 3 §, ska höjas eller sänkas. Höjningen eller sänkningen får inte</p>	<p>CONFORM</p> <p>Chapter 3, Section 4 of LEP transposes Article 5(5) of the Directive.</p> <p>The Swedish provision is structured somewhat differently but covers all the elements of the Directive provision. Consequently, the Swedish law is in conformity with the provision of the Directive.</p>	

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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.	tillämpningen av den relevanta metod som valts i enlighet med punkt 2.		20 per cent of this amount.	överstiga 20 procent av detta belopp.	
Art. 5(6) intr. wording	6. Member States shall take the necessary measures to prevent the multiple use of elements eligible for own funds:	6. Medlemsstaterna ska vidta de åtgärder som krävs för att förhindra att de poster som får ingå i kapitalbasen används flera gånger i följande fall:	LEP, Chap. 3, Sec. 2, 2nd para.	LEP, Chapter 3, Activities in electronic money institutions and registered issuers Capital requirements Section 2 Second paragraph [...]In addition the following shall apply when the calculation is made: 1. An electronic money institution belonging to the same group as another electronic money institution, or a payment institution, credit institution, investment firm, asset management company or insurance company may in the calculation of the capital base not include such elements that are included in the calculation of any of these companies' capital	LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare Kapitalkrav 2§ Andra stycket [...]Därutöver gäller följande vid beräkningen: 1. Ett institut för elektroniska pengar som tillhör samma grupp som ett annat institut för elektroniska pengar, eller ett betalningsinstitut, kreditinstitut, värdepappersföretag, fondbolag eller försäkringsföretag får vid beräkning av kapitalbasen inte ta med sådana poster som ingår i beräkningen av något av dessa företags kapitalbas. 2. Ett institut för	CONFORM The structure of the Swedish law differs from the Directive article and therefore does not contain an equivalent introductory wording. The prohibition of multiple use of funds in calculating own funds in Article 5(6) of the Directive has been correctly transposed through LEP, Chapter 3, Section 2, second paragraph.

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				<p>base.</p> <p>2. An electronic money institution carrying out other business according to Section 5 may not in the calculation of the capital base include such elements that are included in the calculation of the capital base of the other business.</p>	<p>elektroniska pengar som bedriver annan verksamhet i enlighet med 5 § får vid beräkningen av kapitalbasen inte ta med sådana poster som ingår i beräkningen av kapitalbasen i den andra verksamheten.</p>	
Art. 5(6)(a)	<p>(a) where the electronic 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;</p>	<p>a) När institutet för elektroniska pengar tillhör samma grupp som ett annat institut för elektroniska pengar, ett kreditinstitut, ett betalningsinstitut, ett värdepappersföretag, ett kapital förvaltningsbolag eller ett försäkrings- eller återförsäkringsföretag.</p>	<p>LEP, Chap. 3, Sec. 2, 2nd para., pt. 1</p>	<p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Capital requirements</p> <p>Section 2</p> <p>Second paragraph</p> <p>Point 1</p> <p>[...]In addition the following shall apply when the calculation is made:</p> <p>1. An electronic money institution belonging to the same group as another electronic money institution, or a payment institution, credit institution, investment firm, asset management company or insurance</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Kapitalkrav</p> <p>2§</p> <p>Andra stycket</p> <p>Punkt 1</p> <p>[...]Därutöver gäller följande vid beräkningen:</p> <p>1. Ett institut för elektroniska pengar som tillhör samma grupp som ett annat institut för elektroniska pengar, eller ett betalningsinstitut, kreditinstitut, värdepappersföretag, fondbolag eller försäkringsföretag får vid</p>	<p>CONFORM</p> <p>Chapter 3, Section 2, second paragraph, point 1 of LEP transposes Article 5(6)(a) of the Directive.</p> <p>The Swedish provision covers all the elements of the Directive provision. Both insurance and reinsurance companies shall be considered included in the term <i>insurance company</i> in the Swedish provision.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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				company may in the calculation of the capital base not include such elements that are included in the calculation of any of these companies' capital base.	beräkning av kapitalbasen inte ta med sådana poster som ingår i beräkningen av något av dessa företags kapitalbas.	
Art. 5(6)(b)	(b) where an electronic money institution carries out activities other than the issuance of electronic money.	b) När institutet för elektroniska pengar bedriver annan verksamhet än att ge ut elektroniska pengar.	LEP, Chap. 3, Sec. 2, 2nd para., pt. 2	<p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Capital requirements</p> <p>Section 2</p> <p>Second paragraph</p> <p>Point 2</p> <p>[...]In addition the following shall apply when the calculation is made:</p> <p>2. An electronic money institution carrying out other business according to Section 5 may not in the calculation of the capital base include such elements that are included in the calculation of the capital base of the other business.</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Kapitalkrav</p> <p>2§</p> <p>Andra stycket</p> <p>Punkt 2</p> <p>[...]Därutöver gäller följande vid beräkningen:</p> <p>2. Ett institut för elektroniska pengar som bedriver annan verksamhet i enlighet med 5 § får vid beräkningen av kapitalbasen inte ta med sådana poster som ingår i beräkningen av kapitalbasen i den andra verksamheten.</p>	<p>CONFORM</p> <p>Chapter 3, Section 2, second paragraph, point 2 of LEP transposes Article 5(6)(b) of the Directive.</p> <p>The Swedish provision covers all the elements of the Directive provision.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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Art. 5(7)	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. Om villkoren i artikel 69 i direktiv 2006/48/EG är uppfyllda, får medlemsstaterna eller deras behöriga myndigheter välja att inte tillämpa punkterna 2 och 3 i den här artikeln på institut för elektroniska pengar som omfattas av den gruppbaseade tillsynen av moderkreditinstitut i enlighet med direktiv 2006/48/EG.	N/A	N/A	N/A	Article 5(7) of the Directive sets out an option. Owing to this option, Sweden has not chosen to apply. In this regard, no corresponding provision could be located in the Swedish legislation either.
Art. 6(1) 1st subpar a.	<i>Article 6 Activities</i> 1. In addition to issuing electronic money, electronic money institutions shall be entitled to engage in any of the following activities:	<i>Artikel 6 Verksamhet</i> 1. Utöver utgivning av elektroniska pengar ska institut för elektroniska pengar ha rätt att utöva följande verksamheter:	N/A	N/A	N/A	CONFORM The structure of the Swedish law differs from the Directive article and therefore does not contain an equivalent introductory wording.
Art. 6(1) 1st subpar a. (a)	(a) the provision of payment services listed in the Annex to Directive 2007/64/EC;	a) Tillhandahållande av betaltjänster som förtecknas i bilagan till direktiv 2007/64/EG.	LEP, Chap. 3, Sec. 5, 1st para.	LEP, Chapter 3, Activities in electronic money institutions and registered issuers Related services and other business Section 5 First paragraph An electronic money	LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare Närliggande tjänster och annan verksamhet 5 § Första stycket	CONFORM Chapter 3, Section 5, first paragraph of LEP transposes Article 6(1) first subparagraph (a) of the Directive. Payment services have not been separately defined in LEP, but given the numerous references to LB it must be assumed that the definition of payment services set out in LB also applies in the context of LEP.

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				institution and a registered issuer may also provide payment services and related services and conduct other business.	Ett institut för elektroniska pengar och en registrerad utgivare får även tillhandahålla betaltjänster och närliggande tjänster samt driva annan verksamhet.	The definition of payment services set out in Chapter 1, Section 2 of LB corresponds with the definition set out in Article 6(1)(a) of the Directive, referring to the Annex of Directive 2007/64/EC. Consequently, the Swedish law is in conformity with the provision of the Directive.
Art. 6(1) 1st subpar a. (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) Beviljande av kredit för betaltjänster som avses i punkt 4, 5 eller 7 i bilagan till direktiv 2007/64/EG, om villkoren i artikel 16.3 och 16.5 i det direktivet är uppfyllda.	LEP, Chap. 3, Sec. 6, 2nd para.	LEP, Chapter 3, Activities in electronic money institutions and registered issuers Associated services and other business Section 6 Second paragraph An electronic money institution and a registered issuer may in its payment service business grant credit related to payment services referred to in Chapter 1, Section 2, points 2-4 and 6 of the Act on Payment Services (2010:751) if 1. the credit is used in connection with the execution of a payment transaction, 2. the credit is not granted from the funds held for the	LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare Närliggande tjänster och annan verksamhet 6 § Andra stycket Ett institut för elektroniska pengar och en registrerad utgivare får i sin verksamhet med betaltjänster bevilja kredit för sådana betaltjänster som avses i 1 kap. 2 § 2–4 och 6 lagen (2010:751) om betaltjänster om 1. krediten endast utnyttjas i samband med genomförande av en betalningstransaktion, 2. krediten inte beviljas ur medel som innehas för att	CONFORM Chapter 3, Section 6, second paragraph of LEP transposes Article 6(1) first subparagraph (b) of the Directive. All the elements in the quoted Articles from Directive 2007/64/EC have been covered in the Swedish provision. The Swedish provision does not specifically state that the <i>credit shall be ancillary</i> , as set out in point (a) of Article 16(3) of Directive 2007/64/EC. The fact that the Swedish provision only allows credit to be used in connection with a payment transaction implies, however, that the granting of credit is ancillary to the payment service business. As regards the funds that may not be used for granting credit, the Swedish provision only refers to <i>funds held for the purpose of executing a payment transaction</i> and does not include the element of <i>funds received</i> , as set out in point (c) of Article 16(3) of Directive 2007/64/EC. However, in order for the funds to be held it seems that they have already been received. The reference to <i>held</i> therefore appears to also encompass <i>received</i> .

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				<p>purpose of executing a payment transaction or from funds received in exchange for electronic money, and</p> <p>3. credit used in connection with payment by payment instruments, which have been granted within the framework for cross border activities within the EEA, shall be repaid within 12 months.</p> <p>Electronic money institutions may grant credit according to Section 2 only if the institutions' capital base is satisfactory in relation to the total credit amount.</p>	<p>genomföra en betalningstransaktion eller ur medel som tagits emot i utbyte mot elektroniska pengar, och</p> <p>3. kredit som utnyttjas vid betalning med betalningsinstrument, som lämnats inom ramen för gränsöverskridande verksamhet inom EES, återbetalas inom 12 månader.</p> <p>Institut för elektroniska pengar får bevilja kredit enligt andra stycket bara om institutets kapitalbas är tillfredsställande med hänsyn till det totala kreditbeloppet.</p>	<p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>
<p>Art. 6(1) 1st subpar a. (c)</p>	<p>(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);</p>	<p>c) Tillhandahållande av operativa tjänster och därtill nära anknutna sidotjänster avseende utgivning av elektroniska pengar eller tillhandahållande av de betaltjänster som avses i led a.</p>	<p>LEP, Chap. 3, Sec. 5, 1st para.</p>	<p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Related services and other business</p> <p>Section 5</p> <p>First paragraph</p> <p>An electronic money institution and a registered issuer may also provide payment services and related services and</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Närliggande tjänster och annan verksamhet</p> <p>5 §</p> <p>Första stycket</p> <p>Ett institut för elektroniska pengar och en registrerad utgivare får även tillhandahålla betaltjänster</p>	<p>CONFORM</p> <p>Chapter 3, Section 5, first paragraph of LEP transposes Article 6(1) first subparagraph (c) of the Directive.</p> <p>In the Government proposal, page 83, it is explained that the term <i>related services</i> in the Swedish provision is a general term that should be understood to encompass the services referred to in the Directive provision. The term covers services closely related to both issuance of electronic money and provision of payment services.</p> <p>Consequently, the Swedish law is in</p>

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				conduct other business.	och närliggande tjänster samt driva annan verksamhet.	conformity with the provision of the Directive.
Art. 6(1) 1st subpar a. (d)	(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) Drift av betalningssystem enligt definitionen i artikel 4.6 i direktiv 2007/64/EG och utan att det påverkar tillämpningen av artikel 28 i det direktivet.	LEP, Chap. 3, Sec. 5, 1st para.	LEP, Chapter 3, Activities in electronic money institutions and registered issuers Related services and other business Section 5 First paragraph An electronic money institution and a registered issuer may also provide payment services and related services and conduct other business.	LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare Närliggande tjänster och annan verksamhet 5 § Första stycket Ett institut för elektroniska pengar och en registrerad utgivare får även tillhandahålla betaltjänster och närliggande tjänster samt driva annan verksamhet.	CONFORM Chapter 3, Section 5, first paragraph of LEP transposes Article 6(1) first subparagraph (d) of the Directive. In the Government proposal, page 83, it is explained that the term <i>related services</i> in the Swedish provision is a general term that should be understood to encompass the services referred to in the Directive provision. The term covers services closely related to both issuance of electronic money and provision of payment services. The example of operation of payment systems has been specifically mentioned in the Government Proposal as a service that should be considered a related service. Consequently, the Swedish law is in conformity with the provision of the Directive.
Art. 6(1) 1st subpar a. (e)	(e) business activities other than issuance of electronic money, having regard to the applicable Community and national law.	e) Annan verksamhet än utgivning av elektroniska pengar, med hänsyn till tillämplig gemenskapslagstiftning och nationell lagstiftning.	LEP, Chap. 3, Sec. 5, 1st para.	LEP, Chapter 3, Activities in electronic money institutions and registered issuers Related services and other business Section 5 First paragraph An electronic money	LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare Närliggande tjänster och annan verksamhet 5 § Första stycket	CONFORM Chapter 3, Section 5, first paragraph of LEP transposes Article 6(1) first subparagraph (e) of the Directive. The Swedish provision allows for the conduct of <i>other business</i> . It does not, however, expressly state that Community and national law applicable to the <i>other business</i> shall be respected. Compliance with Community and national law is always

