

# Conformity Assessment of Directive 2009/110/EC SPAIN

**Final Report**  
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## NATIONAL IMPLEMENTING MEASURES

List of the national implementing measures notified to the European Commission	General observations
<p><b>Ley 21/2011, de 26 de julio, de dinero electrónico.</b>            Law 21/2011, of 26 July, on electronic money.            (Hereinafter referred to as Law 21/2011).</p>	<p>Law 21/2011, of 26 July, on electronic money was adopted on 26 July 2011 and entered into force one day after its publications in the BOE (<i>Boletín Oficial del Estado</i> Spanish acronym for the Spanish Official Journal) on 28 July 2011. Thus, it did not meet the time limit transposition requirement of the Directive, according to which Member States (MS) shall adopt and publish not later than 30 April 2011, the laws, regulations and administrative provisions necessary to comply with Directive 2009/110/EC.</p> <p>Law 21/2011 has not been amended from its adoption date.</p> <p>It is the main law transposing Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuits and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC. It partially transposes Directive 2009/110/EC by regulating the issuance of electronic money, including the legal framework for electronic money institutions and the prudential supervision of these entities. The majority of the provisions of Law 21/2011 are relevant for the conformity assessment of Directive 2009/110/EC.</p> <p>It is primary legislation and derogates in particular Article 21 of Law 44/2002, of 22 November, on the reforming measures of the financial system and Royal Decree 322/2008, of 29 February, on legal framework of electronic money institutions.</p> <p>The objectives of Law 21/2011 are the following:</p> <ol style="list-style-type: none"> <li>1. It seeks to increase the precision of the legal regime applicable to the issuance of electronic money, clarifying its definition and scope of the Law. Thus, when increasing legal security for those involved in the market access to the activity of issuing electronic money will be facilitated and competition in that sector will be stimulated.</li> <li>2. Law 21/2011 aims to design a more proportionate legal regime, so that certain requirements of electronic money institutions will be eliminated because they are inadequate in relation to the risks that their activity can potentially generate since they are too onerous for institutions. Therefore, it is not necessary to keep electronic money institutions as an additional category of credit institution. For that reason, they are not considered any longer as credit institutions.</li> <li>3. Law 21/2011 is intended to ensure consistency between the new legal framework for payment institutions and the one applicable to electronic money institutions.</li> </ol>

Law 21/2011 is structured in six chapters as follows:

- Chapter I (Articles 1 and 2): It contains general provisions governing the main aspects of the law. It defines the purpose of the law and the regulation of issuing, on professional basis, electronic money, as well as the legal and prudential supervision of electronic money. Regarding the scope of the Law, it is delimited, on one hand, providing a legal definition of electronic money based on three criteria, so that every product that fulfils these three characteristics may be defined as electronic money. On the other hand, the monetary value stored on specific instruments designed to meet specific needs and which use is limited either because holders can use it only on the premises of the issuer or in a limited network of suppliers of goods or services, either because it can be purchased with only a limited range of goods or services are excluded from the scope of the law.
- Chapter II (Articles 3 to 10): Electronic money institutions are subject to a system of authorisation and registration. The Ministry of Economy and Finance shall grant the authorisation if several aspects which guarantee that the institutions will be subject to a sound and prudent management are proved.  
  
Law 21/2011 allows electronic money institutions to carry out other economic activities, in addition to the issuance of electronic money. These include the provision of payment services, management of payment systems and any other economic activities, in accordance with the applicable law. It provides, however, a limitation to their activity that differs substantially from deposit institutions, which is the prohibition of taking deposits or other repayable funds.
- Chapter III (Articles 11, 12 and 13): It regulates cross-border activities of electronic money institutions. It lays down a system of notifying the Bank of Spain in case of intra community activity and when such activity involves third countries.
- Chapter IV (Articles 14, 15 and 16): It provides the possibility that electronic money institutions delegate to third parties to perform certain activities such as the provision of operational or distribution and redemption of electronic money. However, the prohibition of issuing electronic money through agents is established.
- Chapter V (Articles 17, 18 and 19): It regulates the regime of issuing and redemption of electronic money by three fundamental ways. The first one is that there is an obligation to issue electronic money at par value. The second one is that it also provides for the possibility that the electronic money holder requests and obtains a refund at any time and at nominal value of the electronic money that it is as its disposal. In general, Law 21/2011 states that refund should be made free of charge. However it foresees some cases in which the issuer may charge a fee, adequate and proportionate to the costs incurred for making the refund. The third one is that it prohibits the granting of interest or any other benefit that is associated with the time during which the electronic money holder keeps it.

	<ul style="list-style-type: none"> <li>Chapter VI (Articles 20 to 23): It details the powers attributed to the Bank of Spain for the proper exercise of supervision of electronic money institutions, the system of significant holdings of these institutions and the system of penalties applicable to them which follows the provisions of Law 26/1988, of 29 July, on discipline and intervention of credit institutions.</li> </ul> <p>The text of Law 21/2011 can be found in the Spanish database of the BOE:  <a href="#">Ley 21/2011, de 26 de julio, de dinero electrónico.</a></p>
<p><b>Real Decreto 778/2012, de 4 de mayo, de régimen jurídico de las entidades de dinero electrónico.</b></p> <p>Royal Decree 778/2012, of 4 May, on the legal framework of electronic money institutions.</p> <p>(Hereinafter referred to as R.D. 778/2012).</p>	<p>Royal Decree 778/2012, of 4 May, on the legal framework of electronic money institutions was adopted on 4 May 2012 and entered into force one day after its publication in the BOE (<i>Boletín Oficial del Estado</i> Spanish acronym for the Spanish Official Journal) on 6 May 2012. Thus, it did not meet the time limit transposition requirement of the Directive, according to which MS shall adopt and publish not later than 30 April 2011, the laws, regulations and administrative provisions necessary to comply with Directive 2009/110/EC.</p> <p>R.D. 778/2012 has not been amended from its adoption date.</p> <p>It is the main act implementing Law 21/2011 and thus transposing part of Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuits and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC. It completes the transposition of Directive 2009/110/EC into the Spanish legislation.</p> <p>It derogates Royal Decree 322/2008, of 29 February, on legal framework of electronic money institutions.</p> <p>R.D. 778/2012 contributes to ensure consistency between the new legal framework of payment institutions and the one applicable to electronic money institutions.</p> <p>It regulates the legal framework for electronic money institutions and specifies also some legal provisions on general activity of issuing electronic money.</p> <p>R.D. 778/2012 consists of twenty-seven articles divided into seven chapters, a transitional provision, a repealing provision and three final provisions:</p> <ul style="list-style-type: none"> <li>Chapter I (Articles 1 to 9): It regulates the legal framework for the creation of electronic money institutions. The Minister of Economy and Competitiveness has the power to authorise the creation of electronic money institutions, the reporting of the Bank of Spain and the Executive Service of the Commission for the prevention of money laundering and financial crime, in the areas of their competence.</li> <li>Chapter II (Articles 10 to 13): It regulates cross-border activity of electronic money institutions. In particular, it regulates the opening of branches and the freedom to provide services in a Member State of the European Union by Spanish electronic money institutions and states, in particular, the obligation to notify the Bank of Spain and the information that must accompany such notification. It also regulates the communication regime to the Bank of</li> </ul>

Spain that must be fulfilled by the supervisory authorities of those community electronic money institutions that intend to permanently provide services in Spain. It also regulates the specific prior authorisation of the Bank of Spain which applies to those Spanish electronic money institutions intending to provide payment services in a non-Member State of the European Union, either by opening branches or freedom to provide services.

- Chapter III (Articles 14 and 15): It regulates the agents and the regime of the delegation of tasks. Article 14 provides that electronic money institutions cannot issue electronic money through agents. In the course of providing payment services, this activity may be made through agents, for which they must meet the requirements of Royal Decree 712/2010, of May 28, on the legal framework of payment services and of payment institutions.
- Chapter IV (Articles 16 to 20): It contains several provisions the aim of which is to guarantee the fulfilment of rules regarding own funds in case an electronic money institution has deficit regarding the own funds. The need for electronic money institutions of safeguarding the funds of its users for the issuance of electronic money and the execution of payment transactions requires that those institutions have any of the safeguarding methods established in Law 21/2011, of 26 July. Regarding the first method, Chapter IV specifies the secure and low risk assets in which funds referred to in Article 10(1)(a) of Law 16/2009, of 13 November, payment service, may be invested. Concerning the second method, the conditions that the insurance or comparable guarantee must fulfil are mentioned.
- Chapter V (Articles 21 and 22): It introduces the concept of hybrid electronic money institutions, defined as the institutions that issue electronic money and pursuit payment services and also do any other economic activity.
- Chapter VI (Articles 23 and 24): It establishes some additional aspects concerning the legal framework of electronic money issuance and the provision of payment services by electronic money institutions. In addition, an exception to the application of the rules governing the issuance of electronic money is laid down. In this regard, the monetary value stored in instruments whose use is limited to the establishments of the issuer or within a limited network of providers is not subject to such regulation.
- Chapter VII (Articles 25, 26 and 27): It includes the monitoring and sanctions regime applicable to electronic money institutions. Both are still, fundamentally and with some modifications, the regime applicable to credit institutions. It also includes the obligation of professional secrecy for all persons in the performance of their professional activities for the Bank of Spain or the exchange of information with other authorities when they have known confidential data.

The text of Royal Decree 778/2012 can be found in the Spanish database of the BOE:

[Real Decreto 778/2012, de 4 de mayo, de régimen jurídico de las entidades de dinero electrónico.](#)

## SUMMARY

### 1. Executive summary

Directive 2009/110/EC has been mainly correctly transposed into the Spanish legislation by Law 21/2011 and R.D. 778/2012. Only three cases of partial conformity have been identified and cases of non-conformity have not been detected. However, none of the Spanish implementing measures met the time limit for transposition of the Directive. Article 22 of the Directive on transposition requires MS to approve and publish the national implementing measures not later than 30 April 2011. Law 21/2011 entered into force on 28 July 2011 and RD 778/2012 on 6 May 2012, thus both provisions amply surpassed the time limit established by the Directive.

In general, the majority of the options set out in the Directive have been also correctly transposed into the Spanish legislation. The main exception to that is the option set out in Article 9 of the Directive regarding optional exceptions which has not been incorporated into the Spanish legislation.

Some of the Directive's provisions have been literally transposed into the Spanish legislation, as it also occurred in the transposition of Directive 2007/64/EC on payment services (hereinafter referred to as "PSD").

Directive 2009/110/EC has been transposed by two different acts: Law 21/2011 and R.D. 778/2012 respectively. It should be noted that RD 778/2012 aims to implement Law 21/2011 and transposes the Directive's provisions not primarily transposed by Law 21/2011. Thus, there was no need to base the assessment of conformity of this Directive on other pieces of legislation apart from those notified by Spain to the Commission as the ones previously mentioned.

The Spanish legislation used for this assessment regulates the object of the Directive in a streamlined way since both acts are specific measures adopted only with the aim of transposing the Directive and thus derogating all acts which were in contradiction with the new legislation. The transposition, hence, has not been done through amending acts.

As it is mentioned above, Directive 009/110/EC has been transposed in the same manner as PSD, that is mainly in a conform manner and in some cases even through a literal transposition.

Thus, the aim of harmonising the legislation concerning the scope of both Directives has been met by the Spanish legislation.

Neither Law 21/2011 nor the R.D. 778/2012 follow the structure of the Directive. However, this fact does not affect the assessment of conformity of the Directive since, in general, there is no need to infer the conformity from other provisions. This is due to the fact that both pieces of legislation are streamlined legislation.

The transposition, in general, has been done in a clear and well-structured manner.

The surveillance authority in Spain is the Bank of Spain whose competences, among others, are the monitoring and surveillance of the electronic money institutions and their registration in the Special Register of Electronic Money Institutions. Such monitoring and surveillance shall be done in accordance with Article 43a of Law 26/988, of 29 July, on discipline and intervention of credit institutions.

The Ministry of Economy and Finance shall, prior to a report of the Bank of Spain and the Executive Services of the Committee for the prevention of anti-money laundering and other monetary crimes where competent, authorise the creation of electronic money institutions, coupled with the establishment of branches in Spain of those authorised or domiciled in non-Member State of the European Union.

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

### **2.1. Scope**

Both, the positive and negative scope of the Directive have been correctly transposed into the Spanish legislation by Article 1(1) and Article 2(1) of Law 21/2011. Thus, no issues regarding the scope were identified under the Spanish legislation.

Therefore, the scope of Law 21/2011 is to regulate the issuance of electronic money, including the legal framework for electronic money institutions and the prudential supervision of these entities. In addition, the categories of electronic money issuers which may issue electronic money have been correctly transposed into the Spanish legislation.

### **2.2. Terminology**

The terminology used in the Spanish legislation which transposes Directive 2009/110/EC is very similar to the one used by the Directive with slight nuances appropriate to the context of the national legislation. The transposition of the Directive has been done, in some cases, in a literal or almost literal manner. Thus, no problems of terminology which could affect the assessment of conformity of the Directive's provisions have been identified in the Spanish legislation.

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

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

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

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

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

### **2.4. Legal analysis**

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

Title I of the Directive has been transposed into the Spanish legislation in a conform manner.

##### *2.4.1.1. Article 1 – Subject*

Article 1 of the Directive has been correctly transposed into the Spanish legislation by Article 1(1) and Article 2(1) of Law 21/2011. The scope of Law 21/2011 is to regulate the issuance of electronic money, including the legal framework for electronic money institutions and the prudential supervision of these entities. In addition, the categories of electronic money issuers which may issue electronic money have been correctly transposed into the Spanish legislation.

Spain has chosen not to apply the option set out in the Article 1(3) of the Directive. Therefore, under the Spanish legislation, the “Instituto de Crédito Oficial” is not waived from the

application of all or part of the provisions of Title II of the Directive.