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				institution and a registered issuer may also provide payment services and related services and conduct other business.	Ett institut för elektroniska pengar och en registrerad utgivare får även tillhandahålla betaltjänster och närliggande tjänster samt driva annan verksamhet.	required. As a reminder it has been explained in the Government Proposal on page 84 (referring to Government Proposal 2009/10:220, page 134) that when carrying out <i>other business</i> , the laws governing this business must be respected and authorisation has to be obtained separately for this business. Consequently, the Swedish law is in conformity with the provision of the Directive.
Art. 6(1) 2nd subpar a.	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).	Kredit som avses i första stycket led b ska inte beviljas från medel som erhållits i utbyte mot elektroniska pengar som hålls i enlighet med artikel 7.1.	LEP, Chap. 3, Sec. 6, 2nd para., pt 2	LEP, Chapter 3, Activities in electronic money institutions and registered issuers Associated services and other business Section 6 Second paragraph Point 2 2. the credit is not granted from the funds held for the purpose of executing a payment transaction or from funds received in exchange for electronic money [...]	LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare Närliggande tjänster och annan verksamhet 6 § Andra stycket Punkt 2 2. krediten inte beviljas ur medel som innehas för att genomföra en betalningstransaktion eller ur medel som tagits emot i utbyte mot elektroniska pengar [...]	PARTIALLY CONFORM Chapter 3, Section 6, second paragraph point 2 of LEP transposes Article 6(1) second subparagraph (a) of the Directive, as further specified in Recital 13. The Swedish provision only refers to funds <i>received</i> and not to funds <i>held</i> . The Directive provision appears to ensure that funds that have been received, but no longer must be held in accordance with Article 7(1) of the Directive, can be used for granting credit. It seems that once the issued electronic money has been consumed by the holder, the specific funds corresponding to the issued electronic money would no longer have to be held in accordance with Article 7(1) and would then be available to be used for other purposes by the electronic money institution. Because the Swedish provision only refers to <i>funds received in exchange for electronic money</i> , it does not seem to be possible to use the money received for the purpose of

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					<p>granting credit, even after the money no longer must be held.</p> <p>The Swedish provision has a different structure where funds for both payment transactions and electronic money have been dealt with in the same provision. As regards funds for payment transaction the term <i>held</i> is used and for electronic money the term <i>received</i> is used. In order to be in total compliance with the Directive both held and received should be referred to in relation to payment transactions and electronic money respectively.</p> <p>The Swedish provision therefore only be considered to partially conform with the provision of the Directive.</p>	
Art. 6(2)	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.	2. Institut för elektroniska pengar får inte ta emot insättningar eller andra återbetalbara medel från allmänheten i den mening som avses i artikel 5 i direktiv 2006/48/EG.	LEP, Chap. 3, Sec. 6, 1st para., pt. 1	<p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Deposits and granting of credit</p> <p>Section 6</p> <p>First paragraph</p> <p>Point 1</p> <p>An electronic money institution or a registered issuer may within its business of issuing electronic money or supplying payment services not</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Inlåning och kreditgivning</p> <p>6 §</p> <p>Första stycket</p> <p>Punkt 1</p> <p>Ett institut för elektroniska pengar eller en registrerad utgivare får i sin verksamhet med utgivning av elektroniska pengar eller tillhandahållande av betaltjänster inte</p>	<p>CONFORM</p> <p>Chapter 3, Section 6, first paragraph, point 1 of LEP transposes Article 6(2) of the Directive, as further specified in Recital 13.</p> <p>The Swedish provision prohibits taking of deposits and other repayable funds.</p> <p>It should be noted, however, that an additional element has been added. The Swedish provision states that deposits or repayable funds may not be taken <i>within the business of issuing electronic money or supplying payment services</i>. This added element appears to mean that the electronic money institution may take such deposits or repayable funds from the public in connection with other types of businesses, not connected to electronic money or payment services.</p>

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				1. take deposits or other repayable funds from the public	1. ta emot insättningar eller andra återbetalningspliktiga medel från allmänheten	In order to be able to take deposits authorisation in accordance with BFL or The Act (2004:299) on deposit business is required. This means that in addition to being an electronic money institution this company would also be authorised as a bank or a company carrying out deposit business. This company consequently would not take deposits in the capacity of an electronic money institution, but in its capacity of a bank or in within its deposit business. Consequently, the Swedish law is in conformity with the provision of the Directive.
Art. 6(3)	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.	3. Eventuella medel som institut för elektroniska pengar tar emot från innehavaren av elektroniska pengar ska utan dröjsmål bytas ut mot elektroniska pengar. Sådana medel ska inte betraktas som insättningar eller andra återbetalbara medel från allmänheten i den mening som avses i artikel 5 i direktiv 2006/48/EG.	LEP, Chap. 4, Sec. 1	LEP, Chapter 4, Provisions regarding electronic money Issuance of electronic money Section 1 Electronic money shall without delay be issued at the same amount as the funds received.	LEP, Kapitel 4, Bestämmelser om elektroniska pengar Utgivning av elektroniska pengar 1 § Elektroniska pengar ska utan dröjsmål ges ut till samma belopp som de medel som tagits emot.	CONFORM Chapter 4, Section 1 of LEP transposes Article 6(3) of the Directive. The Swedish provision does not have a clarification regarding funds received not constituting deposits or repayable funds as set out in the Directive provision. The fact that electronic money institutions are prohibited from receiving such deposits and repayable funds (according to LEP, Chapter 3, Section 6, point 1), but is allowed to receive funds in exchange for electronic money, appears to imply that the latter are not to be considered deposits and repayable funds. Consequently, the Swedish law is in conformity with the provision of the Directive.

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Art. 6(4)	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.	4. Artikel 16.2 och 16.4 i direktiv 2007/64/EG ska tillämpas på medel som erhållits för de verksamheter som avses i punkt 1 a i den här artikeln och som inte är knuten till utgivning av elektroniska pengar.	LEP, Chap. 3, Sec. 6, 1st para	<p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Deposits and granting of credit</p> <p>Section 6</p> <p>First paragraph</p> <p>An electronic money institution or a registered issuer may within its business of issuing electronic money or supplying payment services not</p> <p>1. take deposits or other repayable funds from the public</p> <p>2. offer other accounts than payment accounts that are used exclusively for payment transactions.</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Inlåning och kreditgivning</p> <p>6 §</p> <p>Första stycket</p> <p>Ett institut för elektroniska pengar eller en registrerad utgivare får i sin verksamhet med utgivning av elektroniska pengar eller tillhandahållande av betaltjänster inte</p> <p>1. ta emot insättningar eller andra återbetalningspliktiga medel från allmänheten</p> <p>2. erbjuda andra konton än betalkonton som uteslutande används för betalningstransaktioner.</p>	<p>CONFORM</p> <p>Chapter 3, Section 6, first paragraph of LEP transposes Article 6(4) of the Directive.</p> <p>Article 16.2 and 16.4 of Directive 2007/64/EC prohibits the taking of deposits or other repayable funds from the public.</p> <p>The Swedish provision prohibits these activities.</p> <p>It should be noted, however, that an additional element has been added. The Swedish provision states that deposits or repayable funds may not be taken <i>within the business of issuing electronic money or supplying payment services</i>. This added element appears to mean that the electronic money institution may take such deposits or repayable funds from the public in connection with other types of businesses, not connected to electronic money or payment services.</p> <p>In order to be able to take deposits, authorisation in accordance with BFL or The Act (2004:299) on deposit business is required. This means that in addition to being an electronic money institution this company would also be authorised as a bank or a company carrying out deposit business. This company consequently would not take deposits in the capacity of an electronic money institution, but in its capacity of a bank or in its deposit business.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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Art. 7(1)	<p><i>Article 7</i> Safeguarding requirements</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 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.</p>	<p><i>Artikel 7</i> Skyddskrav</p> <p>1. Medlemsstaterna ska kräva att ett institut för elektroniska pengar ska skydda de medel som har tagits emot i utbyte mot elektroniska pengar som har getts ut i enlighet med artikel 9.1 och 9.2 i direktiv 2007/64/EG. Medel som erhålls i form av en betalning via ett betalningsinstrument behöver inte skyddas förrän de har krediterats ett betalkonto hos ett institut för elektroniska pengar eller på annat sätt gjorts tillgängliga för ett institut för elektroniska pengar, i tillämpliga fall i enlighet med de villkor för tidsåtgången för genomförandet som fastställs i direktiv 2007/64/EG. Sådana medel ska under alla förhållanden skyddas senast fem arbetsdagar, i enlighet med definitionen i artikel 4.27 i det direktivet, efter utfärdandet av elektroniska pengar.</p>	<p>LEP, Chap. 3, Sec. 7, 1st, 2nd and 3rd paras.</p>	<p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Safeguarding requirements etc.</p> <p>Section 7</p> <p>An electronic money institution and a registered issuer shall take measures to safeguard funds received in exchange for issued electronic money. Such funds shall</p> <ol style="list-style-type: none"> be kept separate from the institution's or registered issuer's own assets and funds held for someone else's account than the holder of the electronic money, or be covered by an insurance or guarantee that gives the same protection for the holder of the electronic money as if the funds were kept separate in accordance with point 1. <p>The funds referred to in the first paragraph, that are still kept by the electronic money institution or the</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Skyddskrav m.m.</p> <p>7 §</p> <p>Ett institut för elektroniska pengar och en registrerad utgivare ska vidta åtgärder för att skydda de medel som har tagits emot i utbyte mot utgivna elektroniska pengar. Sådana medel ska</p> <ol style="list-style-type: none"> hållas avskilda från institutets eller utgivarens egna tillgångar och medel som innehas för någon annans räkning än innehavaren av de elektroniska pengarna, eller omfattas av en försäkring eller garanti som ger samma skydd för innehavaren av de elektroniska pengarna som om medlen hållits avskilda enligt 1. <p>Medel enligt första stycket 1, som fortfarande innehas av institutet för</p>	<p>PARTIALLY CONFORM</p> <p>Chapter 3, Section 1, first, second and third paragraphs of LEP transposes Article 7(1) of the Directive.</p> <p>The requirements set out in Article 9(1) of Directive 2007/64/EC are covered by LEP, Chapter 3, Section 7 with two exceptions.</p> <p>The requirement that the insurance or guarantee provided to safeguard the funds shall be issued by an entity not belonging to the same group as the electronic money institution, has not been implemented in the Swedish provision.</p> <p>Moreover, the requirements set out in point (b) of Article 9(1) of Directive 2007/64/EC, regarding insulation against claims of other creditors, has not been implemented in LEP.</p> <p>When transposing Directive 2007/64/EC the Swedish government explained that requirements of separation of funds according to Article 9 of Directive 2007/64/EC means that these funds are covered by the Act (1944:181) on accountancy funds. This Act ensures that these funds are protected against other creditors even if the institution would later become insolvent. No additional provision was therefore deemed necessary.</p> <p>It should be noted that Sweden does not appear to have used the option set out in Article 9(2) of Directive 2007/64/EC in relation to electronic money.</p> <p>As regards the requirements for funds received in the form of payment by payment</p>

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				<p>registered issuer at the end of the banking day after the day the funds were received, shall be separated in a special account with a Swedish bank, a Swedish credit market company or a foreign bank or credit company or be invested in liquid low-risk assets.</p> <p>Funds received in the form of a payment by a payment instrument does not have to be safeguarded until it has been credited to the electronic money institution's or registered issuer's payment account or is otherwise made available to the electronic money institution or registered issuer. The funds shall, however, be safeguarded by the latest five banking days after the issuance of the electronic money related to the payment.</p>	<p>elektroniska pengar eller den registrerade utgivaren vid slutet av bankdagen efter den dag då medlen mottogs, ska avskiljas på ett särskilt konto hos en svensk bank, ett svenskt kreditmarknadsföretag eller ett utländskt bank- eller kreditföretag eller investeras i likvida tillgångar med låg risk.</p> <p>Medel som tas emot i form av en betalning via ett betalningsinstrument behöver inte skyddas förrän de har krediterats ett betalkonto hos institutet eller utgivaren eller på annat sätt gjorts tillgängliga för ett institut för elektroniska pengar eller en registrerad utgivare. Medlen ska dock skyddas senast fem bankdagar efter det att de elektroniska pengarna som betalningen avsåg gavs ut.</p>	<p>instruments, the Swedish provision has correctly transposed the Directive provision. The reference to <i>banking days</i> in the Swedish provision should be considered equivalent to <i>business days</i> in the Directive.</p> <p>However, because the Swedish provision does not require the insurance or guarantee, protecting the funds, to be provided from a third party entity, the Swedish provision may only be considered partially conform with the Directive provision.</p>
Art. 7(2) 1st subpar a.	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	2. För tillämpning av punkt 1 avses med säkra lågriskstillgångar sådana tillgångar som omfattas av en av kategorierna i tabell 1 i punkt 14 i bilaga I till	FIR, Chap. 9, Sec. 3 FKSE, Chap.	FIR, Chapter 9, Safeguarding of funds received in exchange for issued electronic money Section 3	FIR, Kapitel 9, Skydd av medel som har tagits emot i utbyte mot utgivna elektroniska pengar	PARTIALLY CONFORM Chapter 9, Section 3 of FIR referring to FKSE, Chapter 13, Section 45 transposes Article 7(2) first subparagraph of the Directive.

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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.	Europaparlamentets och rådets direktiv 2006/49/EG av den 14 juni 2006 om kapitalkrav för värdepappersföretag och kreditinstitut för vilka kapitalkravet för den specifika risken är högst 1,6 %, men andra kvalificerade poster enligt definitionen i punkt 15 i bilagan omfattas inte.	13, Sec. 45	<p>An institution for electronic money or a registered issuer which pursuant to Chapter 3, section 7, second paragraph of the Electronic Money Act (2011:755) opts to invest funds in liquid assets with low risk may only do so in assets covered by Chapter 13, section 45, second paragraph of Finansinspektionen's regulations and general guidelines (FFFS 2007:1) regarding capital adequacy and large exposures.</p> <p>FKSE, Chapter 13, Risks in the trading book Section 45</p> <p>Net positions in the following financial instruments shall have a weight that varies depending on the remaining maturity of the instrument:</p> <p>< 6 months 0.25%</p> <p>> 6 < 24 months 1.0%</p> <p>> 24 months 1.6%</p> <p>The remaining maturity of the instrument refers to the</p>	<p>3 §</p> <p>Ett institut för elektroniska pengar eller en registrerad utgivare som enligt 3 kap. 7 § andra stycket lagen (2011:755) om elektroniska pengar väljer att investera medel i likvida tillgångar med låg risk, får endast göra det i tillgångar som omfattas av 13 kap. 45 § andra stycket Finansinspektionens föreskrifter och allmänna råd (FFFS 2007:1) om kapitaltäckning och stora exponeringar.</p> <p>FKSE, Kapitel 13, Risker i handelslagret 45 §</p> <p>Nettopositioner i nedan angivna finansiella instrument ska ha en vikt som varierar beroende på instrumentets återstående löptid:</p> <p>< 6 månader 0,25 %</p> <p>> 6 < 24 månader 1,0 %</p> <p>> 24 månader 1,6 %</p> <p>Med instrumentets återstående löptid avses</p>	<p>FIR, Chapter 9, Section 3 refers to FKSE where the categories of assets that may be considered liquid assets with low risk are set out.</p> <p>FKSE Chapter 13, Section 45 deals with assets with capital charge that is no higher than 1.6%. The categories of assets set out in the Swedish provision appear to cover most of the categories set out in Table 1 of point 14 of Annex I to Directive 2006/49/EC, with specific risk capital charge that is no higher than 1,6 %.</p> <p>However, two sets of categories appear to be missing. Debt securities issued or guaranteed by institutions which would qualify for credit quality step 3 under the rules for the risk weighting of exposures under point 29, Part 1 of Annex VI to Directive 2006/48/EC does not appear to be covered by the Swedish provision. This category may be found in the second part of the table in point 14 of Annex I to Directive 2006/49/EC. The Swedish provision only includes institutions which would qualify for credit quality steps 1 and 2.</p> <p>Moreover, the Directive provision appears to include the categories set out in the first part of the table in point 14 of Annex I to Directive 2006/49/EC as these have a risk capital charge of 0%, <i>i.e.</i> below 1.6%. These are not included in the Swedish provision. These assets are covered by FKSE, Chapter 13, Section 44 and FIR only refers to Section 45.</p> <p>Consequently, the Swedish law can only be considered to partially conform with the</p>

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			<p>time until the instrument matures.</p> <p>The following financial instruments shall have a weight in accordance with the first paragraph.</p> <ol style="list-style-type: none"> 1. Financial instruments issued or guaranteed by central governments that would qualify for credit quality steps 2 or 3. 2. Financial instruments issued or guaranteed by local governments or comparable entities within the EEA that would qualify for credit quality steps 2 or 3. 3. Financial instruments issued or guaranteed by authorities within the EEA that would qualify for credit quality steps 2 or 3. 4. Financial instruments issued by central banks that would qualify for credit quality steps 2 or 3. 5. Financial instruments issued by international organisations that would qualify for credit quality steps 2 or 3. 6. Financial instruments 	<p>tiden till instrumentets förfall.</p> <p>Följande finansiella instrument ska ha en vikt enligt första stycket.</p> <ol style="list-style-type: none"> 1. Finansiella instrument emitterade, eller garanterade, av stater som skulle kvalificera för kreditkvalitetssteg 2 eller 3. 2. Finansiella instrument emitterade av kommuner, eller därmed jämförliga samfundligheter, inom EES som skulle kvalificera för kreditkvalitetssteg 2 eller 3. 3. Finansiella instrument emitterade av myndigheter inom EES som skulle kvalificera för kreditkvalitetssteg 2 eller 3. 4. Finansiella instrument som är emitterade av centralbanker som skulle kvalificera för kreditkvalitetssteg 2 eller 3. 5. Finansiella instrument som är emitterade av internationella organisationer som skulle kvalificera för kreditkvalitetssteg 2 eller 	<p>provision of the Directive.</p>

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				<p>issued by multilateral development banks that would qualify for credit quality steps 2 or 3.</p> <p>7. Financial instruments issued or guaranteed by institutions or foreign equivalents that would qualify for credit quality steps 1 or 2.</p> <p>8. Financial instruments issued or guaranteed by firms that would qualify for credit quality steps 1 or 2.</p>	<p>3.</p> <p>6. Finansiella instrument som är emitterade av multilaterala utvecklingsbanker som skulle kvalificera för kreditkvalitetssteg 2 eller 3.</p> <p>7. Finansiella instrument som är emitterade, eller garanterade, av institut eller utländsk motsvarighet som skulle kvalificera för kreditkvalitetssteg 1 eller 2.</p> <p>8. Finansiella instrument som är emitterade, eller garanterade, av företag som skulle kvalificera för kreditkvalitetssteg 1, 2 eller 3.</p>	
Art. 7(2) 2nd subpar a.	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.	Vid tillämpningen av punkt 1 avses med säkra lågriskstillgångar även andelar i ett institut för kollektiv investering i överförbara värdepapper (Ucits) som endast investerar i tillgångar som anges i första stycket.	N/A	N/A	N/A	<p>NOT CONFORM</p> <p>Sweden has not transposed Article 7(2) second subparagraph of the Directive. The corresponding national provision could not be located either.</p> <p>No Swedish legislation dealing with UCITS has been located. Moreover, there are no statements regarding the inclusion of UCITS within the definition of low-risk assets in the Government Proposal.</p> <p>As this is a very technical area it may be possible that UCITS, only investing in the relevant assets, shall be considered to be</p>

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						<p>covered by one of the categories set out in the FKSE. This would have to be confirmed with the Member State and with the FSA, in particular.</p> <p>However, in the absence of any findings of Swedish provisions that would ensure that UCITS, investing only in the relevant assets, are included in the definition of secure, low-risk assets, Swedish law cannot be considered conform with this Directive provision.</p>
Art. 7(2) 3rd subpar a.	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.	I undantagsfall och i tillräckligt motiverade fall får de behöriga myndigheterna på grundval av en bedömning av säkerheten, löptiden, värdet eller andra riskelement för de tillgångar som anges i första och andra styckena, avgöra vilka av dessa tillgångar som inte utgör säkra lågriskstillgångar vid tillämpningen av punkt 1.	N/A	N/A	N/A	Article 7(2) third subparagraph of the Directive sets out an option. Owing to this option, Sweden has not chosen to apply. In this regard, no corresponding provision could be located in the Swedish legislation either.
Art. 7(3)	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	3. Artikel 9 i direktiv 2007/64/EG ska tillämpas för institut för elektroniska pengar för sådana verksamheter som avses i artikel 6.1 a i det här direktivet och som inte är knuten till utgivning av	LEP, Chap. 3, Sec.7, last para. LB, Chap.	LEP, Chapter 3, Activities in electronic money institutions and registered issuers Safeguarding requirements etc. Section 7	LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare Skyddskrav m.m. 7 §	PARTIALLY CONFORM Chapter 3, Section 7, last paragraph of LEP referring to LB, Chapter 3, Section 7 transposes Article 7(3) of the Directive. In relation to payment services provided by electronic money institutions the safeguarding requirements in LB, Chapter 3, Section 7 apply. This provision covers the elements of

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issuing electronic money.	elektroniska pengar.	3, Sec. 7.	<p>Last paragraph</p> <p>Electronic money institutions and registered issuers providing payment services that are not connected to issuance of electronic money shall for this business apply the provisions on safeguarding requirements set out in Chapter 3 Section 7 of the Act (2010:751) on payment services.</p> <p>LB, Chapter 3, Special provisions on payment institution's and registered payment service provider's business</p> <p>Safeguarding requirements</p> <p>Section 7</p> <p>A payment institution or a registered provider shall take special measures to safeguard a payment service user's funds received for the execution of payment transactions in excess of an amount equivalent to 300 Euros. Such funds shall</p> <p>1. be kept separate from the payment institution's or the registered payment</p>	<p>Sista stycket</p> <p>Institut för elektroniska pengar och registrerade utgivare som tillhandahåller betaltjänster som inte är knutna till utgivning av elektroniska pengar ska för den verksamheten tillämpa bestämmelserna om skydds krav i 3 kap. 7 § lagen (2010:751) om betaltjänster.</p> <p>LB, Kapitel 3, Särskilda bestämmelser om betalningsinstituts och registrerade betaltjänstleverantörers rörelse</p> <p>Skydds krav</p> <p>7 §</p> <p>Ett betalningsinstitut eller en registrerad betaltjänstleverantör ska vidta särskilda åtgärder för att skydda en betaltjänstanvändares medel som mottagits för genomförande av betalningstransaktioner och som överstiger ett belopp motsvarande 300 euro. Sådana medel ska</p> <p>1. hållas avskilda från</p>	<p>Article 9(1) of Directive 2007/64/EC, with two exceptions.</p> <p>The requirement that the insurance or guarantee provided to safeguard the funds shall be issued by an entity not belonging to the same group as the electronic money institution, has not been implemented in the Swedish provision.</p> <p>Moreover, the requirements set out in point (b) of Article 9(1) of Directive 2007/64/EC, regarding insulation against claims of other creditors, has not been implemented in LB. When transposing Directive 2007/64/EC the Swedish government explained that requirements of separation of funds according to Article 9 of Directive 2007/64/EC means that these funds are covered by the Act (1944:181) on accountancy funds. This Act ensures that these funds are protected against other creditors even if the institution would later become insolvent. No additional provision was therefore deemed necessary.</p> <p>In relation to payments services, Sweden has implemented the option in Article 9(2) of Directive 2007/64/EC as well as the option set out in Article 9(4). The Article 9(2) option has been correctly implemented in last paragraph of LB, Chapter 3, Section 7. The option in Article 9(4) has been transposed through the first paragraph of LB, Chapter 3, Section 7. The Swedish provision refers to a cap of 300 EUR instead of the 600 EUR set out in the Directive. Because the introduction of this cap is an option and because not introducing a cap would be the most stringent</p>

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			<p>service provider's own assets and funds held on behalf of others than the payment service users, or</p> <p>2. is covered by an insurance or guarantee that gives the same protection for payment service user as if the funds were kept separate in accordance with point 1.</p> <p>Funds used for execution of payment transactions referred to in the first paragraph, that are still kept by the payment institution or the registered payment service provider at the end of the banking day after the day the funds were received, shall be deposited in a special account with a Swedish bank, a Swedish credit market company or a foreign bank or credit company or be invested in liquid low-risk assets.</p> <p>First and second paragraph also apply in cases where a payment institution or a registered payment service provider receives funds where a portion shall be used for future payment</p>	<p>betalningsinstitutets eller den registrerade betaltjänstleverantörens egna tillgångar och medel som innehas för annans räkning än betaltjänstanvändares, eller</p> <p>2. omfattas av en försäkring eller garanti som ger samma skydd för betaltjänstanvändaren som om medlen hålls åtskilda enligt 1.</p> <p>Medel för genomförande av transaktioner enligt första stycket 1, som fortfarande innehas av betalningsinstitutet eller den registrerade betaltjänstleverantören vid slutet av bankdagen efter den dag då medlen mottogs, ska deponeras på ett särskilt konto hos en svensk bank, ett svenskt kreditmarknadsföretag eller utländskt bank- eller kreditföretag eller investeras i likvida tillgångar med låg risk.</p> <p>Första och andra styckena gäller även i de fall då ett betalningsinstitut eller en registrerad</p>	<p>implementation of the Directive provision, the Directive appears to allow a cap below 600 EUR.</p> <p>However, because the Swedish provision does not require the insurance or guarantee, protecting the funds, to be provided from a third party entity, the Swedish provision may only be considered partially conform with the Directive provision.</p>

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				transactions and the remaining portion for other services than payment services. If it is not possible to determine the portion of the user's funds that will be used for the payment transactions, a payment institution or a registered payment service provider may, if it is possible on the basis of historical data and after authorisation by the Financial Supervisory Authority, make an estimate of this share.	betaltjänstleverantör tar emot medel där en andel ska användas för framtida betalningstransaktioner och återstoden för andra tjänster än betaltjänster. Om det inte går att fastställa hur stor andel av användares medel som kommer att användas till betalningstransaktionerna, får ett betalningsinstitut eller en registrerad betaltjänstleverantör, om det är möjligt att på grundval av historiska uppgifter och efter tillstånd av Finansinspektionen, göra en uppskattning av denna andel.	
Art. 7(4)	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. Vid tillämpningen av punkterna 1 och 3 får medlemsstaterna eller deras behöriga myndigheter fastställa, i enlighet med nationell lagstiftning, vilken metod som ska användas av instituten för elektroniska pengar för att skydda medel.	N/A	N/A	N/A	Article 7(4) of the Directive sets out an option. Owing to this option, Sweden has not chosen to apply. In this regard, no corresponding provision could be located in the Swedish legislation either. From the provisions of FIR, Chapter 9, it can be inferred that it is up to the electronic money institutions to decide which method to use.
Art. 8(1)	<i>Article 8</i> Relations with third	<i>Artikel 8</i> Förhållandet till	LEP, Chap.	LEP, Chapter 3, Activities in an electronic	LEP, Kapitel 3, Verksamheten i institut	CONFORM Activities of branches of companies

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	<p>countries</p> <p>1. Member States shall not apply to a branch of an electronic money 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>tredjeland</p> <p>1. När filialer till kreditinstitut med huvudkontor utanför gemenskapen startar eller bedriver verksamhet, får medlemsstaterna inte tillämpa bestämmelser som medför att dessa filialer ges en förmånligare behandling än kreditinstitut med huvudkontor inom gemenskapen.</p>	<p>3, Sec. 28</p> <p>money institution and registered issuer</p> <p>Special provisions relating to foreign companies established outside the EEA</p> <p>Section 28</p> <p>Another foreign company than that referred to in Section 26, first paragraph may after application be given authorisation to issue electronic money from a branch in Sweden. Authorisation may only be given if</p> <ol style="list-style-type: none"> the company issues electronic money in the country where it is established and in that country is under adequate supervision by a competent authority which has approved the company's establishment in Sweden. there are reasons to believe that the planned business will be carried out in a manner that complies with Chapter 2, Sections 6 and 7 and Sections 1-4 in this Chapter. 	<p>för elektroniska pengar och hos registrerade utgivare</p> <p>Särskilda bestämmelser om utländska företag hemmahörande utanför EES</p> <p>28 §</p> <p>Ett annat utländskt företag än ett sådant som avses i 26 § första stycket får efter ansökan ges tillstånd att ge ut elektroniska pengar från filial i Sverige. Tillstånd får ges bara om</p> <ol style="list-style-type: none"> företaget ger ut elektroniska pengar i det land där det har sitt säte och i det landet står under betryggande tillsyn av en behörig myndighet som har medgett att företaget etablerar sig i Sverige, och det finns skäl att anta att den planerade verksamheten kommer att drivas på ett sätt som är förenligt med 2 kap. 6 och 7 §§ och 1-4 §§ detta kapitel. 	<p>established outside the EEA has been dealt with in LEP, Chapter 3, Section 28.</p> <p>Initially it is important to note that the Swedish translation of the Directive provision is different from the English version. The Swedish translation refers to branches of credit institutions where the English version refers to branches of electronic money institutions.</p> <p>There is no Swedish provision expressly implementing this Directive provision. LEP, Chapter 3, Section 28 sets out the conditions applying when a non-EEA company wishes to issue electronic money in Sweden. This provision does, however, not cover branches of credit institutions as these are exempted from the authorisation requirement according to LEP, Chapter 2, Section 2, point 6.</p> <p>In the correlation table provided in the Government Proposal on page 206, it has been indicated that this Directive provision has been transposed through the quoted Swedish provision. Consequently, Sweden does not appear to have followed the Swedish translation of the Directive but rather the original version.</p> <p>According to the Swedish provision, authorisation can only be given to companies that issue electronic money in their country of establishment, <i>i.e.</i> electronic money institutions.</p> <p>The territorial limitations of the authorisation, as described in Recital 15 of the Directive, appears to be respected as non-EEA</p>