#### 2.4.1.2. Article. 2 – Definitions

Article 2 of the Directive concerning definitions has been transposed within the Spanish legislation in a conform manner. Thus, the definition of the terms “electronic money institution”, “electronic money”, “electronic money issuer” and “average outstanding electronic money” can be found within the relevant Spanish provisions transposing the Directive, namely Law 21/2011 (Articles 1, 2 and 3) and R.D. 778/2012 (Article 18).

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

In principle, the provisions of Title II have been transposed in an overall conform manner. However, an issue of partial conformity has been detected in this part

##### 2.4.2.1. Article 3 – General prudential rules

All the provisions of Article 3 of the Directive have been correctly transposed into the Spanish legislation with one exception, which is Article 3(3), sixth subparagraph of the Directive.

In this regard, Spain has not chosen to apply the option set out in Article 3(3), sixth subparagraph of the Directive. Thus, Spain does not waive the application of all or part of the obligations pursuant to Article 3(3) of the Directive in respect of electronic money institutions that carry out one or more of the activities listed in Article 8(1)(e) of Law 21/21/2011, which correctly transposes Article 6(1)(e) of the Directive.

Article 3(1) of the Directive has not been transposed in a literal manner, but Articles 5 and 10 to 15, Article 17(7) and Articles 18 to 25 of Directive 2007/64/EC referred therein, which shall apply to electronic money institutions *mutatis mutandis*, have been transposed in Spanish legislation.

##### 2.4.2.2. Article 4 – Initial capital

The requirements for the initial capital have been correctly transposed into the Spanish legislation. Thus, under the Spanish legislation, the initial capital that electronic money institutions must hold at the time of authorisation shall be of at least EUR 350 000.

##### 2.4.2.3. Article 5 – Own funds

All the provisions of Article 5 of the Directive have been correctly transposed into the Spanish legislation with the sole exception of Article 5(6)(b) of the Directive, which has been partially transposed by Article 17(2), second sentence of R.D. 778/2012.

In this regard, under the Spanish legislation the Bank of Spain is allowed to take the necessary measures to prevent the multiple use of elements eligible for own funds also where an electronic money institution carries out activities directly related to the issuance of electronic money. Even though it does not cover the cases under which the electronic money institution carries out activities of issuance of electronic money, the Spanish legislation goes beyond the scope of this Directive’s provision.

According to Article 17(1) of R.D. 778/2012 the own funds of the electronic money institution shall not be less than the highest amount of those laid down in Article 2(c), that is EUR 350 000, and in Article 18, which are transposing Article 4 and Article 5(2) to (5) of the Directive, respectively.

The own funds shall be calculated in accordance with methods A, B, C or D, which shall be chosen depending on the business indicators. R.D. 778/2012 does not refer to Method D as such. However, it refers to it by explicitly laying down that the own funds concerning the activity of issuing electronic money shall be at least, 2 per cent of the average outstanding electronic money, that I, Method D as laid down in Article 5(3) of the Directive.

##### 2.4.2.4. Article 6 – Activities

Article 6 of the Directive has been correctly transposed into the Spanish legislation.

Therefore, under the Spanish legislation electronic money institutions may pursue the following activities: the provision of payment services listed in the Annex to Directive 2007/64/EC



which has been correctly transposed into the Spanish legislation; the granting of credit related to payment services referred to in points 4, 5 or 7 of the Annex to Directive 2007/64/EC; 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 Article 6(1)(a); the operation of payment systems and business activities other than issuance of electronic money.

#### 2.4.2.5. Article 7 – Safeguarding requirements

Article 7 of the Directive has been correctly transposed into the Spanish legislation.

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, which has been also correctly transposed into the Spanish legislation. Such funds shall be safeguarded by no later than five business days.

In addition, under the Spanish legislation, secure, liquid and low-risk assets are demand deposits within credit institutions subject to prudential supervision and domiciled in MS of the European Union or of the Organisation of Economic Cooperation and Development and acquisitions of fixed income securities that have a null weighting for the purposes of credit risk and debt securities that have an external credit rating at least to a level of creditworthiness of 3 or better and which would receive a weighting less than or equal to 50% for credit risk.

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

Article 8 of the Directive has been correctly transposed into the Spanish legislation.

Branches of electronic money institutions authorised or domiciled in a non EU Member State which intend to be authorised in Spain will follow the same procedure for the authorisation as the electronic money institutions having their head office in Spain since Articles 1, 2 and 3 of R.D. 778/2012 also apply to them. Thus, the same treatment applies to both of them.

The authorisation will not be granted for the same reasons which apply to electronic money institutions having their head of office within the Community and also by application of the reciprocity principle.

The Bank of Spain shall notify the European Commission of all authorisations for branches of electronic money institutions having their head office outside the European Union.

Such notification shall be done once those branches have been registered in the special register of electronic money institutions of the Bank of Spain, which it is also a requirement for electronic money institutions having their head office within the Community.

#### 2.4.2.7. Article 9 – Optional exemptions

No provision transposing Article 9 of the Directive could be retrieved from the Spanish legislation. Spain has not chosen to apply the option set out in that Directive's article.

Therefore, Spain has waived neither all nor part of the application of certain provisions of the Directive, such as procedures and conditions as regards institutions issuing only a limited amount of electronic money.

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

Title III of the Directive has been transposed into the Spanish legislation in a conform manner.

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

Article 10 of the Directive has been correctly transposed into the Spanish legislation.

Under the Spanish legislation, electronic money institutions (EMI) shall be those legal persons authorised to issue electronic money. The use of the abbreviation "EMI" is restricted to such authorised institutions. Thus, natural or legal persons who violate this reserve will be punished in accordance with Article 29 of Law 26/1988, of 26 July, on discipline and intervention of credit institutions.

#### 2.4.3.2. Article 11 - Issuance and redeemability

Article 11 of the Directive has been correctly transposed into the Spanish legislation.

According to Article 17 of Law 21/2011, electronic money issuers issue electronic money at par value on the receipt of funds and shall redeem, at any moment, and at par value, the monetary value of the electronic money held. The issuing will be done upon request by the electronic money holder.

In addition, the contract between the electronic money issuer and the electronic money holder must state the conditions of redemption. There is not any period of notice with regard to the redemption.

Article 17(4), first subparagraph of Law 21/2011 lists the cases under which redemption may be subject to a fee which are the following: where the redemption is requested before the termination of the contract, where the contract provides for a termination date and the electronic money holder terminates the contract before that date; where redemption is requested once one year after the date of termination of the contract has passed.

While the Directive's provision refers to "more than one year after", Article 17(4), first subparagraph, point (c) of Law 21/2011 refers to "one year after". However, in any case, the request is that the redemption is requested when at least one year has passed after the date of termination of the contract.

According to Article 17(4), second subparagraph of Law 21/2011, any fee must be proportionate and commensurate with the actual costs incurred by the electronic money issuer.

Article 17(7) of Law 21/2011 establishes that the redemption rights of natural or legal persons who accept electronic money will be subject to the contractual agreement with the electronic money issuer.

It must be noted that while the Directive's provision refers to "person, other than a consumer", Article 17(7) of Law 21/2011 refers to "natural or legal persons". Therefore, it could be inferred that under the Spanish legislation the redemption rights of any person, hence also consumers, will be subject to contractual agreements. However, according to the Directive, any person who accepts electronic money will be subject to the contractual agreement between the electronic money issuer and that person.

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

Article 12 of the Directive has been correctly transposed into the Spanish legislation.

Article 18 of Law 21/2011 explicitly prohibits the granting of interest or any other benefit related to the length of time during which an electronic money holder holds the electronic money.

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

Article 13 of the Directive has been correctly transposed into the Spanish legislation.

Article 19 of Law 21/2011 cross-refers to Article 50 of Law 16/2009 which regulates the out-of-court proceedings and which correctly transposes Title IV of Directive 2007/64/EC. Article 50 of Law 16/2009 shall apply, with the adaptations done by regulations, that is *mutatis mutandis*, to issuers of electronic money.

Article 19 of Law 21/2011 is more detailed than the Directive's provision since it specifies that the provisions shall apply to issuers of electronic money in their relations with holders of electronic money, and where appropriate, with users of payments services not linked to such issuing.

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

In principle, the provisions of Title IV have been transposed in an overall conform manner. However, two issues of partial conformity have been detected in this part.

#### 2.4.4.1. Article 16 – Full harmonization

Article 16 of the Directive has been partially transposed into the Spanish legislation.

The transposition of the Directive into the Spanish legislation is conform with the only exceptions of Article 3(1) which has not been transposed into the Spanish legislation and Article 5(6)(b) of the Directive which has been partially transposed by Article 17(2), second sentence of R.D. 778/2012.

In this regard, in the Spanish legislation assessed for this conformity assessment no reference to the fact that Articles 5 and 10 to 15, Article 17(7) and Articles 18 to 25 of Directive 2007/64/EC should apply to electronic money institutions *mutatis mutandis*. In addition, the Bank of Spain is allowed to take the necessary measures to prevent the multiple use of elements eligible for own funds also where an electronic money institution carries out activities directly related to the issuance of electronic money.

Under the Spanish legislation, it does not seem that electronic money issuers derogate, to the detriment of electronic money holders, from the provisions of Law 21/2011 and R.D. 778/2012.

#### 2.4.4.2. Article 18 – Transitional provisions

Article 18 of the Directive has not been correctly transposed into the Spanish legislation.

Spain has chosen to apply the option set out in Article 18(1), first subparagraph of the Directive. Therefore, electronic money institutions that have been authorised for issuing electronic money before 30 April 2011 may continue issuing electronic money in Spain or in another Member State of the European Union. Thus, no prior authorisation shall be requested to create electronic money institutions whose shall not be obliged either to the fulfilment of the provisions of Title II of the Directive.

However, Article 18(1), second subparagraph of the Directive has been partially transposed into the Spanish legislation because the time line laid down in the Directive provision is different from the one referred to in the Transitional provision, paragraph (2), first subparagraph of Law 21/2011. In this regard, according to the Directive provision, by 30 October 2011 the competent authorities shall assess whether the electronic money institutions comply with the requirements laid down in the Directive or not. However, according to the Transitional provision, paragraph (2), first subparagraph of Law 21/2011 electronic money institutions shall submit all the relevant information by 30 October 2011. Hence, the General Direction of Treasure and Financial Policy shall assess the compliance with the requirements only later than 30 October 2011.

Article 18(1), third subparagraph of the Directive has been correctly transposed into the Spanish legislation. Therefore, electronic money institutions that have been authorised for issuing electronic money before 30 April 2011 and have submitted all the relevant information by 30 October 2011 shall be entered in the Special Register of Electronic Money Institutions of the Bank of Spain.

Spain has not chosen to apply the option set out in Article 18(2) of the Directive. Thus, electronic money institutions that have been authorised for issuing electronic money before 30 April 2011 shall always submit before 30 October 2011 the relevant information to the General Direction of Treasure and Financial Policy.

Article 18(3) of the Directive has been transposed into the Spanish legislation thorough the transitional provision contained within R.D. 778/2012 with some peculiarities due to the fact that R.D. 778/2012 entered into force after the year transitional period established in the Directive's provision. The Spanish measure allows electronic money institutions which started to carry out their activities before 30 April 2011 in accordance with the extinct Article 21 of Law 44/2002 (transposing the repealed Article 8 of Directive 2000/46) to maintain their authorisation to continue with their activities as long as the comply with the current Spanish rules transposing the Directive.

### 3. Conclusions on conformity

#### 3.1. Cases of partial conformity

**Article 5(6)(b) of the Directive** on the necessary measures that MS shall take to prevent the multiple use of elements eligible for own funds where an electronic money institution carries out activities other than the issuance of electronic money has been partially transposed by Article 17(2), second sentence of R.D. 778/2012. Unlike the Directive provision, under the Spanish legislation the Bank of Spain is allowed to take the necessary measures to prevent the multiple use of elements eligible for own funds not only in the cases where an electronic money institution carries out activities other than the issuance of electronic money but also when those entities in fact, carry out activities directly related to the issuance of electronic

money. Therefore, the Spanish provision in this particular case, goes beyond the scope of the Directive's Article and thus, full conformity cannot be concluded.

**Article 16(1) of the Directive** on full harmonisation has been partially transposed into the Spanish legislation. The transposition of this Directive into the Spanish legislation is conform with the only exception of Article 3(1) which has not been transposed as such, although it could be retrieved from the Spanish legislation and Article 5(6)(b) of the Directive which has been partially transposed by Article 17(2), second sentence of R.D. 778/2012.

**Article 18(1), second subparagraph of the Directive** on the transitional provision which demands MS to require the electronic money institutions provided for in the first subparagraph to submit all relevant information to the competent authorities in order to allow the latter to assess, by 30 October 2011, whether the electronic money institutions comply with the requirements laid down in the Directive and, if not, which measures need to be taken in order to ensure compliance or whether a withdrawal of authorisation is appropriate has been partially transposed into the Spanish legislation by Transitional provision, paragraph (2), first subparagraph of Law 21/2011. The time line laid down in the Directive's provision is different from the one referred to in the Transitional provision, paragraph (2), first subparagraph of Law 21/2011. In accordance with the Directive provision, by 30 October 2011 the competent authorities shall assess whether the electronic money institutions comply with the requirements laid down in the Directive or not. However, according to the Transitional provision, paragraph (2), first subparagraph of Law 21/2011 electronic money institutions shall submit all the relevant information by 30 October 2011. Hence, the General Direction of Treasure and Financial Policy shall assess the compliance with the requirements only later than 30 October 2011. However, it should be noted that this incongruence might be caused by the fact that the Spanish Government did not transpose the Directive within the time limit established in its Article 22 and thus, electronic money institutions within Spain did have a reduced amount of time for submitting all the relevant information to the General Direction of Treasure and Financial Policy. Spain transposed the Directive on July 2011 whereas the time limit set out in the Directive for its transposition was no later than 30 April 2011.