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						<p>electronic money institution are only given authorisation to issue electronic money in Sweden.</p> <p>The scope of the authorisation only encompasses the issuance of electronic money (and provision of payment services linked to issuance of electronic money) and does not permit the provision of payment services (as defined in Annex 1 of Directive 2007/64/EC). This follows from LEP, Chapter 3, Section 5 which only allows Swedish electronic money institutions and registered issuers to provide payment services in Sweden.</p> <p>The requirement of not treating branches of non-EEA electronic money institutions more favourably than branches of EEA electronic money institutions appears to have been complied with.</p> <p>Authorisation is not, according to LEP, Chapter 3, Section 26, required for electronic money institutions established within the EEA for issuance of electronic money in Sweden. As described above, non-EEA electronic money institutions do, however, have to obtain such an authorisation.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>
Art. 8(2)	2. The competent authorities shall notify the Commission of all authorisations for branches of electronic money	2. De behöriga myndigheterna ska meddela kommissionen alla auktorisationer för filialer som beviljats	N/A	N/A	N/A	<p>CONFORM</p> <p>According to the Government Proposal on page 102 it was not deemed necessary to implement legislation that would cover this reporting requirement. It does not, however,</p>

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	institutions having their head office outside the Community.	institut för elektroniska pengar med huvudkontor utanför gemenskapen.				mean that Sweden does not plan to comply with this requirement. So far no electronic money institutions or branches of electronic money institutions established in other Member States have been notified to the FSA (in the old or the new regime). The FSA will publish the names of all authorised electronic money institutions and branches in the register on their web site, which may be found using the following link: http://www.fi.se/Register/Foretagsregistret/Vi-sa-per-kategori/
Art. 8(3)	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.	3. Utan att det påverkar tillämpningen av punkt 1 får gemenskapen träffa avtal med ett eller flera tredjeländer om tillämpning av bestämmelser, vilka innebär att filialer till institut för elektroniska pengar med huvudkontor utanför gemenskapen ges identisk behandling inom hela gemenskapen.	N/A	N/A	N/A	CONFORM No disposition of Swedish legislation transposes Article 8(3) of the Directive, as it does not contain any positive obligation for the Member States.
Art. 9(1) 1st subpara. a. intr. wording	<i>Article 9</i> Optional Exemptions 1. Member States may waive or allow their competent authorities to waive the application of all or part of the procedures and conditions	<i>Artikel 9</i> Valfria undantag 1. Medlemsstaterna får avstå eller tillåta sina behöriga myndigheter att avstå från att helt eller delvis tillämpa de förfaranden och villkor	LEP, Chap. 2, Sec. 3 and 4	LEP, Chapter 2, Authorisation, prerequisites for authorisation and exemptions from authorisation Exemptions from authorisation	LEP, Kapitel 2, Tillståndsplikt, förutsättningar för tillstånd och undantag från tillståndsplikt Undantag från tillståndsplikt 3 §	CONFORM Chapter 2, Sections 3 and 4 of LEP transpose Article 9(1), first subparagraph, introductory wording of the Directive. Sweden has decided to use this option and make it possible for companies to apply for exemption from the authorisation requirement.

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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:	som föreskrivs i artiklarna 3, 4, 5 och 7 i detta direktiv, med undantag av artiklarna 20, 22, 23 och 24 i direktiv 2007/64/EG, och tillåta att juridiska personer tas upp i registret för institut för elektroniska pengar om båda följande villkor är uppfyllda:	<p>Section 3</p> <p>A Swedish legal person may apply to the Financial Supervisory Authority for exemption from the authorisation requirement referred to in Section 1. The Authority shall grant such an exemption if</p> <ol style="list-style-type: none"> 1. a person, who will be included on the board of directors of the company or association, will be executive director or the one responsible for the business of issuance of electronic money has not been convicted for crimes relating to money laundering, financing of terrorism or other financial criminality, 2. there are reasons to believe that the planned business will be conducted in accordance with this Act and other regulations governing the business, 3. there are reasons to believe, in relation to legal persons, that anyone who has a qualifying holding in the company is suitable to exercise a significant influence over the 	<p>En svensk juridisk person får ansöka hos Finansinspektionen om att undantas från tillståndsplikt enligt 1 §. Inspektionen ska besluta om ett sådant undantag om</p> <ol style="list-style-type: none"> 1. den som ska ingå i ett bolags eller en förenings styrelse, vara verkställande direktör eller ansvarig för verksamheten med utgivning av elektroniska pengar inte har dömts för brott som rör penningtvätt, finansiering av terrorism eller annan ekonomisk brottslighet, 2. det finns skäl att anta att den planerade verksamheten kommer att drivas enligt denna lag och andra författningar som reglerar verksamheten, 3. det för juridiska personer finns skäl att anta att den som har ett kvalificerat innehav i företaget är lämplig att utöva ett väsentligt inflytande över ledningen av företaget, 4. den som ska ingå i ett företags styrelse, vara <p>Those companies receiving exemption will be registered in the FSA's register. They will be referred to as "registered issuers" and will be listed in a separate section of the register.</p> <p>The prohibition for registered issuers to exercise freedom of establishment and provision of services as set out in recital 16 of the Directive has been respected. According to LEP, Chapter 3, Sections 20 and 22 these rights are only extended to electronic money institutions.</p> <p>LEP, Chapter 2, Section 3 sets out additional requirements not covered by Article 9 (1) of the Directive. Points 2-3 of the Swedish provision regarding compliance and suitability of owners and managers are not included in the Directive provision. However, as Article 9 of the Directive is not, according to Article 16, covered by full harmonisation, these extra requirements do not appear to be contrary to the Directive.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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			<p>management of the company,</p> <p>4. a person, who will be included on the board of directors of the company, will be executive director or the one responsible for the business of issuance of electronic money or be the replacement for any of them, has sufficient knowledge and experience in order to participate in the management of the company or to be responsible for the issuance of electronic money and overall is suitable for such a task, and</p> <p>5. the extent of the planned business is such that the average outstanding debt attributable to electronic money will never exceed 5 million EUR.</p> <p>Section 4</p> <p>The Financial Supervisory Authority shall register those that have been exempted under Section 3 (registered issuers) [...]</p>	<p>verkställande direktör, ansvarig för verksamheten med utgivning av elektroniska pengar eller vara ersättare för någon av dem, har tillräcklig insikt och erfarenhet för att delta i ledningen av företaget eller ansvara för verksamheten med utgivning av elektroniska pengar och även i övrigt är lämplig för en sådan uppgift, och</p> <p>5. den planerade verksamheten har sådan begränsad omfattning att genomsnittligt utestående skulder hänförliga till elektroniska pengar aldrig överstiger fem miljoner euro.</p> <p>4 §</p> <p>Finansinspektionen ska registrera dem som har beviljats undantag enligt 3 § (registrerade utgivare).[...]</p>	

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Art. 9(1) 1st subpar . (a)	(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) Den sammanlagda affärsverksamheten genererar ett genomsnittligt belopp av utestående elektroniska pengar som inte överstiger den gräns som medlemsstaten fastställt, men under inga omständigheter överstiger 5 000 000 EUR.	LEP, Chap. 2, Sec. 3, pt 5	LEP, Chapter 2, Authorisation, prerequisites for authorisation and exemptions from authorisation Exemptions from authorisation Section 3 Point 5 5. the extent of the planned business is such that the average outstanding debt attributable to electronic money will never exceed 5 million EUR.	LEP, Kapitel 2, Tillståndsplikt, förutsättningar för tillstånd och undantag från tillståndsplikt Undantag från tillståndsplikt 3 § Punkt 5 5. den planerade verksamheten har sådan begränsad omfattning att genomsnittligt utestående skulder hänförliga till elektroniska pengar aldrig överstiger fem miljoner euro.	CONFORM Chapter 2, Section 3 point 5 transposes correctly Article 9(1), first subparagraph, (a) of the Directive.
Art. 9(1) 1st subpar a. (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) Ingen av de fysiska personer som är ansvariga för ledningen eller driften av affärsverksamheten har dömts för brott som rör penningtvätt eller finansiering av terrorism eller annan ekonomisk brottslighet.	LEP, Chap. 2, Sec. 3, pt 1	LEP, Chapter 2, Authorisation, prerequisites for authorisation and exemptions from authorisation Exemptions from authorisation Section 3 Point 1 A Swedish legal person may apply to the Financial Supervisory Authority for exemption from the	LEP, Kapitel 2, Tillståndsplikt, förutsättningar för tillstånd och undantag från tillståndsplikt Undantag från tillståndsplikt 3 § Punkt 1 En svensk juridisk person får ansöka hos Finansinspektionen om att undantas från tillståndsplikt enligt 1 §.	CONFORM Chapter 2, Section 3 point 1 of LEP transposes Article 9(1), first subparagraph, (b) of the Directive. Although the Swedish provision describes in more detail the persons responsible for management or operation of the business, the persons referred to in the Swedish provision are included in the category of persons set out in the Directive provision. Consequently, the Swedish law is in conformity with the provision of the Directive.

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				<p>authorisation requirement referred to in Section 1. The Authority shall grant such an exemption if</p> <p>1. a person, who will be included on the board of directors of the company or association, will be executive director or the one responsible for the business of issuance of electronic money has not been convicted for crimes relating to money laundering, financing of terrorism or other financial criminality,</p>	<p>Inspektionen ska besluta om ett sådant undantag om</p> <p>1. den som ska ingå i ett bolags eller en förenings styrelse, vara verkställande direktör eller ansvarig för verksamheten med utgivning av elektroniska pengar inte har dömts för brott som rör penningtvätt, finansiering av terrorism eller annan ekonomisk brottslighet,</p>	
Art. 9(1) 2nd subpara,	<p>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</p>	<p>När ett institut för elektroniska pengar bedriver sådan verksamhet som anges i artikel 6.1 a, som inte är kopplad till utgivning av elektroniska pengar eller någon av de verksamheter som anges i artikel 6.1 b-e, och beloppet för utestående elektroniska pengar inte är känt i förväg, ska de behöriga myndigheterna tillåta detta institut för elektroniska pengar att tillämpa första stycket led a på grundval av en representativ andel som</p>	FIR, Chap. 3, Sec. 3 and 8	<p>FIR, Chapter 3, Application for exemption from the authorisation obligation</p> <p>Section 3</p> <p>The application shall contain a forecast of the expected average outstanding debts attributable to electronic money for the first two years of operation. The undertaking shall account for the assumptions on which the forecast is based.</p>	<p>FIR, Kapitel 3, Ansökan om undantag från tillståndsplikt</p> <p>3 §</p> <p>Ansökan ska innehålla en prognos över det förväntade genomsnittet av utestående skulder hänförliga till elektroniska pengar för de två första verksamhetsåren. Det ska redovisas vilka antaganden prognosen bygger på.</p> <p>8 §</p> <p>En juridisk person ska i</p>	<p>PARTIALLY CONFORM</p> <p>There is no Swedish provision expressly transposing Article 9(1), second subparagraph of the Directive.</p> <p>FIR, Chapter 3 Sections 3 and 8 do, however, ensure that the information needed in order to make the estimates and to determine whether the estimates have been established in a reasonable manner will be available for the registered issuer and the FSA.</p> <p>Although it is not expressly stated that registered issuers may use the estimation methods set out in the Directive provision, the quoted FIR provisions indicate that this type of estimation is allowed.</p> <p>In the absence of a provision that expressly</p>

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	<p>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. 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.</p>	<p>förväntas användas för utfärdande av elektroniska pengar, under förutsättning att det går att göra en rimlig uppskattning av en sådan representativ andel utifrån historiska uppgifter, och på ett sätt som tillfredsställer de behöriga myndigheterna. Om ett institut för elektroniska pengar inte har varit verksam tillräckligt länge ska detta villkor bedömas på grundval av beräknade utestående elektroniska pengar som ska framgå av institutets verksamhetsplan med förbehåll för eventuella ändringar som begärts av de behöriga myndigheterna.</p>		<p>Section 8 A legal person shall describe in its business plan the procedures in place to ensure that the size of the average outstanding debts attributable to electronic money do not exceed EUR 5 million.</p>	<p>verksamhetsplanen redogöra för vilka rutiner den har för att fastställa att storleken på genomsnittligt utestående skulder hänförliga till elektroniska pengar inte överstiger fem miljoner euro.</p>	<p>states that the method for calculation set out in Article 9(1) second subparagraph may be used, the Swedish provision can, however, only be considered to partially conform with the Directive provision.</p>
<p>Art. 9(1) 3rd subparagraph a.</p>	<p>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.</p>	<p>Medlemsstaterna får också föreskriva att de valfria undantagen i denna artikel ska vara beroende av ett ytterligare krav på ett högsta belopp som kan lagras i de betalningsinstrument eller på det betalkonto tillhörande kunden där de elektroniska pengarna</p>	N/A	N/A	N/A	<p>Article 9(1) third subparagraph of the Directive sets out an option. Owing to this option, Sweden has not chosen to apply. In this regard, no corresponding provision could be located in the Swedish legislation either.</p>

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		lagras.				
Art. 9(1) 4th subpara.	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.	En juridisk person som är registrerad i enlighet med denna punkt får tillhandahålla betaltjänster som inte är knutna till elektroniska pengar, som getts ut i enlighet med denna artikel, endast om villkoren i artikel 26 i direktiv 2007/64/EG är uppfyllda.	LEP, Chap. 3, Sec. 5, 2nd para.	LEP, Chapter 3, Activities in electronic money institutions and registered issuers Related services and other business Section 5 Second paragraph A registered issuer may only provide payment services not connected to electronic money if the average of the total payment transactions during the preceding 12 months does not exceed an amount equal to 3 million EUR per month.	LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare Närliggande tjänster och annan verksamhet 5 § Andra stycket En registrerad utgivare får dock tillhandahålla betaltjänster som inte är knutna till utgivning av elektroniska pengar bara om genomsnittet av de totala betalningstransaktionerna under de senaste 12 månaderna inte överstiger ett belopp motsvarande 3 miljoner euro per månad.	CONFORM Chapter 3, Section 5, second paragraph of LEP transposes Article 9(1), fourth subparagraph of the Directive. It appears that it is the condition set out in Article 26 1(a) of Directive 2007/64/EC, regarding total amount of payment transactions executed, that is relevant to consider in this context. The other conditions set out in Article 26 are covered by other articles in this Directive. Although the Swedish provision is more general it appears to cover all the elements of Article 26 1(a) of Directive 2007/64/EC. Consequently, the Swedish law is in conformity with the provision of the Directive.
Art. 9(2)	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. En juridisk person som är registrerad i enlighet med punkt 1 ska vara skyldig att ha sitt huvudkontor i den medlemsstat där den faktiskt bedriver sin verksamhet.	LEP, Chap. 3, Sec.11	LEP, Chapter 3, Activities in electronic money institutions and registered issuers Head office Section 11 An electronic money institution and a registered	LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare Huvudkontor 11 § Ett institut för elektroniska pengar och en registrerad utgivare ska ha	CONFORM Chapter 3, Section 11 of LEP transposes correctly Article 9(2) of the Directive.

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			issuer shall have its head office in Sweden.	sitt huvudkontor i Sverige.	
Art. 9(3)	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. En juridisk person som är registrerad i enlighet med punkt 1 ska behandlas på samma sätt som institut för elektroniska pengar. Den ska dock inte omfattas av artikel 10.9 och artikel 25 i direktiv 2007/64/EG.	<p>LEP, Chap. 3, Sec. 20, 1st sen. and Sec. 22, 1st sen.</p> <p>LEP, Chapter 3, Activities in electronic money institutions and registered issuers</p> <p>Activities through a branch within the EEA</p> <p>Section 20</p> <p>First paragraph</p> <p>First sentence</p> <p>An electronic money institution intending to issue electronic money or provide payment services through a branch in another EEA Member State shall notify the Financial Supervisory Authority before the activities are commenced.</p> <p>Cross-border activities within the EEA</p> <p>Section 22</p> <p>First sentence</p> <p>An electronic money institution intending to, from Sweden, issue electronic money or provide payment services in another EEA Member</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Filialverksamhet inom EES</p> <p>20 §</p> <p>Första stycket</p> <p>Första meningen</p> <p>Ett institut för elektroniska pengar som avser att ge ut elektroniska pengar eller tillhandahålla betaltjänster genom en filial i ett annat land inom EES ska underrätta Finansinspektionen innan verksamheten påbörjas.</p> <p>Gränsöverskridande verksamhet inom EES</p> <p>22 §</p> <p>Första stycket</p> <p>Första meningen</p> <p>Ett institut för elektroniska pengar som avser att från Sverige ge ut elektroniska pengar eller tillhandahålla betaltjänster i ett annat</p>	<p>CONFORM</p> <p>No express Swedish provision has been implemented to transpose this Directive provision.</p> <p>The provisions in LEP ensure that registered issuers are treated as electronic money institutions, except for the specific areas where the Directive sets out specific requirements for registered issuers.</p> <p>Registered issuers are not granted the right of establishment and freedom to provide services as set out in Article 10(9) and Article 25 of Directive 2007/64/EC. This follows from the fact that LEP, Chapter 3, Sections 20 and 22 only grant this right to electronic money institutions.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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				State shall notify the Financial Supervisory Authority before the activities are commenced.	land inom EES ska underrätta Finansinspektionen innan verksamheten påbörjas.	
Art. 9(4)	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. Medlemsstaterna får föreskriva att en juridisk person som är registrerad i enlighet med punkt 1 endast får utöva vissa av de verksamheter som förtecknas i artikel 6.1.	N/A	N/A	N/A	Article 9(4) of the Directive sets out an option. Owing to this option, Sweden has not chosen to apply. In this regard, no corresponding provision could be located in the Swedish legislation either.
Art. 9(5) intr. wording	5. A legal person referred to in paragraph 1 shall:	5. En juridisk person som avses i punkt 1 ska	LEP, Chap. 2, Sec. 4, 2nd para.	LEP, Chapter 2, Authorisation, prerequisites for authorisation and exemptions from authorisation Exemptions from authorisation Section 4 Second paragraph A registered issuer shall inform the Financial Supervisory Authority of such changes that affects the issuer's ability to fulfill the conditions for exemption set out in Section 3.	LEP, Kapitel 2, Tillståndsplikt, förutsättningar för tillstånd och undantag från tillståndsplikt Undantag från tillståndsplikt 4 § Andra stycket En registrerad utgivare ska underrätta Finansinspektionen om sådana förändringar som påverkar utgivarens möjlighet att uppfylla villkoren för undantag enligt 3 §.	CONFORM The introductory wording of Article 9(5) of the Directive has been correctly transposed through LEP Chapter 2, Section 4, second paragraph.
Art. 9(5)(a)	(a) notify the competent authorities of any change	a) underrätta de behöriga myndigheterna om alla	LEP, Chap.	LEP, Chapter 2, Authorisation,	LEP, Kapitel 2, Tillståndsplikt,	CONFORM Chapter 2, Section 4, second paragraph of

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	in its situation which is relevant to the conditions specified in paragraph 1; and	förändringar som har betydelse för det villkor som anges i punkt 1, och	2, Sec. 4, 2nd para.	<p>prerequisites for authorisation and exemptions from authorisation</p> <p>Exemptions from authorisation</p> <p>Section 4</p> <p>Second paragraph</p> <p>A registered issuer shall inform the Financial Supervisory Authority of such changes that affects the issuer's ability to fulfill the conditions for exemption set out in Section 3.</p>	<p>förutsättningar för tillstånd och undantag från tillståndsplikt</p> <p>Undantag från tillståndsplikt</p> <p>4 §</p> <p>Andra stycket</p> <p>En registrerad utgivare ska underrätta Finansinspektionen om sådana förändringar som påverkar utgivarens möjlighet att uppfylla villkoren för undantag enligt 3 §.</p>	LEP transposes correctly Article 9(5)(a) of the Directive.
Art. 9(5)(b)	(b) at least annually, on date specified by the competent authorities, report on the average outstanding electronic money.	b) minst en gång om året vid en tidpunkt som ska fastställas av de behöriga myndigheterna, informera om genomsnittet av utestående elektroniska pengar.	FIR, Chap. 10, Sec. 8	<p>FIR, Chapter 10 Reporting information to Finansinspektionen</p> <p>Regular reporting for registered issuers</p> <p>Section 8</p> <p>A registered issuer shall submit to Finansinspektionen information about the average outstanding debts attributable to electronic money twice a year.</p> <p>This information shall refer to the circumstances on 1 January and 1 July</p>	<p>FIR, Kapitel 10. Rapportering av uppgifter till Finansinspektionen</p> <p>Periodisk rapportering för registrerade utgivare</p> <p>8 §</p> <p>En registrerad utgivare ska två gånger per år lämna Finansinspektionen uppgifter om de genomsnittligt utestående skulderna hänförliga till elektroniska pengar.</p> <p>Uppgifterna ska gälla förhållandena den 1</p>	<p>CONFORM</p> <p>Chapter 10, Section 8 of FIR correctly transposes Article 9(5)(b) of the Directive.</p> <p>It should be noted that the Swedish provision requires the report to be submitted twice a year.</p>

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				(balance sheet dates), respectively, and be reported in SEK. [...]	januari respektive den 1 juli (balansdagar), och lämnas i svenska kronor. [...]	
Art. 9(6)	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. Medlemsstaterna ska vidta nödvändiga åtgärder för att se till att de berörda juridiska personerna, om villkoren i punkterna 1, 2 och 4 inte längre uppfylls, ansöker om auktorisation inom 30 kalenderdagar i enlighet med artikel 3. Den juridiska person som inte har ansökt om auktorisation inom denna period ska i enlighet med artikel 10 förbjudas att ge ut elektroniska pengar.	LEP, Chap. 2, Sec. 1 and 5 LEP, Chap. 5, Sec. 23, 2nd para.	LEP, Chapter 2, Authorisation, prerequisites for authorisation and exemptions from authorisation Authorisation Section 1 Electronic money may only be distributed after authorisation from the Financial Supervisory Authority, unless Sections 2 or 3 are applicable. Authorisation may be given to a Swedish limited liability company or economic association. Exemptions from authorisation Section 5 A registered issuer that no longer meets the requirements in Section 3 shall apply for authorisation under Section 1. The application shall be made within 30	LEP, Kapitel 2, Tillståndsplikt, förutsättningar för tillstånd och undantag från tillståndsplikt Tillståndsplikt 1 § Elektroniska pengar får ges ut endast efter tillstånd av Finansinspektionen, om inte annat följer av 2 eller 3 §. Tillstånd får ges till ett svenskt aktieföretag eller en svensk ekonomisk förening. Undantag från tillståndsplikt 5 § En registrerad utgivare som inte längre uppfyller villkoren i 3 § ska ansöka om tillstånd enligt 1 §. Ansökan ska göras inom 30 dagar från den dag då villkoren inte längre uppfylls.	CONFORM Chapter 2, Sections 1 and 5 and Chapter 5, Section 23, second paragraph of LEP transpose Article 9(6) of the Directive. LEP, Chapter 2, Section 5 has correctly transposed the requirement of seeking authorisation when the conditions for exemption no longer are fulfilled. The Directive provision also states that a person that has not sought authorisation within 30 days shall be prohibited from issuing electronic money. In LEP this prohibition follows from Chapter 2, Section 1, which states that electronic money may only be issued after authorisation by the FSA, unless the exemptions in Sections 2 or 3 apply. When a registered issuer no longer fulfills the conditions for exemption under Section 3 and has not sought authorisation, it is no longer permitted to issue electronic money. In addition the FSA has in LEP, Chapter 5, Section 23 been given the authority to order a registered issuer who has not sought authorisation in time to cease its business. Consequently, the Swedish law is in conformity with the provision of the Directive.

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				<p>days from the day the requirements were no longer fulfilled.</p> <p>[...]</p> <p>LEP, Chapter 5, Supervision, intervention and delegation</p> <p>Intervention against a registered issuer</p> <p>Section 23</p> <p>Second paragraph</p> <p>If a registered issuer referred to in Chapter 2, Section 5 does not apply for authorisation, the Financial Supervisory Authority shall order the issuer to apply for authorisation. If the registered issuer does not follow the injunction, the authority shall order the issuer to cease its business.</p>	<p>[...]</p> <p>LEP, Kapitel 5, Tillsyn, ingripanden och bemyndigande</p> <p>Ingripande mot registrerade utgivare</p> <p>23 §</p> <p>Andra stycket</p> <p>Om en registrerad utgivare som avses i 2 kap. 5 § inte ansöker om tillstånd, ska Finansinspektionen förelägga utgivaren att göra detta. Om den registrerade utgivaren inte följer föreläggandet, ska inspektionen förelägga utgivaren att upphöra med verksamheten.</p>	
Art. 9(7)	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. Medlemsstaterna ska se till att de behöriga myndigheterna har de befogenheter som krävs för att kontrollera att villkoren i denna artikel fortlöpande iakttas.	N/A	N/A	N/A	<p>CONFORM</p> <p>LEP contains a great number of provisions that provide the FSA with the tools required to ensure compliance with Article 9 of the Directive.</p> <p>LEP, Chapter 5, Sections 1-6 govern the FSA's supervisory powers and these provisions also apply to registered issuers.</p>

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						<p>Sections 17-20 give the FSA the right to impose penalty fees when a registered issuer has not provided required information on time. Section 23 sets out the FSA's right to intervene against a registered issuer when it does not comply with the provisions of the LEP and gives the FSA the right to order the registered issuer to cease its business. Section 25 gives the FSA the right to impose penalty payments when the registered issuer does not comply with the LEP or decisions taken by the FSA.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>
Art. 9(8)	8. This Article shall not apply in respect of the provisions of Directive 2005/60/EC or national anti-money-laundering provisions.	8. Denna artikel ska inte tillämpas när det gäller bestämmelser i direktiv 2005/60/EG eller när det gäller nationella bestämmelser om bekämpning av penningtvätt.	LEP, Chap. 3, Sec. 13	<p>LEP, Chapter 3, Activities in an electronic money institution and registered issuer</p> <p>Measures against money laundering and financing of terrorism</p> <p>Section 13</p> <p>Provisions on obligations for those issuing electronic money to help prevent money laundering and financing of electronic money are set out in the Money Laundering and Terrorist Financing (Prevention) Act (2009:62)</p>	<p>LEP, Kapitel 3, Verksamheten i institut för elektroniska pengar och hos registrerade utgivare</p> <p>Åtgärder mot penningtvätt och finansiering av terrorism</p> <p>13 §</p> <p>Bestämmelser om skyldighet för den som ger ut elektroniska pengar att medverka till att förhindra penningtvätt och finansiering av terrorism finns i lagen (2009:62) om åtgärder mot penningtvätt och finansiering av</p>	<p>CONFORM</p> <p>Chapter 3, Section 13 of LEP transposes Article 9(8) of the Directive.</p> <p>The Swedish provision refers to the Swedish Act implementing Directive 2005/60/EC, as a reminder that these provisions apply to issuers of electronic money, including registered issuers.</p>

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					terrorism.	
Art. 9(9)	9. Where a Member State avails itself of the waiver 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.	9. Om en medlemsstat utnyttjar undantaget i punkt 1 ska den underrätta kommissionen om detta senast den 30 april 2011. Medlemsstaten ska genast underrätta kommissionen om varje senare förändring. Medlemsstaten ska dessutom underrätta kommissionen om hur många juridiska personer som berörs och på årsbasis om det totala beloppet för utestående elektroniska pengar per den 31 december varje kalenderår, i enlighet med punkt 1.	N/A	N/A	N/A	CONFORM Sweden did not deem it necessary to implement this Member State reporting requirement in the legislation. This does not however mean that Sweden is not going to comply with its obligations deriving from this text, based upon the principle of loyal cooperation.
Art. 10	<p>TITLE III ISSUANCE AND REDEEMABILITY OF ELECTRONIC MONEY <i>Article 10</i> Prohibition from issuing electronic money</p> <p>Without prejudice to Article 18, Member States shall prohibit natural or legal persons who are not electronic money issuers</p>	<p>AVDELNING III UTGIVNING OCH MÖJLIGHET TILL INLÖSEN AV ELEKTRONISKA PENGAR <i>Artikel 10</i> Förbud mot att ge ut elektroniska pengar</p> <p>Utan att det påverkar tillämpningen av artikel 18</p>	LEP, Chap. 5, Sec. 24, 1st para.	LEP, Chapter 2, Authorisation, prerequisites for authorisation and exemptions from authorisation Authorisation Section 1 Electronic money may only be distributed after authorisation from the	LEP, Kapitel 2, Tillståndsplikt, förutsättningar för tillstånd och undantag från tillståndsplikt Tillståndsplikt 1 § Elektroniska pengar får ges ut endast efter tillstånd av Finansinspektionen, om inte annat följer av 2 eller	CONFORM Chapter 2, Section 1 and Chapter 5, Section 24, first paragraph of LEP transpose Article 10 of the Directive. LEP, Chapter 2, Section 1 ensures that only issuers of electronic money are allowed to issue electronic money in Sweden. Consequently all others are prohibited from carrying out such business. In addition, the FSA has in LEP, Chapter 5, Section 24 been given the power to order a