### **3.2. Cases of non-conformity**

Cases of non-conformity have not been detected

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

#### *3.3.1. Spain has chosen to apply the following options into the Spanish legislation:*

**Article 5(5) of the Directive** has been correctly transposed by Article 7(2)(b) of Law 21/2011. One of the faculties of the Bank of Spain is that it may require electronic money institutions to hold an amount of own funds up to 20 % higher or less than the amount which would result from the minimum required capital to the entity according to Methods A, B, C or D.

**Article 5(7) of the Directive** has been correctly transposed by Article 7(2)(a) of Law 21/2011. According to Article 7(2)(a) of Law 21/2011, the Bank of Spain, hence, the competent authority of Spain, may exempt electronic money institutions integrated into a consolidated group of credit institutions from the individual fulfilment of all own funds requirements, that is the requirements of own funds laid down in Article 5(2) and (3) of the Directive.

**Article 7(1) of the Directive** has been correctly transposed by Article 9(1) and (3) of Law 21/2011. According to Article 9(1), first subparagraph and Article 9(3) of Law 21/2011, electronic money institutions shall safeguard funds that have been received in exchange for electronic money in accordance with Article 10(1)(a) and (b) of Law 16/2009, of 13 November, on payment services. Those two provisions literally transpose Article 9(1)(a) and (b) and Article 9(1)(c) of Directive 2007/64/EC, respectively, cross-referred to in this Directive's provision.

**Article 7(2), third subparagraph of the Directive** has been correctly transposed by Article 16(2), second subparagraph of R.D. 778/2012. According to Article 16(2), second subparagraph of R.D. 778/2012, the Bank of Spain may determine in case of exceptional circumstances which of the risk elements of the assets of demand deposits, acquisitions of fixed income securities having a null weighting and units in an undertaking for collective investment in transferable securities do not constitute secure and low-risk assets.

**Article 7(3) of the Directive** has been correctly transposed by Article 9(2) of Law 21/2011. According to Article 9(2) of R.D. 778/2012 funds received from electronic money institutions in relation to the activities mentioned in Article 1(2) of Law 16/2009, which literally transposes Annex to Directive 2007/64/C regarding payment services, and that are not linked to the issuing of electronic money institutions will also be safeguarded.

**Article 7(4) of the Directive** has been correctly transposed by Article 9(2) and (3) of Law 21/2011. According to Article 9(2) of Law 21/2011, the general rule under the Spanish legislation is that funds will be safeguarded in accordance with Article 10(1)(a) of Law 16/2009 which correctly transposes Article 9(1)(a) and (b) of Directive 2007/64/EC. However, the Bank of Spain will allow electronic money institutions to safeguard funds in accordance with Article 10(1)(b) of Law 16/2009 which correctly transposes Article 9(1)(c) of Directive 2007/64/EC.

3.3.2. *Spain has not chosen to apply the following options into the Spanish legislation:*

**Article 1(3) of the Directive** on the possibility of waiving the application of all or part of the provisions of Title II of the Directive to some of the institutions referred to in Article 2 of Directive 2006/48/EC.

**Article 3(3), sixth subparagraph of the Directive** on the possibility of waiving or allowing the competent authorities of the MS of waiving the application of all or part of the obligations under that provision in respect of electronic money institutions that carry out one or more of the activities listed in Annex to directive 2007/64/EC.

**Article 9 of the Directive** on optional exemptions.

**Article 18(2) of the Directive** on the possibility of automatically granting authorisation to electronic money institutions if the competent authorities already have evidence that they comply with the requirements laid down in Articles 3, 4 and 5 of the Directive.

#### 4. List of acronyms

- Law 21/2011 stands for Law 21/2011, of 26 July, on electronic money.
- R.D. 778/2001 stands for Royal Decree 778/2012, of 4 May, on the legal framework of electronic money institutions.
- MS stands for Member States
- PSD stands for Directive 2007/64/EC on payment services

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Article No.	EN	ES	Act, Article No.	EN	ES	Observations
<b>Art. 1(1), intr. wording</b>	<p><b>TITLE I</b> <b>SCOPE AND DEFINITIONS</b></p> <p><i>Article 1</i> <b>Subject matter and scope</b></p> <p>1. This Directive lays down the rules for the pursuit of the activity of issuing electronic money to which end the Member States shall recognise the following categories of electronic money issuer:</p>	<p><b>TÍTULO I</b> <b>ÁMBITO DE APLICACIÓN Y DEFINICIONES</b></p> <p><i>Artículo 1</i> <b>Objeto y ámbito de aplicación</b></p> <p>1. La presente Directiva establece las normas sobre el ejercicio de la actividad de emisión de dinero electrónico, a cuyo efecto los Estados miembros reconocerán las siguientes categorías de emisores de dinero electrónico:</p>	<b>Art. 1(1) &amp; Art. 2(1), intro. wording of Law 21/2011</b>	<p><b>Article 1(1) of Law 21/2011</b> Subject matter and scope</p> <p>1. The subject of this Law is to regulate the issuance of electronic money, including the legal framework for electronic money institutions and the prudential supervision of these entities.</p> <p><b>Article 2(1), introductory wording of Law 21/2011</b> Activity reserve</p> <p>1. The following categories of electronic money issuers may issue electronic money:</p>	<p><b>Artículo 1, apartado 1 de la Ley 21/2011</b> Objeto y ámbito de aplicación.</p> <p>1. El objeto de esta Ley es la regulación de la emisión de dinero electrónico, incluyendo el régimen jurídico de las entidades de dinero electrónico y la supervisión prudencial de estas entidades.</p> <p><b>Artículo 2, apartado 1, frase introductoria de la Ley 21/2011</b> Reserva de actividad</p> <p>1. Podrán emitir dinero electrónico las siguientes categorías de emisores de dinero electrónico:</p>	<p><b>CONFORM</b></p> <p>Article 1(1) and Article 2(1), introductory wording of Law 21/2011 transpose Article 1(1), introductory wording of the Directive.</p> <p>According to Article 1(1) of Law 21/2011 the scope of the act is the regulation of the issuance of electronic money. It also regulates the framework for electronic money institutions and the prudential supervision of these entities. The prudential supervision is regulated in Article 3 of the Directive. Thus, the scope is in line with the Directive's provision.</p> <p>Article 2(1) introductory wording of Law 21/2011 lays down the categories of electronic money issuers.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 1(1)(a)</b>	(a) credit institutions as defined in point 1 of Article 4 of Directive 2006/48/EC including, in accordance with national	a) entidades de crédito, en el sentido del artículo 4, punto 1, de la Directiva 2006/48/CE, incluidas, de conformidad con la	<b>Art. 2(1)(a) of Law 21/2011</b>	<b>Article 2(1)(a) of Law 21/2011</b> (a) Credit institutions referred to in Article 1(2)	<b>Artículo 2, apartado 1, letra a) de la Ley 21/2011</b> a) Las entidades de crédito, a que se refiere el	<p><b>CONFORM</b></p> <p>Article 2(1)(a) of Law 21/2011 transposes Article 1(1)(a) of the Directive.</p> <p>Article 2(1)(a) of Law 21/2011 cross-refers to</p>

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	law, a branch thereof within the meaning of point 3 of Article 4 of that Directive, where such a branch is located within the Community and its head office is located outside the Community, in accordance with Article 38 of that Directive;	legislación nacional, cualquier sucursal de aquellas, en el sentido del artículo 4, punto 3, de la misma Directiva, cuando la sucursal se halle situada en la Comunidad y la entidad matriz se encuentre fuera de la Comunidad, de acuerdo con el artículo 38 de la citada Directiva;	<b>1</b>	of Legislative Royal Decree 1298/1986 of 28 June on transposition into the national legislation of the European legislation concerning credit institutions, and any branch in Spain of a credit institution whose head office is domiciled or authorised outside the European Union.	artículo 1.2 del Real Decreto Legislativo 1298/1986, de 28 de junio, sobre adaptación del Derecho vigente en materia de entidades de crédito al de las Comunidades Europeas, y cualquier sucursal en España de una entidad de crédito cuya matriz esté domiciliada o autorizada fuera de la Unión Europea.	<p>Article 1(2) of Legislative Royal Decree 1298/1986, which has been amended by Law 21/2011. According to that provision credit institution means an undertaking whose typical and usual business is to receive from the public deposits, loans, temporary transfers of financial assets or the like carrying with it the obligation of restitution, self-applying to the provision of credit or similar operations.</p> <p>Thus, this is in line with the Directive. It must be noted that the Spanish legislation is more detailed than the Directive's provision but it does not go beyond it.</p> <p>Article 2(1)(a) of Law 21/2011 also includes, when defining credit institutions, branches where the branch is located in Spain and its head office is domiciled or authorised outside the European Union.</p> <p>Thus, this is line with the Directive's provision.</p> <p>While the Directive's provision refers to the fact that the head office is located outside the Community, the Spanish legislation refers to the fact that the head office is domiciled or authorised outside the Community. However, it does not affect the assessment of conformity of this provision because the Directive has EEA relevance and so has Law 21/2011 by no limiting its application to the MS of the European Union.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 1(1)(b)</b>	(b) electronic money institutions as defined in	b) entidades de dinero electrónico, tal como se	<b>Art. 2(1)(b)</b>	<b>Article 2(1)(b) of Law 21/2011</b>	<b>Artículo 2, apartado 1, letra b) de la Ley 21/2011</b>	<b>CONFORM</b> Article 2(1)(b) of Law 21/2011 transposes

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	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;	definen en el artículo 2, punto 1, de la presente Directiva, incluidas, de conformidad con el artículo 8 de esta misma Directiva y con la legislación nacional, cualquier sucursal de aquellas, cuando la sucursal se halle situada en la Comunidad y la entidad matriz se encuentre fuera de la Comunidad;	<b>of Law 21/2011</b>	(b) Electronic money institution authorised pursuant to Article 4 of this Law and any branch in Spain of an electronic money institution whose head office is domiciled or authorised outside the European Union.	b) Las entidades de dinero electrónico autorizadas conforme al artículo 4 de esta Ley y cualquier sucursal en España de una entidad de dinero electrónico cuya matriz esté domiciliada o autorizada fuera de la Unión Europea..	<p>Article 1(1)(b) of the Directive.</p> <p>Article 2(1)(b) of Law 21/2011 cross-refers to Article 4 of the same act, which regulates the authorisation, and registration of the electronic money institutions.</p> <p>Electronic money institutions are defined in Article 3(1) of Law 21/2011. According to that provision electronic money institutions shall mean a legal person that has been granted authorisation under Title II to issue electronic money. Thus, this is line with the Directive.</p> <p>Article 2(1)(b) of Law 21/2011 also includes as a category of electronic money issuer branches of electronic money institutions where the branch is located in Spain and its head office is domiciled or authorised outside the European Union.</p> <p>While the Directive's provision refers to the fact that the head office is located outside the Community, the Spanish legislation refers to the fact that the head office is domiciled or authorised outside the Community. However, it does not affect the assessment of conformity of this provision because the Directive has EEA relevance and so has Law 21/2011 by no limiting its application to the MS of the European Union.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 1(1)(c)</b>	(c) post office giro institutions which are entitled under national law to issue electronic money;	c) oficinas de cheques postales facultadas en virtud de la legislación nacional para emitir dinero	<b>Art. 2(1)(c) of Law 21/2011</b>	<b>Article 2(1)(c) of Law 21/2011</b> (c) The State Society of Posts and Telegraphs, Inc.,	<b>Artículo 2, apartado 1, letra c) de la Ley 21/2011</b> c) La Sociedad Estatal de Correos y Telégrafos,	<b>CONFORM</b> Article 2(1)(c) of Law 21/2011 transposes Article 1(1)(c) of the Directive.



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		electrónico;	<b>1</b>	regarding the activities of issuing electronic money, which is entitled under its specific legislation.	S.A., respecto de las actividades de emisión de dinero electrónico a que se encuentre facultada en virtud de su normativa específica.	The Spanish post office giro institution which is entitled under national law to issue electronic money is the State Society of Posts and Telegraphs, Inc.  Therefore, under the Spanish legislation that institution is one of the categories of electronic money issuer.  Thus, conformity has been observed.
<b>Art. 1(1)(d)</b>	(d) the European Central Bank and national central banks when not acting in their capacity as monetary authority or other public authorities;	d) el Banco Central Europeo y los bancos centrales nacionales, cuando no actúen en su condición de autoridad monetaria, u otras autoridades públicas;	<b>Art. 2(1)(d) of Law 21/2011</b>	<b>Article 2(1)(d) of Law 21/2011</b>  (d) The Bank of Spain, when not acting in its capacity as monetary authority.	<b>Artículo 2, apartado 1, letra d) de la Ley 21/2011</b>  d) El Banco de España, cuando no actúe en su condición de autoridad monetaria.	<b>CONFORM</b>  Article 2(1)(d) of Law 21/2011 transposes Article 1(1)(d) of the Directive.  The Bank of Spain is one of the categories of electronic money issuer under national law.  It shall be recognised as such when not acting in its capacity as monetary authority.  Thus, conformity has been observed.
<b>Art. 1(1)(e)</b>	(e) Member States or their regional or local authorities when acting in their capacity as public authorities.	e) los Estados miembros y sus autoridades regionales y locales, cuando actúen en su condición de autoridades públicas.	<b>Art. 2(1)(e) of Law 21/2011</b>	<b>Article 2(1)(e) of Law 21/2011</b>  (e) The Central Government, the autonomous regions and local entities, when acting in their capacity as public authorities.	<b>Artículo 2, apartado 1, letra e) de la Ley 21/2011</b>  e) La Administración General del Estado, las Comunidades Autónomas y las Entidades Locales, cuando actúen en su condición de autoridades públicas.	<b>CONFORM</b>  Article 2(1)(e) of Law 21/2011 transposes Article 1(1)(e) of the Directive.  According to Article 2(1)(e) of Law 21/2011, the Central Government, the autonomous regions and local entities are categories of electronic money issuer under national law when acting in their capacity as public authorities.  Thus, conformity has been observed.
<b>Art. 1(2)</b>	2. Title II of this Directive lays down the rules for the taking up, the pursuit and	2. El título II de la presente Directiva establece las normas sobre	<b>Art. 1(1) of Law</b>	<b>Article 1(1) of Law 21/2011</b>	<b>Artículo 1, apartado 1 de la Ley 21/2011</b>	<b>CONFORM</b>  Article 1(1) of Law 21/2011 transposes