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	from issuing electronic money.	ska medlemsstaterna förbjuda fysiska eller juridiska personer som inte är utgivare av elektroniska pengar att ge ut elektroniska pengar.		<p>Financial Supervisory Authority, unless Sections 2 or 3 are applicable.</p> <p>Authorisation may be given to a Swedish limited liability company or economic association.</p> <p>LEP, Chapter 5, Supervision, intervention and delegation</p> <p>Intervention against those who are not authorised or registered</p> <p>Section 24</p> <p>First paragraph</p> <p>If someone carries out business that is governed by this Act without being entitled to do so, the Financial Supervisory Authority shall order this person to cease its business.</p>	<p>3 §.</p> <p>Tillstånd får ges till ett svenskt aktiebolag eller en svensk ekonomisk förening.</p> <p>LEP, Kapitel 5, Tillsyn, ingripanden och bemyndigande</p> <p>Ingripande mot den som saknar tillstånd eller registrering</p> <p>24 §</p> <p>Första stycket</p> <p>Om någon driver sådan verksamhet som omfattas av denna lag utan att vara berättigad till det, ska Finansinspektionen förelägga denne att upphöra med verksamheten.</p>	<p>person who is issuing electronic money, who is not authorised or exempted from authorisation, to cease its business.</p> <p>Consequently, the Swedish law seems to be conform with the provision of the Directive.</p>
Art. 11(1)	<p><i>Article 11</i></p> <p>Issuance and redeemability</p> <p>1. Member States shall ensure that electronic money issuers issue electronic money at par value on the receipt of funds.</p>	<p><i>Artikel 11</i></p> <p>Utgivning och möjlighet till inlösen</p> <p>1. Medlemsstaterna ska se till att utgivare av elektroniska pengar ger ut elektroniska pengar till det nominella beloppet mot</p>	LEP, Chap. 4, Sec. 1	<p>LEP, Chapter 4, Provisions regarding electronic money</p> <p>Issuance of electronic money</p> <p>Section 1</p> <p>Electronic money shall without delay be issued at</p>	<p>LEP, Kapitel 4 Bestämmelser om elektroniska pengar</p> <p>Utgivning av elektroniska pengar</p> <p>1 §</p> <p>Elektroniska pengar ska utan dröjsmål ges ut till</p>	<p>CONFORM</p> <p>Chapter 4, Section 1 of LEP transposes Article 11(1) of the Directive.</p> <p>The term “the same amount as the funds received” used in the Swedish provision should be considered equivalent to “par value” used in the Directive provision.</p> <p>Consequently, the Swedish law is in</p>

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		erhållande av medel.		the same amount as the funds received.	samma belopp som de medel som tagits emot.	conformity with the provision of the Directive.
Art. 11(2)	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. Medlemsstaterna ska säkerställa att utgivare av elektroniska pengar på begäran av en innehavare när som helst och till det nominella beloppet löser in det penningvärde som motsvarar innehavet av elektroniska pengar.	LEP, Chap. 4, Sec. 3, 1st para.	LEP, Chapter 4, Provisions regarding electronic money Redemption Section 3 First paragraph At the request of the holder of the electronic money the issuer shall redeem all or part of the holding of outstanding electronic money at par value.	LEP, Kapitel 4 Bestämmelser om elektroniska pengar Inlösen 3 § Första stycket På begäran av en innehavare av elektroniska pengar ska utgivaren lösa in del av eller hela innehavet av utestående elektroniska pengar till det nominella beloppet.	CONFORM Chapter 4, Section 3, first paragraph of LEP transposes Article 11(2) of the Directive. It is not specified in the Swedish provision that electronic money may be redeemed at any moment. As it is more generally formulated, the Swedish provision nevertheless appears to allow for redemption upon request of the holder, no matter when this request is made. Recital 18 of the Directive clarifies that the redeemability does not mean that electronic money shall be regarded as deposits or other repayable funds for the purpose of Directive 2006/48/EC. The fact that electronic money institutions are prohibited from receiving such deposits and repayable funds (according to LEP, Chapter 3, Section 6, point 1), but is allowed to receive funds in exchange for electronic money and redeem the same, implies that electronic money is not to be considered deposits and repayable funds. Consequently, the Swedish law is in conformity with the provision of the Directive.
Art. 11(3)	3. The contract between the electronic money issuer and the electronic money holder shall clearly	3. I avtalet mellan utgivaren av elektroniska pengar och innehavaren av elektroniska pengar ska	LEP, Chap. 4, Sec. 2	LEP, Chapter 4, Provisions regarding electronic money	LEP, Kapitel 4 Bestämmelser om elektroniska pengar	PARTIALLY CONFORM Chapter 4, Section 2 of LEP transposes Article 11(3) of the Directive.

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	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 offer.	villkoren för inlösen, även eventuella avgifter i samband härmed anges tydligt och väl synligt, och innehavaren av elektroniska pengar ska underrättas om dessa villkor innan denne är bunden av något avtal eller erbjudande.		<p>Redemption</p> <p>Section 2</p> <p>Issuers and holders of electronic money shall conclude a contract, in which the conditions for redemption and possible connected fees are clearly stated. The holder of the electronic money is bound by this contract once he or she has been notified of these conditions.</p>	<p>Inlösen</p> <p>2 §</p> <p>Utgivare och innehavare av elektroniska pengar ska ingå ett avtal, i vilket villkoren för inlösen och eventuella avgifter i samband med detta tydligt anges. Innehavaren av de elektroniska pengarna blir bunden av avtalet först när han eller hon har underrättats om dessa villkor.</p>	<p>The Swedish provision states that the conditions for redemption shall be clearly stated whereas the Directive provision requires the conditions to be clearly and prominently stated. The Swedish term equivalent to prominently was included in an earlier proposal for LEP, but was not included in the final version.</p> <p>The fact that a condition is clearly stated does not automatically mean that it is prominently stated. The conditions may be clear in language but printed in small print and therefore not sufficiently visible.</p> <p>The Swedish provision may therefore only be considered to partially conform with the Directive provision.</p>
Art. 11(4) 1st subpar a. intr. wording	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. En avgift får tas ut för inlösen endast om detta anges i avtalet i enlighet med punkt 3 och endast i något av följande fall:	LEP, Chap. 4, Sec. 4, 1st para.	<p>LEP, Chapter 4, Provisions regarding electronic money</p> <p>Redemption</p> <p>Section 4</p> <p>First paragraph</p> <p>An issuer may only charge a fee in relation to redemption if this has been stated in the contract according to Section 2 and the fee corresponds to the issuer's reasonable costs for executing the transaction.</p>	<p>LEP, Kapitel 4 Bestämmelser om elektroniska pengar</p> <p>Inlösen</p> <p>4 §</p> <p>Första stycket</p> <p>Vid inlösen får en utgivare ta ut en avgift bara om detta anges i avtalet i enlighet med 2 § och avgiften motsvarar skäliga kostnader för utgivaren för att genomföra transaktionen.</p>	<p>CONFORM</p> <p>Chapter 4, Section 4, first paragraph of LEP transposes Article 11(4), first subparagraph, introductory wording of the Directive.</p> <p>The requirement of only charging fees regulated in the contract has been correctly transposed in the Swedish provision.</p>

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Art.11 (4) 1st subpar a. (a)	(a) where redemption is requested before the termination of the contract;	a) Om inlösen begärs innan avtalet upphör att gälla.	LEP, Chap. 4, Sec. 4, 2nd para.	LEP, Chapter 4, Provisions regarding electronic money Redemption Section 4 Second paragraph If redemption takes place after the contract between the issuer of electronic money and the holder of electronic money has been terminated, the issuer may only charge a fee if more than one year has passed from the termination of the contract.	LEP, Kapitel 4 Bestämmelser om elektroniska pengar Inlösen 4 § Andra stycket Om inlösen sker efter det att ett avtal mellan utgivaren av elektroniska pengar och innehavaren av elektroniska pengar har upphört att gälla, får utgivaren ta ut en avgift bara om det gått mer än ett år från det att avtalet upphörde.	CONFORM Chapter 4, Section 4, second paragraph of LEP transposes Article 11(4), first subparagraph (a) of the Directive. It is not expressly stated in the Swedish provision that a fee may be charged if redemption is requested before the termination of the agreement. However, the quoted Swedish provision interpreted <i>e contrario</i> means that fees may be charged at any time if redemption is requested while the agreement is still in force. Consequently, the Swedish law is in conformity with the provision of the Directive.
Art. 11(4) 1st subpar a. (b)	(b) where the contract provides for a termination date and the electronic money holder terminates the contract before that date; or	b) Om avtalet innehåller en tidpunkt då det upphör att gälla och innehavaren av elektroniska pengar avslutat avtalet före denna tidpunkt.	LEP, Chap. 4, Sec. 4, 2nd para.	LEP, Chapter 4, Provisions regarding electronic money Redemption Section 4 Second paragraph If redemption takes place after the contract between the issuer of electronic money and the holder of electronic money has been terminated, the issuer may only charge a fee if more than one year has passed from the termination of the	LEP, Kapitel 4 Bestämmelser om elektroniska pengar Inlösen 4 § Andra stycket Om inlösen sker efter det att ett avtal mellan utgivaren av elektroniska pengar och innehavaren av elektroniska pengar har upphört att gälla, får utgivaren ta ut en avgift bara om det gått mer än ett år från det att avtalet	NOT CONFORM Chapter 4, Section 4, second paragraph of LEP transposes Article 11(4), first subparagraph (b) of the Directive. As explained above under the analysis of point (a), it is not expressly stated in the Swedish provision that a fee may be charged if redemption is requested before the termination of the agreement. Point (a) of the Directive provision could be considered covered by the Swedish provision through an <i>e contrario</i> interpretation, but this does not appear possible as regards point (b). In point (b) a fee may be charged if the agreement is terminated by the holder before the termination date set out in the contract. This

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				contract.	upphörde.	<p>means that the contract has been terminated, but the fee may still be charged as the contract has been prematurely terminated by the holder.</p> <p>As the Swedish provision only appears to allow a fee to be charged while the contact is in force or once a year has passed after the termination of the contract, point (b) does not appear to be covered by the Swedish provision.</p> <p>Consequently, the Swedish law is non-conform with the provision of the Directive.</p>
Art. 11(4) 1st subpar a. (c)	(c) where redemption is requested more than one year after the date of termination of the contract.	c) Om inlösen begärs mer än ett år efter den dag då avtalet upphör att gälla.	LEP, Chap. 4, Sec. 4, 2nd para.	<p>LEP, Chapter 4, Provisions regarding electronic money</p> <p>Redemption</p> <p>Section 4</p> <p>Second paragraph</p> <p>If redemption takes place after the contract between the issuer of electronic money and the holder of electronic money has been terminated, the issuer may only charge a fee if more than one year has passed from the termination of the contract.</p>	<p>LEP, Kapitel 4 Bestämmelser om elektroniska pengar</p> <p>Inlösen</p> <p>4 §</p> <p>Andra stycket</p> <p>Om inlösen sker efter det att ett avtal mellan utgivaren av elektroniska pengar och innehavaren av elektroniska pengar har upphört att gälla, får utgivaren ta ut en avgift bara om det gått mer än ett år från det att avtalet upphörde.</p>	<p>CONFORM</p> <p>Chapter 4, Section 4, second paragraph of LEP transposes Article 11(4), first subparagraph (c) of the Directive.</p>
Art. 11(4) 2nd subpar	Any such fee shall be proportionate and commensurate with the actual costs incurred by	En sådan avgift ska vara proportionerlig mot och motsvara utgivarens	LEP, Chap. 4, Sec. 4, 1st	<p>LEP, Chapter 4, Provisions regarding electronic money</p>	<p>LEP, Kapitel 4 Bestämmelser om elektroniska pengar</p>	<p>CONFORM</p> <p>Chapter 4, Section 4, first paragraph of LEP transposes Article 11(4), second subparagraph</p>

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a.	the electronic money issuer.	faktiska kostnader.	para.	<p>Redemption</p> <p>Section 4</p> <p>First paragraph</p> <p>An issuer may only charge a fee in relation to redemption if this has been stated in the contract according to Section 2 and the fee corresponds to the issuer's reasonable costs for executing the transaction.</p>	<p>Inlösen</p> <p>4 §</p> <p>Första stycket</p> <p>Vid inlösen får en utgivare ta ut en avgift bara om detta anges i avtalet i enlighet med 2 § och avgiften motsvarar skäliga kostnader för utgivaren för att genomföra transaktionen.</p>	<p>of the Directive.</p> <p>The proportionality requirement in the Directive provision has been dealt with through the term "reasonable costs" in the Swedish provision. This means that the charges shall be based on the issuer's actual costs but only if these costs are reasonable. It is stated in the Government proposal, page 93, that the proportionality element shall be taken into account through a comparison between the actual costs and the amount of electronic money redeemed.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>
Art. 11(5)	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. Om inlösen begärs före den dag då avtalet upphör att gälla får innehavaren begära inlösen av antingen en del av eller hela penningvärdet av de elektroniska pengarna.	LEP, Chap. 4, Sec. 3.	<p>LEP, Chapter 4, Provisions regarding electronic money</p> <p>Redemption</p> <p>Section 3</p> <p>At the request of a holder of electronic money the issuer shall redeem part of or the whole holding of outstanding electronic money at par value.</p> <p>If redemption is requested within one year from the day when the contract referred to in Section 2 is terminated, the whole holding shall be redeemed. This is also applicable if</p>	<p>LEP, Kapitel 4 Bestämmelser om elektroniska pengar</p> <p>Inlösen</p> <p>3 §</p> <p>På begäran av en innehavare av elektroniska pengar ska utgivaren lösa in del av eller hela innehavet av utestående elektroniska pengar till det nominella beloppet.</p> <p>Om inlösen begärs inom ett år från och med den dag då det avtal som avses i 2 § upphör, ska hela innehavet lösas in. Detta ska också gälla om ett</p>	<p>CONFORM</p> <p>Chapter 4, Section 4, first paragraph of LEP transposes Article 11(4), second subparagraph of the Directive.</p> <p>The Swedish provision does not expressly state that the electronic money may be redeemed in whole or in part when the request is made before the termination of the contract.</p> <p>However, the second paragraph of the Swedish provision deals with the situation when a contract has been terminated (and less than a year has passed). In this situation the whole holding of electronic money must be redeemed. When interpreting the second paragraph <i>e contrario</i>, all requests made before termination (or after one year has passed) shall allow for redemption in whole</p>

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				an electronic money institution also carries out business referred to in Chapter 3, Section 5, first paragraph and the proportion that will be used for electronic money is unknown.	institut för elektroniska pengar bedriver sådan verksamhet som avses i 3 kap. 5 § första stycket och det inte är känt till vilken del medlen ska användas som elektroniska pengar.	or in part. Consequently, the Swedish law is in conformity with the provision of the Directive.
Art. 11(6) intr. wording	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. Om inlösen begärs av innehavaren av de elektroniska pengarna upp till ett år efter den dag då avtalet upphör att gälla	LEP, Chap. 4, Sec. 3, 2nd para, 1st sen.	LEP, Chapter 4, Provisions regarding electronic money Redemption Section 3 Second paragraph First sentence If redemption is requested within one year from the day when the contract referred to in Section 2 is terminated, the whole holding shall be redeemed.	LEP, Kapitel 4 Bestämmelser om elektroniska pengar Inlösen 3 § Andra stycket Första meningen Om inlösen begärs inom ett år från och med den dag då det avtal som avses i 2 § upphör, ska hela innehavet lösas in.	CONFORM Chapter 4, Section 3, second paragraph, first sentence of LEP transposes Article 11(6), introductory wording of the Directive. The national provision correctly reflects the provision of the Directive.
Art. 11(6)(a)	a) the total monetary value of the electronic money held shall be redeemed; or	a) ska hela penningvärdet av de elektroniska pengarna lösas in, eller	LEP, Chap. 4, Sec. 3, 2nd para, 1st sen.	LEP, Chapter 4, Provisions regarding electronic money Redemption Section 3 Second paragraph First sentence If redemption is requested within one year from the	LEP, Kapitel 4 Bestämmelser om elektroniska pengar Inlösen 3 § Andra stycket Första meningen Om inlösen begärs inom ett år från och med den	CONFORM Chapter 4, Section 3, second paragraph, first sentence of LEP transposes Article 11(6)(a) of the Directive. <i>Total monetary value of the electronic money held</i> , stated in the Directive, should be considered equivalent to the <i>whole holding</i> in the Swedish provision. It has been clarified in LEP, Section 3, first paragraph that the electronic money shall be redeemed at par

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				day when the contract referred to in Section 2 is terminated, the whole holding shall be redeemed.	dag då det avtal som avses i 2 § upphör, ska hela innehavet lösas in.	value. Consequently, the Swedish law is in conformity with the provision of the Directive.
Art. 11(6)(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) om ett institut för elektroniska pengar bedriver en eller flera av de verksamheter som anges i artikel 6.1 e och det inte är känt i förväg vilken andel av medlen som ska användas som elektroniska pengar, ska alla medel för vilka innehavaren av de elektroniska pengarna har ett krav inlösas.	LEP, Chap. 4, Sec. 3, 2nd para.	LEP, Chapter 4, Provisions regarding electronic money Redemption Section 3 Second paragraph If redemption is requested within one year from the day when the contract referred to in Section 2 is terminated, the whole holding shall be redeemed. This is also applicable if an electronic money institution also carries out business referred to in Chapter 3, Section 5, first paragraph and the proportion that will be used for electronic money is unknown.	LEP, Kapitel 4 Bestämmelser om elektroniska pengar Inlösen 3 § Andra stycket Om inlösen begärs inom ett år från och med den dag då det avtal som avses i 2 § upphör, ska hela innehavet lösas in. Detta ska också gälla om ett institut för elektroniska pengar bedriver sådan verksamhet som avses i 3 kap. 5 § första stycket och det inte är känt till vilken del medlen ska användas som elektroniska pengar.	CONFORM Chapter 4, Section 3, second paragraph of LEP transposes Article 11(6)(b) of the Directive. The Swedish provision covers all elements of the Directive. However, the reference to Article 6(1)(e) of the Directive appears to limit the application of this Directive provision to <i>business activities other than issuance of electronic money</i> . For example payment services (in Article 6.1(a)) are not included. The Swedish provision refers to LEP, Chapter 3, Section 5, covering, in addition to other business, payment services and ancillary services. This difference does not, however, appear to materially affect the correct application of the Directive provision. <i>All funds requested by the electronic money holder, as stated in the Directive, should be considered equivalent to, the whole holding, in the Swedish provision. It is explained in the Government proposal, page 92, that the whole holding shall be redeemed also when the holding contains, in addition to electronic money, for example funds used for telecommunication, if it is not known what portion will be used for electronic money.</i> Consequently, the Swedish law is in conformity with the provision of the

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						Directive.
Art. 11(7)	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. Utan hinder av punkterna 4, 5 och 6 ska rätten till inlösen för personer, med undantag för konsumenter, som accepterar elektroniska pengar, fastställas i avtalet mellan utgivarna av elektroniska pengar och dessa personer.	LEP, Chap. 4, Sec. 4, 4th para.	LEP, Chapter 4, Provisions regarding electronic money Redemption Section 4 Fourth paragraph An issuer of electronic money may not conclude contracts with a consumer on terms that are different than those set out in Section 1 or 2.	LEP, Kapitel 4 Bestämmelser om elektroniska pengar Inlösen 4 § Fjärde stycket En utgivare av elektroniska pengar får inte avtala med den som är konsument om villkor som avviker från första eller andra stycket.	CONFORM Chapter 4, Section 4, fourth paragraph of LEP transposes Article 11(7) of the Directive. According to the Swedish provision, the terms set out in LEP as regards redemption must be complied with in relation to consumers. Interpreted <i>a contrario</i> this means that issuers of electronic money may conclude contracts that do not comply with the provisions of the LEP in relation to customers who are not consumers. Consequently, the Swedish law is in conformity with the provision of the Directive.
Art. 12	<i>Article 12</i> Prohibition of interest 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.	<i>Artikel 12</i> Förbud mot ränta Medlemsstaterna ska förbjuda beviljandet av ränta eller andra förmåner som är knutna till den period under vilken innehavaren av elektroniska pengar innehar de elektroniska pengarna.	LEP, Chap. 4, Sec. 5	LEP, Chapter 4, Provisions regarding electronic money Interest Section 5 An issuer of electronic money may not pay interest or give other benefits that are related to how long the holder keeps the electronic money.	LEP, Kapitel 4 Bestämmelser om elektroniska pengar Ränta 5 § En utgivare av elektroniska pengar får inte betala ränta eller ge andra förmåner som beror på hur länge innehavaren behåller de elektroniska pengarna.	CONFORM Chapter 4, Section 5 of LEP transposes Article 12 of the Directive, as further specified in Recital 13. Although the Swedish provision has a somewhat different wording, it correctly reflects the Directive provision. Consequently, the Swedish law is in conformity with the provision of the Directive.
Art. 13	<i>Article 13</i> Out-of-court complaint and redress procedures	<i>Artikel 13</i> Förfaranden för	N/A	N/A	N/A	CONFORM Sweden did not consider it necessary to

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	<p>for the settlement of disputes</p> <p>Without prejudice to this Directive, Chapter 5 of Title IV of Directive 2007/64/EC shall apply mutatis mutandis to electronic money issuers in respect of their duties arising from this Title.</p>	<p>klagomål och tvistlösning utanför domstol</p> <p>Utan att det påverkar tillämpningen av detta direktiv gäller kapitel 5 i avdelning IV i direktiv 2007/64/EG, i tillämpliga delar, för utgivare av elektroniska pengar med avseende på de skyldigheter som följer av den avdelningen.</p>			<p>transpose any provisions covering this Directive provision, as it is covered by existing legislation.</p> <p>The transposition of this Directive provision has been dealt with in the Government proposal. Because Article 13 of the Directive refers to Directive 2007/64/EC, the Government Proposal refers to Government Proposal, (2009/10:220), drafted when transposing that Directive.</p> <p>In Government Proposal (2009/10:220), pages 76-79 it is concluded that the kind of complaints procedures required in Article 80(1) of Directive 2007/64/EC already exists in Sweden. The Swedish Consumer Agency and the FSA already accepts complaints from the public in a manner that would cover the requirements in Article 80(1). The Government clarified in Government Proposal (2009/10:220) that these two authorities shall accept complaints and provide the complainant with an answer, except in cases where this would be practically impossible. The authorities shall inform the complainant that he or she may refer the case to the National Board for Consumer Disputes, so that the case may be tried within an out-of-court procedure. This appears to fulfil the requirement in Article 80(2).</p> <p>Out-of court procedures for disputes between consumers and service providers (including issuers of electronic money) are administrated by the National Board for Consumer Disputes. The Government concluded that the</p>

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					<p>procedures already in place cover the requirements set out in Article 83(1) of the Directive.</p> <p>The National Board for Consumer Disputes is a member of FINNET, which is a network for dispute resolution bodies within the EU and the EEA, for disputes between consumers and providers of financial services. The membership in FINNET was concluded sufficient in order to comply with the cross-border cooperation requirement in Article 83(2)</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive as further specified in Recital 19 of the Directive.</p>	
Art. 16(1)	<p>TITLE IV FINAL PROVISIONS AND IMPLEMENTING MEASURES <i>Article 16</i> Full harmonization</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>AVDELNING IV SLUTBESTÄMMELSER OCH GENOMFÖRANDEÅTGÄRDER <i>Artikel 16</i> Fullständig harmonisering</p> <p>1. Utan att det påverkar tillämpningen av artikel 1.3, artikel 3.3 sjätte stycket, artikel 5.7, artikel 7.4, artikel 9 och artikel 18.2, och i den utsträckning detta direktiv innehåller harmoniserade bestämmelser, får medlemsstaterna inte</p>	N/A	N/A	N/A	<p>PARTIALLY CONFORM</p> <p>In general Sweden has respected the full harmonization obligation set out in the Directive. It is clear from the Government proposal that the full harmonization nature of the Directive has been taken into account in each instance when deciding how to draft the national provisions.</p> <p>However, on some occasions the Swedish provisions, covered by full harmonization, go further or do not fully meet the requirements set out in the Directive.</p> <p>The following Swedish provisions do not appear to respect the full harmonization requirements:</p> <p>i) Cases of partial conformity</p>

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		behålla eller införa andra bestämmelser än de som föreskrivs i detta direktiv				<ul style="list-style-type: none"> Article 3(1) of the Directive referring to Article 5 (c) of Directive 2007/64/EC: the requirement of including evidence in the application of holding of required initial capital is missing. Article 3(1) of the Directive referring to Article 5 (f) of Directive 2007/64/EC: the requirement of providing in the application information on how to comply with Regulation (EC) No 1781/2006 is missing. Article 3(1) of the Directive referring to Article 5 (g) of Directive 2007/64/EC: the requirement of providing in the application information on intended participation in national or international payment systems is missing. Article 3(1) of the Directive referring to Article 5 (j) of Directive 2007/64/EC: the requirement of providing in the application information on the identity of the statutory auditor is missing. Article 3(1) of the Directive referring to Article 10 (5) of Directive 2007/64/EC: The Swedish provision goes further than the Directive and allows the FSA to prohibit the carrying out of other business, whereas the Directive only give the power to require separation of the other business in another entity. Article 3(1) of the Directive referring to Article 18 (2) of Directive 2007/64/EC: No specific Swedish provision has been implemented to cover the liability of electronic money institutions in relation to

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						<p>their employees, agents, branches and contractors. General Swedish principles of liability do not appear to fully cover the Directive provision.</p> <ul style="list-style-type: none"> • Article 6(1) second subparagraph (a) of the Directive: The Swedish provision only refers to funds received in exchange for electronic money when stating which funds may not be used for granting of credit. The Directive provision refers to funds received and held in accordance with Article 7(1). • Article 7(1) of the Directive: The Swedish provision does not require the insurance or guarantee, safeguarding the funds, to be provided from a third party entity. • Article 7(2) first subparagraph (a) of the Directive: The Swedish provision does not appear to cover all of the categories of secure, low-risk assets set out in the Directive provision. • Article 7(3) of the Directive: The Swedish provision does not require the insurance or guarantee, safeguarding the funds, to be provided from a third party entity. • Article 9(1) of the Directive: The method for calculating the amount of outstanding electronic money has not been properly transposed. • Article 11(3) of the Directive: The Directive provision states that the contract between the electronic money issuer and the electronic money holder shall clearly and

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						<p>prominently state the conditions of redemption. In the Swedish provision, the element of prominently has been left out.</p> <ul style="list-style-type: none"> Article (18)(1) first subparagraph of the Directive: The Swedish provision exempts electronic money institutions that have been authorised before April 30, 2011 from the authorisation requirement in LEP. The Directive provision, however, exempt these undertakings from the application of all of the provisions in Title II of the Directive. Article (18)(3) of the Directive: The Swedish provision exempts registered issuers that have been exempted from authorisation before April 30, 2011 from the authorisation requirement in LEP. The Directive provision, however, exempt these undertakings from the application of all of the provisions in Title II of the Directive. <p>ii) Cases of non-conformity</p> <ul style="list-style-type: none"> Article 7(2) second subparagraph of the Directive: Units in an undertaking for collective investment in transferable securities (UCITS), which invests solely in secure low-risk assets do not appear to have been included in the Swedish definition of low-risk assets. Article 11(4), first subparagraph (b) of the Directive: The Directive provision states that a redemption fee may be charged if a contract is terminated by the holder before the termination date set out in the contract. The Swedish provision only appears to allow the charging of a fee for redemption that take

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					place while the contract is still in force or one year after the termination of the contract.	
Art. 16(2)	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.	2. Medlemsstaterna ska se till att utgivare av elektroniska pengar inte avviker från bestämmelser i nationell lagstiftning som genomför eller motsvarar bestämmelserna i detta direktiv på ett sätt som är till nackdel för innehavaren av elektroniska pengar, såvida inte detta uttryckligen föreskrivs i direktivet.	N/A	N/A	N/A	<p>CONFORM</p> <p>There is no express provision covering this Directive provision. The powers given to the FSA through the provisions of the LEP, ensure that the FSA may supervise the activities of issuers of electronic money. The sanctions that the FSA may impose upon issuers of electronic money not complying with the LEP ensure that issuers will refrain from derogating from the LEP to the detriment of electronic money holders.</p> <p>LEP, Chapter 5, Sections 1-6 govern the FSA's supervisory powers and these provisions also apply to registered issuers. Sections 17-20 give the FSA the right to impose penalty fees when a registered issuer has not provided required information on time. Section 23 sets out the FSA's right to intervene against a registered issuer when it does not comply with the provisions of the LEP and gives the FSA the right to order the registered issuer to cease its business. Section 25 gives the FSA the right to impose penalty payments when the registered issuer does not comply with the LEP or decisions taken by the FSA.</p>
Art. 18(1) 1st subparagraph a.	<p><i>Article 18</i></p> <p>Transitional provisions</p> <p>1. Member States shall allow electronic money institutions that have taken</p>	<p><i>Artikel 18</i></p> <p>Övergångsbestämmelser</p> <p>1. Medlemsstaterna ska tillåta institut för elektroniska pengar som</p>	LEP, Transitional provisions,	<p>Transitional rules</p> <p>Transitional provisions</p> <p>Point 3</p> <p>First sentence</p>	<p>Övergångsregler</p> <p>Övergångsbestämmelser</p> <p>Punkt 3</p> <p>Första meningen</p>	<p>PARTIALLY CONFORM</p> <p>Point 3, first sentence and point 6 of the transitional provisions of LEP transpose Article (18)(1) first subparagraph of the Directive.</p>