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	the prudential supervision of the business of electronic money institutions.	el acceso a la actividad de las entidades de dinero electrónico y su ejercicio, así como la supervisión prudencial de dichas entidades.	<b>21/2011</b>	1. The subject of this Law is to regulate the issuance of electronic money, including the legal framework for electronic money institutions and the prudential supervision of these entities.	1. El objeto de esta Ley es la regulación de la emisión de dinero electrónico, incluyendo el régimen jurídico de las entidades de dinero electrónico y la supervisión prudencial de estas entidades.	<p>Article 1(2) of the Directive.</p> <p>Article 1(1) of Law 21/2011 lays down that the subject of Law 21/2011 is to regulate the issuance of electronic money, including the legal framework for electronic money institutions and the prudential supervision of these entities.</p> <p>Article 1(1), Articles 6, 8, 9, 15 and 21 of Law 21/2011 and Article 4(1), Article 7, Article 16 (2) and Articles 17 and 18 of R.D. 778/2012 regulate the rules for the taking up, the pursuit and the prudential supervision of the business of electronic money institutions, that is, Title II of the Directive.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 1(3)</b>	3. Member States may waive the application of all or part of the provisions of Title II of this Directive to the institutions referred to in Article 2 of Directive 2006/48/EC, with the exception of those referred to in the first and second indents of that Article.	3. Los Estados miembros podrán excluir de la aplicación total o parcial de las disposiciones del título II de la presente Directiva a las entidades mencionadas en el artículo 2 de la Directiva 2006/48/CE, excepto aquellas a que hacen referencia los guiones primero y segundo de dicho artículo.	<b>N/A</b>	N/A	N/A	<p>Article 1(3) of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.</p> <p>Therefore, under the Spanish legislation, the “Instituto de Crédito Oficial” is not waived from the application of all or part of the provisions of Title II of the Directive.</p>
<b>Art. 1(4)</b>	4. This Directive does not apply to monetary value stored on instruments exempted as specified in Article 3(k) of Directive	4. La presente Directiva no se aplicará al valor monetario almacenado en los instrumentos exentos en virtud del artículo 3,	<b>Art. 1(3)(a) of Law 21/2011</b>	<b>Article 1(3)(a) of Law 21/2011</b> 3. This Act shall not apply to that monetary value:	<b>Artículo 1, apartado 3, letra a) de la Ley 21/2011</b> 3. Esta Ley no se aplicará a aquel valor monetario:	<b>CONFORM</b> Article 1(3)(a) of Law 21/2011 transposes Article 1(4) of the Directive. Article 1(3)(a) of Law 21/2011 lays down the

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	2007/64/EC.	letra k), de la Directiva 2007/64/CE.		(a) stored on instruments that can be used to acquire goods or services only in the premises used by the issuer or under a commercial agreement with the issuer, either within a limited network of service providers or for a limited range of goods or services in accordance with the conditions established by regulation;	a) almacenado en instrumentos que puedan utilizarse para la adquisición de bienes o servicios únicamente en las instalaciones del emisor o, en virtud de un acuerdo comercial con el emisor, bien en una red limitada de proveedores de servicios o bien para un conjunto limitado de bienes o servicios, de acuerdo con las condiciones que se establezcan reglamentariamente;	negative scope of the Directive for which it shall not apply to monetary value stored on instruments that can be used to acquire goods or services only in the premises used by the issuer, either within a limited network of service providers or for a limited range of goods or services, that is exempted according to Article 3(k) of Directive 2007/64/EC.  It must be noted that Article 1(3)(a) of Law 21/2011 transposes Article 1(4) of the Directive by literally transposing Article 3(k) of Directive 2007/64/EC.  Thus, conformity has been observed.
<b>Art. 1(5)</b>	5. This Directive does not apply to monetary value that is used to make payment transactions exempted as specified in Article 3(1) of Directive 2007/64/EC.	5. La presente Directiva no se aplicará al valor monetario utilizado para realizar operaciones de pago exentas en virtud del artículo 3, letra l), de la Directiva 2007/64/CE.	<b>Art. 1(3)(b) of 2011</b>	<b>Article 1(3)(b) of Law 21/2011</b> 3. This Act shall not apply to that monetary value: [...] (b) used to make payment transactions exempted as specified in Article 3(1) of Law 16/2009, of 13 November, on payment services.	<b>Artículo 1, apartado 3, letra b) de la Ley 21/2011</b> 3. Esta Ley no se aplicará a aquel valor monetario: [...] b) utilizado para realizar operaciones de pago exentas en virtud del artículo 3.1) de la Ley 16/2009, de 13 de noviembre, de servicios de pago.	<b>CONFORM</b> Article 1(3)(b) of Law 21/2011 literally transposes Article 1(5) of the Directive.  Article 1(3)(b) of Law 21/2011 cross-refers to Article 3(1) of Law 16/2009, of 13 November, on payment services which literally transposes Article 3(1) of Directive 2007/64/EC.  Thus, conformity has been observed.
<b>Art. 2, intr. wording</b>	<i>Article 2 Definitions</i> For the purposes of this Directive, the following	<i>Artículo 2 Definiciones</i> A efectos de la aplicación de la presente Directiva, se	<b>N/A</b>	N/A	N/A	<b>CONFORM</b> The structure of the Directive is different from the one of Law 21/2011. However, it does not affect the assessment of conformity

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	definitions shall apply:	entenderá por:			of this provision, as observed below. Thus, conformity has been observed.	
<b>Art. 2, pt (1)</b>	1. "electronic money institution" means a legal person that has been granted authorisation under Title II to issue electronic money;	1) «entidad de dinero electrónico»: toda persona jurídica a la cual se haya otorgado autorización, de conformidad con el título II, para emitir dinero electrónico;	<b>Art. 3(1) of Law 21/2011</b>	<b>Article 3(1) of Law 21/2011</b> 1. Electronic money institutions shall be those legal persons other than those referred to in Article 2(1)(a) of this Act, which have been granted authorisation to issue electronic money under this Chapter.	<b>Artículo 3, apartado 1 de la Ley 21/2011</b> 1. Tendrán la consideración de entidades de dinero electrónico aquellas personas jurídicas distintas de las contempladas en el artículo 2.1.a) de esta Ley, a las cuales se haya otorgado autorización para emitir dinero electrónico conforme a este capítulo.	<b>CONFORM</b> Article 3(1) of Law 21/2011 transposes Article 2, point (1) of the Directive.  According to Article 3(1) of Law 21/2011 electronic money institutions shall be those legal persons other than those referred to in Article 2(1)(a) of this Act that is that electronic money institutions are not to be considered as credit institutions. This is also in line with what is laid down in Recital 25 of the Directive concerning the amending of the definition of the term “credit institution”. In this regard, electronic money institutions are not to be considered as credit institutions but the latter shall continue to be allowed to issue electronic money and to carry on such activity Community-wide.  Thus conformity has been observed.
<b>Art. 2, pt (2)</b>	2. "electronic money" means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions as defined in point 5 of Article 4 of Directive 2007/64/EC, and which is accepted by a natural or	2) «dinero electrónico»: todo valor monetario almacenado por medios electrónicos o magnéticos que representa un crédito sobre el emisor, se emite al recibo de fondos con el propósito de efectuar operaciones de pago, según se definen en el artículo 4, punto 5, de la Directiva 2007/64/CE, y que es aceptado por una	<b>Art. 1(2) of Law 21/2011</b>	<b>Article 1(2) of Law 21/2011</b> 2. "Electronic money" means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions as defined in Article 2(5) of	<b>Artículo 1, apartado 2 de la Ley 21/2011</b> 2. Se entiende por dinero electrónico todo valor monetario almacenado por medios electrónicos o magnéticos que represente un crédito sobre el emisor, que se emita al recibo de fondos con el propósito de efectuar operaciones de pago según se definen en	<b>CONFORM</b> Article 1(2) of Law 21/2011 literally transposes Article 2, point (2) of the Directive.  Article 1(2) of Law 21/2011 cross-refers to Article 2(5) of Law 16/2009, of 13 November, on payment services, which literally transposes Article 4, point (5) of Directive 2007/64/EC. The definition of the term “electronic money” is technically neutral and covers all the electronic money products available in the market in accordance with

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	legal person other than the electronic money issuer;	persona física o jurídica distinta del emisor de dinero electrónico;		Law 16/2009, of 13 November, on payment services, and which is accepted by a natural or legal person other than the electronic money issuer.	el artículo 2.5 de la Ley 16/2009, de 13 de noviembre, de servicios de pago, y que sea aceptado por una persona física o jurídica distinta del emisor de dinero electrónico.	<p>recitals 7 and 8 of the Directive. Hence, electronic money is monetary value electronically or magnetically stored representing a claim, in the sense of Article 11(2) of the Directive, on the issuer for making payment transactions.</p> <p>Regarding the claim it has been correctly transposed into the Spanish legislation by Article 17(2) of Law 21/2011 (Article 11(2) of the Directive).</p> <p>Thus, conformity has been observed.</p>
<b>Art. 2, pt (3)</b>	3. "electronic money issuer" means entities referred to in Article 1(1), institutions benefiting from the waiver under Article 1(3) and legal persons benefiting from a waiver under Article 9;	3) «emisor de dinero electrónico»: cualquiera de las entidades a las que hace referencia el artículo 1, apartado 1, las entidades que se benefician de una exención en virtud del artículo 1, apartado 3, y las personas jurídicas que se benefician de una exención en virtud del artículo 9;	<b>Art. 2(2) of Law 21/2011</b>	<b>Article 2(2) of Law 21/2011</b> 2. Any physical or legal person other than those listed in the previous paragraph shall be prohibited to issue, on a professional basis, electronic money as defined in Article 1(2) of this Law.	<b>Artículo 2, apartado 2 de la Ley 21/2011</b> 2. Se prohíbe a toda persona física o jurídica distinta de las recogidas en el apartado anterior emitir, con carácter profesional, dinero electrónico tal y como se define en el artículo 1.2 de la presente Ley.	<b>CONFORM</b> Article 2(2) of Law 21/2011 transposes Article 2, point (3) of the Directive.  Article 2(2) of Law 21/2011 cross-refers to Article 1(2) of the same act, which correctly transposes Article 2, point 2 of the Directive when defining the term “electronic money”.  There is not a definition of the term “electronic money issuer” under the Spanish legislation. However, According to Article 2(2) of Law 21/2011 only the categories of electronic money issuers laid down in paragraph 1 thereof are allowed to issue electronic money. Thus, only the entities referred to in Article 1(1) of the Directive which has been correctly transposed into the Spanish legislation by Article 2(1) of Law 21/2011 are considered as electronic money issuer.  The Spanish legislation has not chosen to apply the options for which institutions may benefit from the waiver under Article 1(3)

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						neither legal persons benefiting from a waiver under Article 9. For that reason those institutions are not referred to when defining the term “electronic money issuer”.  Since the above-mentioned institutions are options, conformity is observed.
<b>Art. 2, pt (4)</b>	4. "average outstanding electronic money" means the average total amount of financial liabilities related to electronic money in issue at the end of each calendar day over the preceding six calendar months, calculated on the first calendar day of each calendar month and applied for that calendar month.	4) «media del dinero electrónico en circulación»: importe total medio del pasivo financiero conexo al dinero electrónico emitido al final de cada día natural durante los seis meses civiles precedentes, calculado el primer día natural de cada mes civil y aplicado al mes en cuestión.	<b>Article 18(1)(b), 2<sup>nd</sup> subpar a. of R.D. 778/2012</b>	<b>Article 18(1)(b), second subparagraph of R.D. 778/2012</b>  For the purposes of the application of this Royal Decree, “average outstanding electronic money” shall mean the average total amount of financial liabilities related to electronic money in issue at the end of each calendar day over the preceding six months, calculated on the first calendar day of each month and applied for that month.	<b>Artículo 18, apartado 1, letra b), párrafo segundo del R.D. 778/2012</b>  A los efectos de la aplicación de este real decreto, se entenderá por media del dinero electrónico en circulación, el importe total medio del pasivo financiero conexo al dinero electrónico emitido al final de cada día natural durante los seis meses precedentes, calculado el primer día natural de cada mes y aplicado al mes en cuestión.	<b>CONFORM</b>  Article 18(1)(b), second subparagraph of R.D. 778/2012 transposes Article 2, point (4) of the Directive.  The provision has been literally transposed into the Spanish legislation with the only exception that the Spanish legislation does not refer to “calendar month(s)” but to “month(s)”. However, it does not affect the assessment of conformity of this provision because it refers to “calendar day”. Thus, it is inferred that it refers to “calendar months” also. In addition, it is tradition under the Spanish legislation that when a provision is laying down time limits in months, it is understood that it refers to calendar months if no specification on the contrary is mentioned.  Thus, conformity has been observed.
<b>Art. 3(1)</b>	<b>TITLE II REQUIREMENTS FOR THE TAKING UP, PURSUIT AND PRUDENTIAL SUPERVISION OF THE BUSINESS OF ELECTRONIC MONEY</b>	<b>TÍTULO II CONDICIONES PARA LA ACTIVIDAD, EL EJERCICIO Y LA SUPERVISIÓN PRUDENCIAL DE LAS ENTIDADES DE DINERO</b>	<b>R.D. 778/2012, Art. 3(1)</b>  <b>Law 21/2011, Art. 3(1)</b>  <b>Law 21/2011, Art. 1, Art.</b>	<b>R.D. 778/2012, Article 3(1)</b>  <b>Law 21/2011, Article 4(2)</b>  <b>Law 21/2011, Article 4(1)</b>  <b>Law 21/2011, Article 5</b>  <b>R.D. 778/2012, Article</b>	<b>R.D. 778/2012, Artículo 3(1)</b>  <b>Ley 21/2011, Artículo 4(2)</b>  <b>Ley 21/2011, Artículo 4(1)</b>  <b>Ley 21/2011, Artículo 5</b>	<b>CONFORM</b>  According to Recital 9 of the Directive, the prudential supervisory regime for electronic money institutions must be aligned more closely with the risks faced by those institutions. That regime should also be made coherent with the prudential supervisory regime applying to payment institutions under