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	<p>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>före den 30 april 2011 har inlett verksamhet i enlighet med nationell lagstiftning som införlivar direktiv 2000/46/EG i den medlemsstat där dess huvudkontor är beläget, att fortsätta denna verksamhet i den medlemsstaten och i varje annan medlemsstat i enlighet med de arrangemang för ömsesidigt godkännande som anges i direktiv 2000/46/EG utan krav på auktorisation i enlighet med artikel 3 i detta direktiv, och utan skyldighet att följa övriga bestämmelser i, eller som det hänvisas till i, avdelning II i detta direktiv</p>	<p>pt 3, 1st sen.</p> <p>3. Electronic money institutions that have commenced business of issuance of electronic money under the Act (2002:149) on issuance of electronic money before April 30 2011 may continue carrying out this business until October 30 2011 without being required authorisation according to this Act. [...]</p> <p>Point 6</p> <p>6. Anyone who has commenced business of issuance of electronic money before 30 April 2011 in accordance with the provisions on exemption from the authorisation requirement in Chapter 2, Section 6 of the Act (2002:149) on issuance of electronic money may continue carrying out this business until April 30 2012 without being granted an exemption from authorisation according to this Act.</p>	<p>3. Institut för elektroniska pengar som har inlett verksamhet med utgivning av elektroniska pengar enligt lagen (2002:149) om utgivning av elektroniska pengar före den 30 april 2011 får fortsätta med verksamheten fram till den 30 oktober 2011 utan krav på tillstånd enligt denna lag. [...]</p> <p>Punkt 6</p> <p>6. Den som inlett verksamhet med utgivning av elektroniska pengar före den 30 april 2011 i enlighet med bestämmelserna om undantag från tillståndsplikt i 2 kap. 6 § lagen (2002:149) om utgivning av elektroniska pengar får fortsätta med verksamheten fram till den 30 april 2012 utan att ha beviljats undantag från tillståndsplikt enligt denna lag.</p>	<p>Electronic money institutions that have commenced business before 30 April 2011 are dealt with in point 3 of the transitional provisions of LEP.</p> <p>The Swedish provision differs from the Directive provision as the former only refers to exemption from the authorisation requirement. The Directive exempts electronic money institutions established before 30 April 2011 not only from the authorisation requirement but from the application of all provisions of Title II of the Directive.</p> <p>The Swedish provision can therefore only be considered to partially conform with the Directive provision. This should, however, not have any practical impact as no Swedish undertakings have so far been authorised (under the new or the old regime) as electronic money institutions or been exempted from authorisation</p>	
Art. 18(1) 2nd	Member States shall require such electronic money institutions to	Medlemsstaterna ska kräva att sådana institut för elektroniska pengar	LEP, Transitional	Transitional rules Transitional provisions	Övergångsregler Övergångsbestämmelser	CONFORM Point 3, second sentence and point 4 of the

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subpar a.	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.	lämnar all relevant information till de behöriga myndigheterna så att dessa senast den 30 oktober 2011 ska kunna bedöma om instituten uppfyller kraven i detta direktiv och, om kraven inte uppfylls, vilka åtgärder som krävs för att se till att de uppfylls eller om det är lämpligt att återkalla auktorisationen.	provisions, pt 3, 2nd sen. and pt. 4.	<p>Point 3 Second sentence</p> <p>Such an institution shall provide the FSA with the information the authority requires in order to assess whether the institution meets the requirements for authorisation under this Act by 30 October 2011.</p> <p>Point 4</p> <p>4. The institutions that have provided information according to point 3 shall be authorised to conduct issuance of electronic money as electronic money institutions, if they comply with this Act.</p>	<p>Punkt 3 Andra mening</p> <p>Ett sådant institut ska lämna Finansinspektionen de upplysningar som inspektionen begär för att senast den 30 oktober 2011 kunna pröva huruvida institutet uppfyller kraven för tillstånd enligt denna lag.</p> <p>Punkt 4</p> <p>4. De institut som lämnat information enligt 3 ska ges tillstånd att bedriva verksamhet med utgivning av elektroniska pengar som institut för elektroniska pengar, om de uppfyller kraven för tillstånd enligt denna lag.</p>	<p>transitional provisions of LEP transpose Article (18)(1) second subparagraph of the Directive.</p> <p>The two Swedish provisions appear to cover all elements of the Directive provision. The Swedish provisions do not expressly state that in case the requirements for authorisation are not met, it should be assessed which measures need to be taken and whether the authorisation should be withdrawn. If the FSA takes a decision not to grant authorisation it has a general duty under Swedish law to state the reasons for its decision. It would therefore need to inform the institution of its reasons for denying authorisation and thereby explain what would be required in order to obtain authorisation. If the FSA nevertheless decides that authorisation should not be granted, withdrawal of the current authorisation would be a natural consequence of that decision.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>
Art. 18(1) 3rd subpar a.	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	Institut för elektroniska pengar som uppfyller kraven ska beviljas auktorisation och tas upp i registret och i övrigt vara skyldiga att följa bestämmelserna i avdelning II. Om instituten för elektroniska pengar inte uppfyller kraven senast den 30	LEP, Transitional provisions, pt. 4 LEP, Chap. 5, Sec. 24	<p>Transitional rules</p> <p>Transitional provisions</p> <p>Point 4</p> <p>4. The institutions that have provided information according to point 3 shall be authorised to conduct issuance of electronic money as electronic</p>	<p>Övergångsregler</p> <p>Övergångsbestämmelser</p> <p>Punkt 4</p> <p>4. De institut som lämnat information enligt 3 ska ges tillstånd att bedriva verksamhet med utgivning av elektroniska pengar som institut för</p>	CONFORM
					<p>Point 4 of the transitional provisions and Chapter 5, Section 24 of LEP transpose Article (18)(1) third subparagraph of the Directive.</p> <p>Authorisation for electronic money institutions meeting the requirements and their obligation to comply with the national provisions implementing Title II of the Directive, are set out in point 4 of the</p>	

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	<p>this Directive by 30 October 2011, they shall be prohibited from issuing electronic money.</p>	<p>oktober 2011 ska de förbjudas att ge ut elektroniska pengar.</p>	<p>money institutions, if they comply with the requirements for authorisation under this Act.</p> <p>LEP, Chapter 5, Supervision, intervention and delegation</p> <p>Intervention against those who are not authorised or registered</p> <p>Section 24</p> <p>First paragraph</p> <p>If someone carries out business that is governed by this Act without being entitled to do so, the Financial Supervisory Authority shall order this person to cease its business.</p>	<p>elektroniska pengar, om de uppfyller kraven för tillstånd enligt denna lag.</p> <p>LEP, Kapitel 5, Tillsyn, ingripanden och bemyndigande</p> <p>Ingripande mot den som saknar tillstånd eller registrering</p> <p>24 §</p> <p>Första stycket</p> <p>Om någon driver sådan verksamhet som omfattas av denna lag utan att vara berättigad till det, ska Finansinspektionen förelägga denne att upphöra med verksamheten.</p>	<p>transitional provisions of LEP. The required compliance with LEP follows from the fact that the institution will become an electronic money institution under LEP and will thereby be required to comply with this Act.</p> <p>Those who do not meet the authorisation requirements will not be granted authorisation by October 30 and will therefore no longer be authorised to issue electronic money. According to LEP, Chapter 5, Section 24, the FSA may then order these persons to cease their business.</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>
Art. 18(2)	<p>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 already have evidence that the electronic money institution concerned complies with the</p>	<p>2. Medlemsstaterna får föreskriva att ett institut för elektroniska pengar automatiskt ska beviljas auktorisation och upptas i det register som anges i artikel 3 om de behöriga myndigheterna redan har bevis för att de berörda instituten för elektroniska pengar uppfyller kraven i artiklarna 3, 4 och 5. De</p>	<p>LEP, Transitional provisions, pt. 5</p> <p>LEP, Chap. 5, Sec. 5</p> <p>Transitional rules</p> <p>Transitional provisions</p> <p>Point 5</p> <p>5. If the Financial Supervisory Authority decides that an electronic money institution that has commenced business of issuance of electronic money under the Act (2002:149) on issuance of</p>	<p>Övergångsregler</p> <p>Övergångsbestämmelser</p> <p>Punkt 5</p> <p>5. Om Finansinspektionen bedömer att ett institut för elektroniska pengar som inlett verksamhet med utgivning av elektroniska pengar enligt lagen (2002:149) om utgivning av elektroniska pengar</p>	<p>CONFORM</p> <p>Article 18(2) of the Directive sets out an option, which Sweden chose to apply. Point 5 of the transitional provisions of LEP transpose Article (18)(2) of the Directive.</p> <p>The Swedish provision appears to cover all elements of the Directive provision. It has not been expressly stated in the transitional provision that the authorised electronic money institutions shall be entered in the register. Registration of all electronic money</p>

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requirements laid down in Articles 3, 4 and 5. The competent authorities shall inform the electronic money institutions concerned before the authorisation is granted.	behöriga myndigheterna ska informera de berörda instituten för elektroniska pengar innan de beviljas auktorisation	<p>electronic money before April 30 2011 meets the requirements for authorisation according to this Act without any need for providing additional information according to point 3 the authority shall issue authorisation irrespective of whether the institution has applied for authorisation. The Financial Supervisory Authority shall inform the institution concerned before granting authorisation.</p> <p>LEP, Chapter 5, Supervision, intervention and delegation</p> <p>Register of electronic money institutions and registered issuers</p> <p>Section 5</p> <p>The Financial Supervisory Authority shall keep a register for electronic money institutions, registered issuers, their agents and branches. The register is to be kept available at the Financial Supervisory Authority.</p>	<p>före den 30 april 2011 uppfyller förutsättningarna för tillstånd enligt denna lag utan att ytterligare information behöver lämnas enligt 3 ska inspektionen meddela tillstånd oavsett om institutet har ansökt om tillstånd eller inte. Finansinspektionen ska informera det berörda institutet innan tillstånd meddelas.</p> <p>LEP, Kapitel 5, Tillsyn, ingripanden och bemyndigande</p> <p>Register över institut för elektroniska pengar och registrerade utgivare</p> <p>5 §</p> <p>Finansinspektionen ska föra ett register över institut för elektroniska pengar, registrerade utgivare, deras ombud och filialer. Registret ska hållas tillgängligt hos Finansinspektionen.</p>	<p>institutions is, however, required according to LEP, Chapter 5, Section 5.</p> <p>The FSA's register is available at the following website: http://www.fi.se/Folder-EN/Startpage/Authorisation/Company-register/Company-register-Show-categories/</p> <p>Consequently, the Swedish law is in conformity with the provision of the Directive.</p>

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Art. 18(3)	<p>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 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>3. Medlemsstaterna ska tillåta institut för elektroniska pengar som före den 30 april 2011 har inlett verksamhet i enlighet med den nationella lagstiftning som införlivar artikel 8 i direktiv 2000/46/EG att fortsätta denna verksamhet inom den berörda medlemsstaten i enlighet med direktiv 2000/46/EG till och med den 30 april 2012, utan krav på att ansöka om auktorisation enligt artikel 3 i detta direktiv och utan att behöva iaktta de övriga bestämmelserna i, eller som det hänvisas till i, avdelning II i detta direktiv. Institut för elektroniska pengar som inte har beviljats auktorisation eller undantag i enlighet med artikel 9 i detta direktiv inom denna period ska förbjudas att ge ut elektroniska pengar.</p>	<p>LEP, Transitional provisions, pt.6 LEP, Chap. 5, Sec. 24</p>	<p>Transitional rules Transitional provisions Point 6</p> <p>6. Anyone who has commenced business of issuance of electronic money before 30 April 2011 in accordance with the provisions on exemption from the authorisation requirement in Chapter 2, Section 6 of the Act (2002:149) on issuance of electronic money may continue carrying out this business until April 30 2012 without being granted an exemption from authorisation according to this Act.</p> <p>LEP, Chapter 5, Supervision, intervention and delegation Intervention against those who are not authorised or registered Section 24 First paragraph</p> <p>If someone carries out business that is governed by this Act without being</p>	<p>Övergångsregler Övergångsbestämmelser Punkt 6</p> <p>6. Den som inlett verksamhet med utgivning av elektroniska pengar före den 30 april 2011 i enlighet med bestämmelserna om undantag från tillståndsplikt i 2 kap. 6 § lagen (2002:149) om utgivning av elektroniska pengar får fortsätta med verksamheten fram till den 30 april 2012 utan att ha beviljats undantag från tillståndsplikt enligt denna lag.</p> <p>LEP, Kapitel 5, Tillsyn, ingripanden och bemyndigande</p> <p>Ingripande mot den som saknar tillstånd eller registrering</p> <p>24 § Första stycket</p> <p>Om någon driver sådan verksamhet som omfattas av denna lag utan att vara berättigad till det, ska Finansinspektionen</p>	<p>PARTIALLY CONFORM</p> <p>Point 6 of the transitional provisions and Chapter 5, Section 24 of LEP transpose Article (18)(3) of the Directive.</p> <p>Registered issuers that have commenced their business before 30 April 2011 are dealt with in point 6 of the transitional provisions. The adaptation period has, in accordance with Directive provision, been prolonged until April 30 2012.</p> <p>Those who do not meet the requirements for exemption from authorisation by April 30 2012 will no longer be exempted from the application of the authorisation provisions in LEP. According to LEP, Chapter 5, Section 24, the FSA may then order these persons to cease their business.</p> <p>The Swedish provision differs from the Directive provision as the former only refers to the authorisation exemption requirements. The Directive exempts registered issuers established before 30 April 2011 not only from the requirement of seeking exemption from authorisation, but from the application of all provisions of Title II of the Directive.</p> <p>The Swedish provision can therefore only be considered to partially conform with the Directive provision. This should, however, not have any practical impact as no Swedish undertakings have so far been authorised as electronic money institutions or been exempted from authorisation.</p>

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				entitled to do so, the Financial Supervisory Authority shall order this person to cease its business.	förelägga denne att upphöra med verksamheten.