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<p><b>INSTITUTIONS</b></p> <p><i>Article 3</i></p> <p><b>General prudential rules</b></p> <p>1. Without prejudice to this Directive, Articles 5 and 10 to 15, Article 17(7) and Articles 18 to 25 of Directive 2007/64/EC shall apply to electronic money institutions <i>mutatis mutandis</i>.</p>	<p><b>ELECTRÓNICO</b></p> <p><i>Artículo 3</i></p> <p><b>Disposiciones prudenciales de carácter general</b></p> <p>1. Sin perjuicio de lo dispuesto en la presente Directiva, los artículos 5 y 10 a 15, el artículo 17, apartado 7, y los artículos 18 a 25 de la Directiva 2007/64/CE se aplicarán a las entidades de dinero electrónico <i>mutatis mutandis</i>.</p>	<p>4(2)</p> <p>Law 21/2011, Art. 4(1)</p> <p>Law 21/2011, Art. 5</p> <p>R.D. 778/2012, Art. 1(3)</p> <p>R.D. 778/2012, Art. 12, Art. 1(3)</p> <p>R.D. 778/2012, Art. 12, Art. 15(1)</p> <p>R.D. 778/2012, Art. 12, Art. 15(4)</p> <p>Law 21/2011, Art. 10</p> <p>R.D. 778/2012, Article 15(1)</p> <p>R.D. 778/2012, Article 15(4)</p> <p>Law 21/2011, Article 16</p> <p>Law 21/2011, Article 20</p> <p>R.D. 778/2012, Article 1(1), Article 21(2)(e) and Article 25</p> <p>Law 21/2011, Article 20</p> <p>R.D. 778/2012, Article 26</p> <p>Law 30/1992, of 26 November, on the Jurisdictional Regime of the Public Administration and of the Common Administrative Procedure</p> <p>Law 29/1998, of 13 July, on the Regulation of the Administrative Jurisdiction</p> <p>Law 21/2011, Article 22</p> <p>Law 21/2011, Articles 11 and 12</p>	<p>1(3)</p> <p>R.D. 778/2012, Article 3(2)</p> <p>Law 21/2011, Article 10</p> <p>R.D. 778/2012, Article 15(1)</p> <p>R.D. 778/2012, Article 15(4)</p> <p>Law 21/2011, Article 16</p> <p>Law 21/2011, Article 20</p> <p>R.D. 778/2012, Article 1(1), Article 21(2)(e) and Article 25</p> <p>Law 21/2011, Article 20</p> <p>R.D. 778/2012, Article 26</p> <p>Law 30/1992, de 26 de noviembre, de Régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común</p> <p>Law 29/1998, de 13 de julio, reguladora de la Jurisdicción Contencioso-Administrativa</p> <p>Law 21/2011, Artículo 22</p>	<p>R.D. 778/2012, Artículo 1(3)</p> <p>R.D. 778/2012, Artículo 3(2)</p> <p>Ley 21/2011, Artículo 10</p> <p>R.D. 778/2012, Artículo 15(1)</p> <p>R.D. 778/2012, Artículo 15(4)</p> <p>Ley 21/2011, Artículo 16</p> <p>Ley 21/2011, Artículo 20</p> <p>R.D. 778/2012, Artículo 1(1), Artículo 21(2)(e) y Artículo 25</p> <p>Ley 21/2011, Artículo 20</p> <p>R.D. 778/2012, Artículo 26</p> <p>Ley 30/1992, de 26 de noviembre, de Régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común</p> <p>Ley 29/1998, de 13 de julio, reguladora de la Jurisdicción Contencioso-Administrativa</p> <p>Ley 21/2011, Artículo 22</p>	<p>Directive 2007/64/EC. In this respect, the relevant provisions of Directive 2007/64/EC should apply <i>mutatis mutandis</i> to electronic money institutions without prejudice to the provisions of this Directive.</p> <p>No provision transposing Article 3(1) of the Directive as such could be retrieved from the Spanish legislation.</p> <p>Nevertheless, after the assessment of Articles 5 and 10 to 15, Article 17(7) and Articles 18 to 25 of Directive 2007/64/EC cross-referred in this Directive's provision it is observed that those provisions have been correctly transposed into the Spanish legislation.</p> <p>In concrete, Article 5 of Directive 2007/64/EC on the applications for authorisation has been correctly transposed into the Spanish legislation by Article 3(1) of R.D. 778/2012.</p> <p>Article 10 of Directive 2007/64/EC on the granting of authorisation has been correctly transposed into the Spanish legislation by Article 4(2) of Law 21/2011.</p> <p>Article 11 of Directive 2007/64/EC on the communication of the decision has been correctly transposed into the Spanish legislation by Article 4(1) of Law 21/2011.</p> <p>Article 12 of Directive 2007/64/EC on the withdrawal of authorisation has been correctly transposed into the Spanish legislation by Article 5 of Law 21/2011.</p> <p>Article 13 of Directive 2007/64/EC on the registration has been correctly transposed into</p>

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			<p><b>Law 21/2011, Art. 16</b></p> <p><b>Law 21/2011, Art. 20</b></p> <p><b>R.D. 778/2012, Art. 1(1), 21(2)(e) and 25</b></p> <p><b>Law 21/2011, Art. 20</b></p> <p><b>R.D. 778/2012, Art. 26</b></p> <p><b>Law 30/1992, of 26 November, on the Jurisdictional Regim</b></p>	<p><b>R.D. 778/2012, Articles 10 and 11</b></p>	<p><b>Ley 21/2011, Artículos 11 y 12</b></p> <p><b>R.D. 778/2012, Artículos 10 y 11</b></p>	<p>the Spanish legislation by Article 1(3) of R.D. 778/2012.</p> <p>Article 14 of Directive 2007/64/EC on the maintenance of authorisation has been correctly transposed into the Spanish legislation by Article 3(2) of R.D. 778/2012.</p> <p>Article 15 of Directive 2007/64/EC on the accounting and statutory audit has been correctly transposed into the Spanish legislation by Article 10 of Law 21/2011, which cross-refers to Article 14 of Law 16/2009 which transposes Directive 2007/64/EC.</p> <p>Article 17(7) of Directive 2007/64/EC on the outsourcing of operational functions of payment services has been correctly transposed into the Spanish legislation by Article 15(1) of R.D. 778/2012.</p> <p>Article 18 of Directive 2007/64/EC on the liability has been correctly transposed into the Spanish legislation by Article 15(4) of R.D. 778/2012.</p> <p>Article 19 of Directive 2007/64/EC on the record keeping has been correctly transposed into the Spanish legislation by Article 16 of Law 21/2011. Entities must keep the documents for five years.</p> <p>Article 20 of Directive 2007/64/EC on the designation of competent authorities has been correctly transposed into the Spanish legislation by Article 20 of Law 21/2011 and by Article 1(1), Article 21(2)(e) and Article 25 of R.D. 778/2012.</p>



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			<p>e of the Public Administration and of the Common Administrative Procedure</p> <p>Law 29/1998, of 13 July, on the Regulation of the Administrative Jurisdiction</p> <p>Law 21/2011, Art. 22</p> <p>Law 21/2011, Art.</p>			<p>Article 21 of Directive 2007/64/EC on the supervision has been correctly transposed into the Spanish legislation by Article 20 Law 21/2011.</p> <p>Article 22 of Directive 2007/64/EC on the professional secrecy has been correctly transposed into the Spanish legislation by Article 26 of R.D. 778/2012.</p> <p>Article 23 of Directive 2007/64/EC on the right to apply to the courts has not been transposed into Law 21/2011 or R.D. 778/2012. However, the general provisions of Administrative Law apply and in concrete Law 30/1992, of 26 November, on the Jurisdictional Regime of the Public Administration and of the Common Administrative Procedure, and Law 29/1998, of 13 July, on the Regulation of the Administrative Jurisdiction. According to those laws, any decision adopted by a public administration or entity may be appealed before Court. Moreover, Article 20(6) of Law 21/2011 lays down that the rulings adopted by the Bank of Spain shall be subject to appeal before the ministry of Economy and Treasure.</p> <p>Article 24 of Directive 2007/64/EC on the exchange of information has been correctly transposed into the Spanish legislation by Article 22 of Law 21/2011.</p> <p>Article 25 of Directive 2007/64/EC on the exercise of the right of establishment and freedom to provide services has been correctly transposed into the Spanish legislation by Articles 11 and 12 of Law 21/2011 and by Articles 10 and 11 of R.D.</p>

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			<b>11 and 12 R.D. 778/2012, Art. 10 and 11</b>			778/2012. Thus, conformity has been observed.
<b>Art. 3(2)</b>	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. Las entidades de dinero electrónico informarán a las autoridades competentes antes de proceder a cualquier cambio material en las medidas adoptadas para proteger los fondos que se hayan recibido a cambio del dinero electrónico emitido.	<b>Art. 9(3) of Law 21/2011</b>	<b>Article 9(3) of Law 21/2011</b>  3. Notwithstanding the foregoing, the Bank of Spain, based on the uniqueness of the business of electronic money institutions and to improve the protection of the funds received by them, may, upon request by the entity, authorise the use of the safeguarding method laid down in Article 10(1)(b) of Law 16/2009, of 13 November, on payment services, protect the funds received in exchange for electronic money issued or those received for the provision of payment services not linked to that issuing.  <b>Article 3(1) and (2)(e) and (f) of R.D. 778/2012</b>	<b>Artículo 9, apartado 3 de la Ley 21/2011</b>  3. No obstante lo anterior, el Banco de España, atendiendo a la singularidad del negocio de las entidades de dinero electrónico y con el fin de mejorar la protección de los fondos recibidos por ellas, podrá autorizar, cuando así lo solicite la entidad, la utilización del método de salvaguarda previsto en el artículo 10.1.b) de la Ley 16/2009, de 13 de noviembre, de servicios de pago, ya sea para proteger los fondos que se hayan recibido a cambio del dinero electrónico emitido, ya sea los recibidos para la prestación de servicios de pago no vinculados a dicha emisión.	<b>CONFORM</b>  Article 9(3) of Law 21/2011 and Article 3(1) and (2)(e) and (f) of R.D. 778/2012 transpose Article 3(2) of the Directive.  This is line with Article 9(3) of Law 21/2011 according to which the Bank of Spain, based on the uniqueness of the business of electronic money institutions and to improve the protection of the funds received by them, may, upon request by the entity, authorise the use of other safeguarding method. It will be authorised in order to protect the funds that are received in exchange for electronic money issued, or those received for the provision of payment services not linked to that issuing. Hence, the entity must notify the Bank of Spain of any material change, which according to Recital 14 of the Directive is any change in the safeguarding method, in the credit institution where safeguarded funds are deposited or in the insurance undertaking, which insured the funds.  Recital 14 is also in line with Article 3(1) and (2)(e) and (f) of R.D. 778/2012 according to which the electronic money institution will immediately inform the General Secretariat of the Treasury and Financial Policy of any

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			<p>1. The request for authorisation to create an electronic money institution shall be addressed to the General Secretariat of the Treasury and Financial Policy, accompanied by the following documents in triplicate:</p> <p>[...]</p> <p>(e) A description of the measures taken to protect the funds received in exchange for electronic money issued, or, if applicable, from the provision of payment services in accordance with the provisions of Article 9 of Law 21/2011, of 26 July.</p> <p>(f) A description of the business management methods of the applicant and of the internal control mechanisms, including administrative, risk management and accounting procedures that demonstrate that such methods and business control mechanisms are proportionate and appropriate.</p>	<p><b>Artículo 3, apartado 1 y apartado 2, letras e) y f) del R.D. 778/2012</b></p> <p>1. La solicitud de autorización para la creación de una entidad de dinero electrónico se dirigirá a la Secretaría General del Tesoro y Política Financiera, acompañada de los siguientes documentos por triplicado:</p> <p>[...]</p> <p>e) Una descripción de las medidas adoptadas para proteger los fondos recibidos a cambio del dinero electrónico emitido, o, en su caso, procedentes de la prestación de servicios de pago, con arreglo a lo previsto en el artículo 9 de la Ley 21/2011, de 26 de julio.</p> <p>f) Una descripción de los métodos de gestión empresarial del solicitante y de los mecanismos de control interno, incluidos procedimientos administrativos, de gestión de riesgo y contables, que demuestre que dichos métodos y mecanismos de</p>	<p>change affecting the accuracy of the information provided. Such information will be, among others, the description of the measures taken to protect the funds received in exchange for electronic money issued and the description of the business management methods and of the internal control mechanisms, including administrative, risk management and accounting procedures.</p> <p>Hence, the electronic money institution will immediately inform the General Secretariat of the Treasury and Financial Policy of any material change in measures taken for safeguarding of funds.</p> <p>Thus, conformity is observed.</p>

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				<p>2. The electronic money institution shall inform immediately of any change affecting the accuracy of the information in accordance with this article. In any case, promoters shall be requested whatever data or reports deemed necessary to verify compliance with the requirements laid down in this Royal Decree.</p>	<p>control empresarial son proporcionados y adecuados.</p> <p>2. La entidad de dinero electrónico informará inmediatamente de cualquier cambio que afecte a la exactitud de la información de conformidad con este artículo. En todo caso, cabrá exigir a los promotores cuantos datos o informes se consideren oportunos para verificar el cumplimiento de los requisitos establecidos en este real decreto.</p>	
<b>Art. 3(3), 1<sup>st</sup> subpar a.</b>	<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</p>	<p>3. Cualquier persona física o jurídica que haya adoptado la decisión de adquirir o ceder, directa o indirectamente, una participación cualificada en el sentido del artículo 4, punto 11, de la Directiva 2006/48/CE en una entidad de dinero electrónico, o de seguir aumentando o reduciendo, directa o indirectamente, dicha participación cualificada, como consecuencia de lo cual el porcentaje del capital o de</p>	<b>Art. 21(1), 1<sup>st</sup>&amp;2<sup>nd</sup> subpar as. of Law 21/2011</b>	<p><b>Article 21(1), first and second subparagraphs of Law 21/2011</b></p> <p>1. Any natural or legal person, acting alone or in concert, who has taken a decision to acquire or dispose of, directly or indirectly, a significant holding in a Spanish electronic money institution Spanish, shall notify the Bank of Spain of its intention in advance of such acquisition or disposal.</p>	<p><b>Artículo 21, apartado 1, párrafos primero y segundo de la Ley 21/2011</b></p> <p>1. Cualquier persona física o jurídica que, por sí sola o actuando de forma concertada, haya adoptado la decisión de adquirir o ceder, directa o indirectamente, una participación significativa en una entidad de dinero electrónico española, notificará previamente al Banco de España su intención de efectuar dicha</p>	<p><b>CONFORM</b></p> <p>Article 21(1), first and second subparagraphs of Law 21/2011 transposes Article 3(3), first subparagraph of the Directive.</p> <p>It must be noted that the Bank of Spain is the competent authority in Spain that must be notified concerning the acquisition, disposal, increase or reduction of qualifying holding.</p> <p>Concerning the terminology, it observed that while the Directive’s provision refers to “qualifying holding”, Article 21(1) of Law 21/2011 refers to the equivalent of “significant holding”. However, it does not affect the assessment of conformity of this provision because according to Article 4, point 11 of Directive 2006/48/EC “qualifying</p>

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	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.	derechos de voto poseído ascendería, sobrepasaría o caería por debajo del 20 %, el 30 % o el 50 %, o que la entidad de dinero electrónico pasase a ser su sucursal o dejase de serlo, deberá informar previamente a las autoridades competentes de su intención de efectuar dicha adquisición, cesión, aumento o reducción.		In the same way, any natural or legal person, acting alone or in concert, who has taken a decision to increase or reduce, directly or indirectly, a significant holding in an electronic money institution, 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 control the electronic money institution or stop doing it, shall notify the Bank of Spain of its intention in advance of such increase or reduction.	adquisición o cesión. De manera análoga, cualquier persona física o jurídica que, por sí sola o actuando de manera concertada, haya adoptado la decisión de aumentar o reducir, directa o indirectamente, su participación significativa en una entidad de dinero electrónico, como consecuencia de lo cual su porcentaje del capital o de derechos de voto poseídos ascendería, sobrepasaría o caería por debajo del 20 por ciento, el 30 por ciento o el 50 por ciento, o pasaría a controlar la entidad de dinero electrónico o dejaría de hacerlo, notificará previamente al Banco de España su intención de efectuar dicho aumento o reducción.	holding” means a direct or indirect holding in an undertaking which represents 10 % or more of the capital or of the voting rights or which makes it possible to exercise a significant influence over the management of that undertaking, which is the same definition as of the term “significant holding” laid down in Article 4(2), second subparagraph of Law 21/2011 and of Article 6(3), second subparagraph of Law 16/2009, on payment services.  In addition, the Spanish legislation specifies that the decision to acquire, dispose, increase or reduce of qualifying holdings may be done acting alone or in concerted manner. The Directive’s provision is silent in this regard. Therefore, it can be understood that both possibilities are covered.  The proportion of voting rights chosen by the Spanish legislation is the same as those referred to in the Directive’s provision, that is, that the voting rights held would reach, exceed or fall below 20 %, 30 % or 50 %.  Thus, conformity has been observed.
<b>Art. 3(3), 2<sup>nd</sup> subpar a.</b>	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	El adquirente propuesto deberá facilitar a la autoridad competente información que indique el volumen de dicha participación así como la información pertinente a la que hace referencia el	<b>Art. 21(2) of Law 21/2011</b> 2. The proposed acquirer shall supply to the competent authority information indicating the size of the intended holding and relevant	<b>Artículo 21, apartado 2 de la Ley 21/2011</b> 2. El adquirente propuesto deberá facilitar al Banco de España información que indique el volumen de dicha participación así como la información	<b>CONFORM</b> Article 21(2) of Law 21/2011 almost literally transposes Article 3(3), second subparagraph of the Directive.  The Bank of Spain is the competent authority in Spain that must be supplied with the relevant information.	

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	2006/48/EC.	artículo 19 bis, apartado 4, de la Directiva 2006/48/CE.		information referred to in Article 57(1) of Law 26/1988, of 29 July, on discipline and intervention of credit institutions.	pertinente a la que hace referencia el artículo 57.1 de la Ley 26/1988, de 29 de julio, sobre disciplina e intervención de las entidades de crédito.	The Directive's provision cross-refers to Article 19a(4) of Directive 2006/48/EC which has been literally transposed by Article 57(1) of Law 26/1988, of 29 July, on discipline and intervention of credit institutions, as last amended by Law 5/2009 (cross-referred to in Article 21(2) of Law 21/2011).  Thus, conformity has been observed.
<b>Art. 3(3), 3<sup>rd</sup> subpara a.</b>	Where the influence exercised by the persons referred to in the second subparagraph is likely to operate to the detriment of the prudent and sound management of the institution, the competent authorities shall express their opposition or take other appropriate measures to bring that situation to an end. Such measures may include injunctions, sanctions against directors or managers, or the suspension of the exercise of the voting rights attached to the shares held by the shareholders or members in question.	En caso de que la influencia ejercida por las personas contempladas en el párrafo segundo pueda ir en detrimento de una gestión prudente y sana de la entidad, las autoridades competentes manifestarán su oposición o adoptarán otras medidas apropiadas para poner fin a dicha situación. Tales medidas podrán incluir requerimientos, sanciones a sus dirigentes o la suspensión del ejercicio del derecho de voto vinculado a las acciones o participaciones poseídas por los accionistas o socios de que se trate.	<b>Art. 21(3), 1<sup>st</sup> sentence &amp; (4) of Law 21/2011</b>	<b>Article 21(3), first sentence and (4) of Law 21/2011</b>  3. The Bank of Spain shall within sixty working days as from the date in which the receipt of the notification referred to in paragraph 1 above was done, to assess whether the influence exercised by the proposed acquirer is likely to operate to the detriment of the sound and prudent management of the institution, and where appropriate, express its opposition to the proposed acquisition.  4. In case of any of the acquisitions regulated in this article is done without having previously notified the Bank of Spain, or, having been notified, the Bank of Spain explicitly	<b>Artículo 21, apartado 3, primera frase y apartado 4 de la Ley 21/2011</b>  3. El Banco de España dispondrá de un plazo de sesenta días hábiles, a contar desde la fecha en que haya efectuado el acuse de recibo de la notificación a la que se refiere el apartado 1 anterior, para valorar si la influencia ejercida por el adquirente propuesto puede ir en detrimento de una gestión sana y prudente de la entidad y, en su caso, oponerse a la adquisición propuesta.  4. Cuando se efectúe una de las adquisiciones reguladas en este artículo sin haber notificado previamente al Banco de España, o, habiéndole notificado, mediara la	<b>CONFORM</b>  Article 21(3), first sentence and (4) of Law 21/2011 transposes Article 3(3), third subparagraph of the Directive.  According to Article 21(3), first sentence of Law 21/2011, the Bank of Spain shall express its opposition in case the influence exercised by the proposed acquirer is likely to operate to the detriment of the sound and prudent management of the institution. It shall do that within sixty working days from the moment the relevant information has been notified and it has the receipt of it. The Directive's provision does not mention any time limit for exercising such opposition.  In addition, the Bank of Spain shall also apply the measures laid down in Article 21(4) of Law 21/2011 in order to bring that situation to an end. Those measures are that automatically the voting rights attached to holdings irregularly acquired shall not be exercised and that the entity may be intervened or its managers may be replaced.  Moreover, the sanctions laid down in Title I of Law 26/1998, of 29 July, on discipline and

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			<p>opposes to it, within the time limit laid down in the previous paragraph, the following effects shall occur:</p> <p>(a) In any case and in an automatic way, the voting rights attached to holdings irregularly acquired shall not be exercised. If, however, they were to be exercised, the corresponding votes shall be declared void and the agreements shall be challenged in court, as laid down in Title V, Chapter IX of Legislative Royal Decree 1/2010, of 2 July, adopting the consolidated text of Law on corporations, being the Bank of Spain entitled in this regard.</p> <p>(b) If necessary, the intervention of the entity or the replacement of its managers shall be agreed, as laid down in Title III of Law 26/1998, of 29 July, on discipline and intervention of credit institutions.</p> <p>In addition, sanctions laid down in Title I of the same</p>	<p>oposición expresa del Banco de España, formulada en el plazo previsto en el apartado anterior, se producirán los siguientes efectos:</p> <p>a) En todo caso y de forma automática, no se podrán ejercer los derechos políticos correspondientes a las participaciones adquiridas irregularmente. Si, no obstante, llegaran a ejercerse, los correspondientes votos serán nulos y los acuerdos serán impugnables en vía judicial, según lo previsto en el capítulo IX del título V del Real Decreto Legislativo 1/2010, de 2 de julio, por el que se aprueba el Texto Refundido de la Ley de sociedades de capital, estando legitimado al efecto el Banco de España.</p> <p>b) Si fuera preciso, se acordará la intervención de la entidad o la sustitución de sus administradores, según lo previsto en el título III de la Ley 26/1988, de 29 de julio, sobre disciplina e intervención de las</p>	<p>intervention of credit institutions shall be imposed. In that Title, the different sanctions that might be applied to credit institutions and their managers are laid down in Article 1 to 27. Those sanctions shall also apply to natural and legal persons having a qualifying holding and to those having Spanish nationality and controlling a credit institution in another Member State. They shall also apply to managers of the responsible entities.</p> <p>Thus, conformity has been observed.</p>

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				Law shall be imposed.	entidades de crédito. Además, se impondrán las sanciones previstas en el título I de la misma Ley.	
<b>Art. 3(3), 4<sup>th</sup> subpar a.</b>	Similar measures shall apply to natural or legal persons who fail to comply with the obligation to provide prior information, as laid down in this paragraph.	Medidas similares se aplicarán a las personas físicas o jurídicas que incumplan la obligación de proporcionar información previa, tal como se establece en el presente apartado.	<b>Art. 21(4) of Law 21/2011</b>	<b>Article 21(4) of Law 21/2011</b> 4. In case of any of the acquisitions regulated in this article is done without having previously notified the Bank of Spain, or, having been notified, the Bank of Spain explicitly opposes to it, within the time limit laid down in the previous paragraph, the following effects shall occur:  (a) In any case and in an automatic way, the voting rights attached to holdings irregularly acquired shall not be exercised. If, however, they were to be exercised, the corresponding votes shall be declared void and the agreements shall be challenged in court, as laid down in Title V, Chapter IX of Legislative Royal Decree 1/2010, of 2 July, adopting the consolidated text of Law on	<b>Artículo 21, apartado 4 de la Ley 21/2011</b> 4. Cuando se efectúe una de las adquisiciones reguladas en este artículo sin haber notificado previamente al Banco de España, o, habiéndole notificado, mediara la oposición expresa del Banco de España, formulada en el plazo previsto en el apartado anterior, se producirán los siguientes efectos:  a) En todo caso y de forma automática, no se podrán ejercer los derechos políticos correspondientes a las participaciones adquiridas irregularmente. Si, no obstante, llegaran a ejercerse, los correspondientes votos serán nulos y los acuerdos serán impugnables en vía judicial, según lo previsto en el capítulo IX del título V del Real Decreto Legislativo 1/2010, de 2	<b>CONFORM</b>  Article 21(4) of Law 21/2011 transposes Article 3(3), fourth subparagraph of the Directive.  Article 21(4) of Law 21/2011 lays down the measures that shall apply to natural or legal persons who fail to comply with the obligation to provide prior information to the Bank of Spain and also in the case it expresses its opposition to the proposed acquisition. The measures that shall apply are the same in both cases.  Thus, conformity has been observed.



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				<p>corporations, being the Bank of Spain entitled in this regard.</p> <p>(b) If necessary, the intervention of the entity or the replacement of its managers shall be agreed, as laid down in Title III of Law 26/1998, of 29 July, on discipline and intervention of credit institutions.</p> <p>In addition, sanctions laid down in Title I of the same Law shall be imposed.</p>	<p>de julio, por el que se aprueba el Texto Refundido de la Ley de sociedades de capital, estando legitimado al efecto el Banco de España.</p> <p>b) Si fuera preciso, se acordará la intervención de la entidad o la sustitución de sus administradores, según lo previsto en el título III de la Ley 26/1988, de 29 de julio, sobre disciplina e intervención de las entidades de crédito.</p> <p>Además, se impondrán las sanciones previstas en el título I de la misma Ley.</p>	
<b>Art. 3(3), 5<sup>th</sup> subpar a.</b>	<p>If a holding is acquired despite the opposition of the competent authorities, those authorities shall, regardless of any other sanction to be adopted, provide for the exercise of the voting rights of the acquirer to be suspended, the nullity of votes cast or the possibility of annulling those votes.</p>	<p>En el supuesto de que se adquiriera una participación pese a la oposición de las autoridades competentes, estas declararán, independientemente de las demás sanciones que hayan de adoptarse, bien la suspensión del ejercicio del derecho de voto del adquirente, bien la nulidad de los votos emitidos, bien la posibilidad de anularlos.</p>	<b>Art. 21(4) of Law 21/2011</b>	<p><b>Article 21(4) of Law 21/2011</b></p> <p>4. In case of any of the acquisitions regulated in this article is done without having previously notified the Bank of Spain, or, having been notified, the Bank of Spain explicitly opposes to it, within the time limit laid down in the previous paragraph, the following effects shall occur:</p> <p>(a) In any case and in an</p>	<p><b>Artículo 21, apartado 4 de la Ley 21/2011</b></p> <p>4. Cuando se efectúe una de las adquisiciones reguladas en este artículo sin haber notificado previamente al Banco de España, o, habiéndole notificado, mediara la oposición expresa del Banco de España, formulada en el plazo previsto en el apartado anterior, se producirán los siguientes efectos:</p>	<p><b>CONFORM</b></p> <p>Article 21(4) of Law 21/2011 transposes Article 3(3), fifth subparagraph of the Directive.</p> <p>According to Article 21(4) of Law 21/2011, in case a holding is acquired despite the opposition of the Bank of Spain the voting rights attached to holdings irregularly acquired shall not be exercised. If, however, those voting rights are exercised, they shall be voided and the agreements shall be challenged in court.</p> <p>The sanctions laid down in Title I of Law 26/1998, of 29 July, on discipline and</p>

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		<p>automatic way, the voting rights attached to holdings irregularly acquired shall not be exercised. If, however, they were to be exercised, the corresponding votes shall be declared void and the agreements shall be challenged in court, as laid down in Title V, Chapter IX of Legislative Royal Decree 1/2010, of 2 July, adopting the consolidated text of Law on corporations, being the Bank of Spain entitled in this regard.</p> <p>(b) If necessary, the intervention of the entity or the replacement of its managers shall be agreed, as laid down in Title III of Law 26/1998, of 29 July, on discipline and intervention of credit institutions.</p> <p>In addition, sanctions laid down in Title I of the same Law shall be imposed.</p>	<p>a) En todo caso y de forma automática, no se podrán ejercer los derechos políticos correspondientes a las participaciones adquiridas irregularmente. Si, no obstante, llegaran a ejercerse, los correspondientes votos serán nulos y los acuerdos serán impugnables en vía judicial, según lo previsto en el capítulo IX del título V del Real Decreto Legislativo 1/2010, de 2 de julio, por el que se aprueba el Texto Refundido de la Ley de sociedades de capital, estando legitimado al efecto el Banco de España.</p> <p>b) Si fuera preciso, se acordará la intervención de la entidad o la sustitución de sus administradores, según lo previsto en el título III de la Ley 26/1988, de 29 de julio, sobre disciplina e intervención de las entidades de crédito.</p> <p>Además, se impondrán las sanciones previstas en el título I de la misma Ley.</p>	<p>intervention of credit institutions shall also be imposed.</p> <p>In addition, and unlike the Directive's provision, under the Spanish legislation, where appropriate, the intervention of the entity or the replacement of its managers is allowed in such cases. The said action does not seem to go beyond the Directive.</p> <p>Thus, conformity has been observed.</p>

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<b>Art. 3(3), 6<sup>th</sup> subpar a.</b>	The Member States may waive or allow their competent authorities to waive the application of all or part of the obligations pursuant to this paragraph in respect of electronic money institutions that carry out one or more of the activities listed in Article 6(1)(e).	Los Estados miembros podrán eximir o permitir a sus autoridades competentes que eximan de la aplicación total o parcial de las obligaciones previstas en el presente apartado a las entidades de dinero electrónico que realicen una o varias de las actividades que se enumeran en el artículo 6, apartado 1, letra e).	N/A	N/A	N/A	Article 3(3), sixth subparagraph of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.
<b>Art. 3(4)</b>	4. Member States shall allow electronic money institutions to distribute and redeem electronic money through natural or legal persons which act on their behalf. Where the electronic money institution wishes to distribute electronic money in another Member State by engaging such a natural or legal person, it shall follow the procedure set out in Article 25 of Directive 2007/64/EC.	4. Los Estados miembros permitirán a las entidades de dinero electrónico distribuir y reembolsar dinero electrónico por intermediación de personas físicas o jurídicas que actúen en su nombre. En el supuesto de que la entidad de dinero electrónico desee distribuir dinero electrónico en otro Estado miembro contratando a una persona física o jurídica, deberá seguir los procedimientos establecidos en el artículo 25 de la Directiva 2007/64/CE.	<b>Art. 15(3) of Law 21/2011</b>	<b>Article 15(3) of Law 21/2011</b> 3. The electronic money institutions may 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 11 of this Law, with the specialties laid down by regulations.	<b>Artículo 15, apartado 3 de la Ley 21/2011</b> 3. Las entidades de dinero electrónico podrán distribuir y rembolsar dinero electrónico por intermediación de personas físicas o jurídicas que actúen en su nombre. Si la entidad de dinero electrónico desea distribuir dinero electrónico en otro Estado miembro contratando a una persona física o jurídica, deberá seguir el procedimiento establecido en el artículo 11 de esta Ley, con las especialidades que reglamentariamente se	<b>CONFORM</b> Article 15(3) of Law 21/2011 literally transposes Article 3(4) of the Directive. Article 15(3) of Law 21/2011 cross- refers to Article 11 of the same Law, which transposes Article 25 of Directive 2007/64/EC, which regulates the exercise of the right of establishment and freedom to provide services. Law 21/2011 has transposed Article 25 of Directive 2007/64/EC, on payment services, and has adapted it to the electronic money institutions. Thus, the title of Article 11 of Law 21/2011 is the opening of branches and freedom to provide services in a Member State of the European Union by Spanish electronic money institutions. According to that provision Spanish electronic money institutions intending to issue electronic money or provide payment services not attached to such issuing through a branch or

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					determinen.	in a regime of freedom to provide services in another Member State shall inform previously the Bank of Spain, which is also in line with Recital 10 of the Directive.  Thus, conformity has been observed.
<b>Art. 3(5)</b>	5. Notwithstanding paragraph 4, electronic money institutions shall not issue electronic money through agents. Electronic money institutions shall be allowed to provide payment services referred to in Article 6(1)(a) through agents only if the conditions in Article 17 of Directive 2007/64/EC are met.	5. No obstante el apartado 4, las entidades de dinero electrónico no emitirán dinero electrónico por intermediación de agentes. Las entidades de dinero electrónico estarán capacitadas para prestar los servicios de pago a los que se refiere el artículo 6, apartado 1, letra a), por intermediación de agentes únicamente si se cumplen las condiciones recogidas en el artículo 17 de la Directiva 2007/64/CE.	<b>Art. 15(1) &amp; (2) of Law 21/2011</b>	<b>Article 15(1) and (2) of Law 21/2011</b>  1. The electronic money institutions shall not issue electronic money through agents.  2. Electronic money institutions shall be allowed to provide payment services referred to in Article 8(1)(a) of this Law through agents only if the conditions laid down in Article 12 of Law 16/2009, of 13 November, on payment services, and its implementing rules are met.	<b>Artículo 15, apartados 1 y 2 de la Ley 21/2011</b>  1. Las entidades de dinero electrónico no emitirán dinero electrónico por intermediación de agentes.  2. Las entidades de dinero electrónico estarán capacitadas para prestar los servicios de pago a que se refiere el artículo 8.1.a) de esta Ley por intermediación de agentes únicamente si se cumplen las condiciones establecidas en el artículo 12 de la Ley 16/2009, de 13 de noviembre, de servicios de pago, y sus normas de desarrollo.	<b>CONFORM</b>  Article 15(1) and (2) of Law 21/2011 almost literally transposes Article 3(5) of the Directive.  Article 15(2) of Law 21/2011 cross-refers to Article 8(1)(a) of the same Law which transposes Article 6(1)(a) of the Directive listing some of the activities that electronic money institutions are entitled to engage, apart from issuing electronic money, and which cross-refers to the Annex to Directive 2007/64/EC. It also cross-refers to Article 12 of Law 16/2009, which correctly transposes Article 17 of Directive 2007/64/EC on the use of agents, branches or entities to which activities are outsourced. Hence, it is in line with Recital 10 of the Directive. According to that recital, electronic money institutions can provide the payment services listed in the Annex to Directive 2007/64/EC through agents, where the conditions in Article 17 of that Directive are met.  Therefore, under the Spanish legislation, when an electronic money institution intends to provide payment services through agents it must provide the Bank of Spain with all the information requested and then it shall list the agent in the register.

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						Thus, conformity has been observed.
<b>Art. 4</b>	<p><i>Article 4</i> <b>Initial capital</b></p> <p>Member States shall require electronic money institutions to hold, at the time of authorisation, initial capital, comprised of the items set out in Article 57(a) and (b) of Directive 2006/48/EC, of not less than EUR 350 000.</p>	<p><i>Artículo 4</i> <b>Capital inicial</b></p> <p>Los Estados miembros establecerán que, en el momento de la autorización, las entidades de dinero electrónico posean un capital inicial, compuesto por los elementos definidos en el artículo 57, letras a) y b), de la Directiva 2006/48/CE, no inferior a 350 000 EUR.</p>	<b>Art. 6 of Law 21/2011</b>	<p><b>Article 6 of Law 21/2011</b></p> <p>Electronic money institutions shall have a minimum initial capital of EUR 350 000. This initial capital shall be complemented with a sufficient volume of own resources, as provided in the following article.</p>	<p><b>Artículo 6 de la Ley 21/2011</b></p> <p>Las entidades de dinero electrónico deberán disponer de un capital inicial mínimo de 350.000 euros. Éste se complementará con un volumen suficiente de recursos propios, conforme a lo establecido en el artículo siguiente.</p>	<p><b>CONFORM</b></p> <p>Article 6 of Law 21/2011 transposes Article 4 of the Directive.</p> <p>Under the Spanish legislation, the initial capital that electronic money institutions must hold at the time of authorisation shall be of at least EUR 350 000.</p> <p>Article 6 of Law 21/2011 does not mention that the initial capital must comprise of the items set out in the Spanish law transposing Article 57(a) and (b) of Directive 2006/48/EC.</p> <p>However, it does not seem to affect the assessment of conformity of this provision because the requested initial capital is the same, that is, of not less than EUR 350 000.</p> <p>In addition, according to Article 6 of Law 21/2011 the said initial capital must be complemented with sufficient volume of own funds.</p> <p>This is line with what is laid down in Recital 11 of the Directive. According to that recital, there must be a regime for initial capital combined with one for on-going capital to ensure an appropriate level of consumer protection and the sound and prudent operation of electronic money institutions.</p> <p>Thus, conformity has been observed.</p>

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<b>Art. 5(1)</b>	<p><i>Article 5</i> <b>Own funds</b></p> <p>1. The electronic money institution's own funds, as set out in Articles 57 to 61, 63, 64 and 66 of Directive 2006/48/EC shall not fall below the amount required under paragraphs 2 to 5 of this Article or under Article 4 of this Directive, whichever the higher.</p>	<p><i>Artículo 5</i> <b>Fondos propios</b></p> <p>1. Los fondos propios de la entidad de dinero electrónico, tal como se regulan en los artículos 57 a 61, 63, 64 y 66 de la Directiva 2006/48/CE, no podrán ser inferiores a la cantidad que resulte mayor con arreglo a los apartados 2 a 5 del presente artículo o al artículo 4 de la presente Directiva.</p>	<p><b>Art. 7(1) of Law 21/2011 &amp; Art. 17(1) of R.D. 778/2012</b></p> <p>1. Electronic money institutions shall maintain at any moment, in addition to the minimum capital required, a sufficient amount of own funds in relation to the business indicators, in the terms laid down by regulations. For these purposes, the own funds shall be defined in accordance with what is laid down, for the same purpose for credit institutions.</p> <p><b>Article 17(1) of R.D. 778/2012</b></p> <p>1. The own funds of the electronic money institution shall not be less than the highest amount of those laid down in Article 2(c) and in Article 18.</p>	<p><b>Artículo 7, apartado 1 de la Ley 21/2011</b></p> <p>1. Las entidades de dinero electrónico deberán mantener en todo momento, además del capital mínimo exigible, un volumen suficiente de recursos propios en relación con los indicadores de negocio, en los términos que reglamentariamente se establezcan. A estos efectos, los recursos propios computables se definirán de acuerdo con lo dispuesto, a los mismos efectos, para las entidades de crédito.</p> <p><b>Artículo 17, apartado 1 del R.D. 778/2012</b></p> <p>1. Los recursos propios de la entidad de dinero electrónico no podrán ser inferiores a la cantidad mayor de las contempladas en los artículos 2.c y 18.</p>	<p><b>CONFORM</b></p> <p>Article 7(1) of Law 21/2011 and Article 17(1) of R.D. 778/2012 transpose Article 5(1) of the Directive.</p> <p>In this regard, Article 7(1) of Law 21/2011 lays down that electronic money institutions shall have the minimum capital required and also sufficient amount of own funds in relation to the business indicators. This is line with Recital 11 of the Directive according to which there must be a regime for initial capital combined with one for on-going capital.</p> <p>Unlike the Directive's provision, Article 7(1) of Law 21/2011 does not explicitly mention the provisions dealing with electronic money institution's own funds (Articles 57 to 61, 63, 64 and 66 of Directive 2006/48/EC). However, it establishes that own funds shall be defined in accordance with what is laid down for credit institutions. Directive 2006/48/EC relates to the taking up and pursuit of the business of credit institutions.</p> <p>In addition, Article 17(1) of R.D. 778/2012 establishes that the own funds of the electronic money institution shall not be less than the highest amount of those laid down in Article 2(c), that is EUR 350 000, and in Article 18, which are transposing Article 4 and Article 5(2) to (5) of the Directive, respectively.</p> <p>Article 18 of R.D. 778/2012 lays down that notwithstanding what is provided for the capital, the amount of the own funds of the</p>

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						<p>electronic money institutions must be at least the sum of the amounts specified in that provision. It cross-refers to Article 19 of R.D. 712/2010, of 28 May, on the legal framework of payment services and payment institutions, when regulating the own funds.</p> <p>Thus, conformity has been observed.</p>
<p><b>Art. 5(2), 1<sup>st</sup> subpar a.</b></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. Respecto de las actividades a que se refiere el artículo 6, apartado 1, letra a), que no estén vinculadas a la emisión de dinero electrónico, los fondos propios que se requieren a las entidades de dinero electrónico se calcularán conforme a uno de los tres métodos (A, B o C) establecidos en el artículo 8, apartados 1 y 2, de la Directiva 2007/64/CE. Las autoridades competentes determinarán cuál es el método más apropiado de conformidad con la normativa nacional.</p>	<p><b>Art. 18(1), 1<sup>st</sup> subpar a., point (a) of R.D. 778/2012</b></p>	<p><b>Article 18(1), first subparagraph, point (a) of R.D. 778/2012</b></p> <p>(a) In regard to the activities referred to in Article 8(1) of Law 21/2011, of 26 July, that are not linked to the issuance of electronic money, the own funds requirements shall be calculated in accordance with Article 19 of Royal Decree 712/2010, of 28 May.</p>	<p><b>Artículo 18, apartado 1, párrafo primero, letra a) del R.D. 778/2012</b></p> <p>a) Respecto de las actividades a que se refiere el artículo 8.1.a) de la Ley 21/2011, de 26 de julio, que no estén vinculadas a la emisión de dinero electrónico, los requerimientos de recursos propios se calcularán conforme a lo establecido en el artículo 19 del Real Decreto 712/2010, de 28 de mayo.</p>	<p><b>CONFORM</b></p> <p>Article 18(1), first subparagraph, point (a) of R.D. 778/2012 transposes Article 5(2), first subparagraph of the Directive.</p> <p>According to Article 18(1), first subparagraph, point (a) of R.D. 778/2012, the own funds requirements concerning the activities referred to in Article 8(1) of Law 21/2011, which is correctly transposing Article 6(1) of the Directive, and which are not linked to the issuance of electronic money shall be calculated in accordance with Article 19 of R.D. 712/2010.</p> <p>Furthermore, the Spanish legislation is in line with the provisions of Recital 11 of the Directive which reads that it should be preserved a full supervisory discretion to ensure that the same risks are treated in the same way for all payment service providers and that the method of calculation encompasses the specific business situation of a given electronic money institution.</p> <p>Article 19 of R.D. 712/2010, of 28 May, on the legal framework of payment services and payment institutions is correctly transposing Article 8(1) and (2) of Directive 2007/64/EC, concerning the methods A, B and C for</p>

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						<p>calculating the own funds. According to Article 19 the own funds shall be calculated in accordance with one or another method, which shall be chosen depending on the business indicators.</p> <p>In this regard, and as above-mentioned, the electronic money institutions shall have a sufficient amount of own funds in relation to the business indicators (Article 7(1) of Law 21/2011).</p> <p>Thus, conformity has been observed.</p>
<b>Art. 5(2), 2<sup>nd</sup> subpar a.</b>	In regard to the activity of issuing electronic money, the own funds requirements of an electronic money institution shall be calculated in accordance with Method D as set out in paragraph 3.	Respecto de la actividad de emisión de dinero electrónico, los fondos propios que se requieren a las entidades de dinero electrónico se calcularán de conformidad con el método D definido en el apartado 3.	<b>Art. 18(1), 1<sup>st</sup> subpar a., point (b) of R.D. 778/2012</b>	<b>Article 18(1), first subparagraph, point (b) of R.D. 778/2012</b>  (b) In regard to the activity of issuing electronic money, the own funds requirements of an electronic money institution shall be, at least, 2 per cent of the average outstanding electronic money.	<b>Artículo 18, apartado 1, párrafo primero, letra b) del R.D. 778/2012</b>  b) Respecto de la actividad de emisión de dinero electrónico, los requerimientos de recursos propios de las entidades de dinero electrónico supondrán, como mínimo, un 2 por ciento de la media del dinero electrónico en circulación.	<b>CONFORM</b>  Article 18(1), first subparagraph, point (b) of R.D. 778/2012 transposes Article 5(2), second subparagraph of the Directive.  Unlike the Directive's provision, Article 18(1), first subparagraph, point (b) of R.D. 778/2012 does not refer to Method D as such. However, it refers to it by explicitly laying down that the own funds concerning the activity of issuing electronic money shall be at least, 2 per cent of the average outstanding electronic money, that is, Method D as laid down in Article 5(3) of the Directive. This is line with Recital 11 of the Directive according to which there must be an additional method for calculating on-going capital.  Thus, conformity has been observed.
<b>Art. 5(2), 3<sup>rd</sup></b>	Electronic money institutions shall at all times hold own funds that	Las entidades de dinero electrónico deberán en todo momento disponer de	<b>Article 18(1), 1<sup>st</sup></b>	<b>Article 18(1), first subparagraph, introductory wording of</b>	<b>Artículo 18, apartado 1, párrafo primero, frase introductoria del R.D.</b>	<b>CONFORM</b>  Article 18(1), first subparagraph, introductory wording of R.D. 778/2012 transposes Article



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<b>subpar a.</b>	are at least equal to the sum of the requirements referred to in the first and second subparagraphs.	fondos propios por un importe al menos superior o equivalente a la suma de los requisitos a los que se hace referencia en los párrafos primero y segundo.	<b>subpar a., intro. wordin g of R.D. 778/2012</b>	<b>R.D. 778/2012</b> 1. Without prejudice to the capital requirements laid down in Article 2(c) of this Royal Decree and to the powers which Article 7(2) and Article 8(1)(b)(4) of Law 21/2011, of July 26, give to the Bank of Spain, the own funds of electronic money institutions shall be at least equal to the sum of the amounts resulting from the following subparagraphs:	<b>778/2012</b> 1. Sin perjuicio de los requisitos de capital establecidos en el artículo 2.c) de este real decreto y de las facultades que los artículos 7.2 y 8.1.b.4.º de la Ley 21/2011, de 26 de julio, otorgan al Banco de España, los recursos propios de las entidades de dinero electrónico serán, como mínimo, igual a la suma de las cantidades que resulten de los siguientes párrafos:	5(2), third subparagraph of the Directive. That provision lays down that electronic money institutions must hold own funds that are at least equal to the sum of the requirements referred to in Article 18(1), first subparagraph, points (a) and (b) of R.D. 778/2012, which are correctly transposing Article 5(2), first and second subparagraphs. It must be noted that Article 18(1), first subparagraph, introductory wording of R.D. 778/2012 cross-refers to Article 2(c) which lays down that the capital must be not less than EUR 350 000. It also cross-refers to Article 7(2) and Article 8(1)(b)(4) of Law 21/2011, which lay down the powers of the bank of Spain regarding the own funds and the activities of the electronic money institutions. According to Article 8(1)(b)(4) of Law 21/2011, the own funds of the electronic money institution must be at any time adequate to the criteria of the Bank of Spain taking into consideration the whole amount of the credits granted, respectively. Thus conformity has been observed.
<b>Art. 5(3)</b>	3. Method D: The own funds of an electronic money institution for the activity of issuing electronic money shall amount to at least 2 % of the average outstanding electronic money.	3. Método D: Los fondos propios de una entidad de dinero electrónico para la actividad de emisión de dinero electrónico supondrán, como mínimo, un 2 % de la media del dinero electrónico en circulación.	<b>Art. 18(1), 1<sup>st</sup> subpar a., point (b) of R.D. 778/2012</b>	<b>Article 18(1), first subparagraph, point (b) of R.D. 778/2012</b> (b) In regard to the activity of issuing electronic money, the own funds requirements of an electronic money institution shall be, at least, 2 per cent of the	<b>Artículo 18, apartado 1, párrafo primero, letra b) del R.D. 778/2012</b> b) Respecto de la actividad de emisión de dinero electrónico, los requerimientos de recursos propios de las entidades de dinero electrónico supondrán, como mínimo,	<b>CONFORM</b> Article 18(1), first subparagraph, point (b) of R.D. 778/2012 transposes Article 5(3) of the Directive. According to this method, the own funds of an electronic money institution for the activity of issuing electronic money must be at least 2 per cent of the average outstanding electronic money (Article 18(1), first

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				average outstanding electronic money.	un 2 por ciento de la media del dinero electrónico en circulación.  subparagraph, point (b) of R.D. 778/2012). This is line with Recital 11 of the Directive according to which there must be an additional method for calculating on going capital, which is Method D.  It must be noted that unlike the Directive, Law 16/2009, which transposes Directive 2007/64/EC on payment services, and R.D. 712/2010, of 28 May, on the legal framework of payment services and payment institutions, R.D. 778/2012 does not provide any name, that is, Method D, to the way of calculating the own funds for the activity of issuing electronic money. However, the content is the same.  Thus conformity has been observed.	
<b>Art. 5(4)</b>	4. Where an electronic money institution carries out any of the activities referred to in Article 6(1)(a) that are not linked to the issuance of electronic money or any of the activities referred to in Article 6(1)(b) to (e) and the amount of outstanding electronic money is unknown in advance, the competent authorities shall allow that electronic money institution to calculate its own funds requirements on the basis of a representative portion assumed to be used for the	4. Cuando las entidades de dinero electrónico realicen alguna de las actividades enunciadas en el artículo 6, apartado 1, letra a), que no estén vinculadas a la emisión de dinero electrónico, o cualquiera de las actividades enunciadas en el artículo 6, apartado 1, letras b) a e), y el volumen del dinero electrónico en circulación no se conozca con antelación, las autoridades competentes permitirán que dichas entidades de dinero electrónico calculen los fondos	<b>Art. 18(2) of R.D. 778/2012</b>	<b>Article 18(2) of R.D. 778/2012</b>  2. Where an electronic money institution carries out any of the activities referred to in Article 8(1)(a) of Law 21/2011, of 26 July, that are not linked to the issuance of electronic money or any of the activities referred to in Article 8(1)(b) to (e) and the amount of outstanding electronic money is unknown in advance, electronic money institutions may calculate their own funds	<b>Artículo 18, apartado 2 del R.D. 778/2012</b>  2. Cuando las entidades de dinero electrónico realicen alguna de las actividades enunciadas en el artículo 8.1.a) de la Ley 21/2011, de 26 de julio, que no estén vinculadas a la emisión de dinero electrónico, o cualquiera de las actividades enunciadas en el artículo 8.1, letras b) a e), y el volumen del dinero electrónico en circulación no se conozca con antelación, las entidades	<b>CONFORM</b>  Article 18(2) of R.D. 778/2012 literally transposes Article 5(4) of the Directive.  Thus, under the Spanish legislation, the Bank of Spain may allow electronic money institutions to calculate their own funds requirements on the basis of a representative portion assumed to be used for the issuance of electronic money when they carry out activities not linked to the issuance of electronic money or any of the activities referred to in Article 8(1) of Law 21/2011 which correctly transposes Article 6(1) of the Directive, and the amount of outstanding electronic money is unknown in advance.  Electronic money institutions shall be allowed to calculate their own funds in such way only

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	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.	proprios requeridos sobre la base de un porcentaje representativo que se presume se utilizará para la emisión de dinero electrónico, siempre que dicho porcentaje representativo pueda calcularse razonablemente sobre la base de los datos históricos y a satisfacción de las autoridades competentes. Cuando una entidad de dinero electrónico no haya completado un período de actividad suficiente, los fondos propios requeridos se calcularán sobre la base del dinero electrónico en circulación previsto en su plan de negocios, a menos que las autoridades competentes exijan cualquier adaptación de dicho plan.		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 Bank of Spain. 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 Bank of Spain.	de dinero electrónico podrán calcular los recursos propios requeridos sobre la base de un porcentaje representativo que se presume se utilizará para la emisión de dinero electrónico, siempre que dicho porcentaje representativo pueda calcularse razonablemente sobre la base de los datos históricos y a satisfacción del Banco de España. Cuando una entidad de dinero electrónico no haya completado un periodo de actividad suficiente, los recursos propios requeridos se calcularán sobre la base del dinero electrónico en circulación previsto en su plan de negocios, a menos que el Banco de España exija cualquier adaptación de dicho plan.	if the representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the Bank of Spain.  Thus, conformity has been observed.
<b>Art. 5(5)</b>	5. On the basis of an evaluation of the risk-management processes, of the risk loss databases and internal control mechanisms of the electronic money institution, the competent	5. Las autoridades competentes podrán exigir, sobre la base de una evaluación de los procesos de gestión del riesgo, de las bases de datos sobre el riesgo de pérdidas y de los	<b>Art. 7(2)(b) of Law 21/2011</b>	<b>Article 7(2)(b) of Law 21/2011</b>  2. In connection with the obligations mentioned in the previous paragraph, the Bank of Spain:  (b) may require, on the	<b>Artículo 7, apartado 2, letra b) de la Ley 21/2011</b>  2. En relación con las obligaciones mencionadas en el apartado anterior, el Banco de España:  b) Podrá exigir, sobre la	<b>CONFORM</b>  Article 7(2)(b) of Law 21/2011 transposes Article 5(5) of the Directive.  According to this provision, one of the powers of the Bank of Spain is that it may require electronic money institutions to hold an amount of own funds up to 20 % higher or

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	<p>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 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.</p>	<p>mecanismos de control internos de la entidad de dinero electrónico, que esta posea una cifra de fondos propios hasta un 20 % superior a la que resultaría de la aplicación del método pertinente con arreglo al apartado 2, o permitir que la entidad de dinero electrónico posea una cifra de fondos propios hasta un 20 % inferior a la que resultaría de la aplicación del método pertinente con arreglo al apartado 2.</p>		<p>basis of an evaluation of the risk-management processes and internal control mechanisms of the electronic money institution, the electronic money institution to hold an amount of own funds up to 20 per cent higher or allow the electronic money institution to hold an amount of own funds up to 20 per cent less than the amount which would result from the minimum required capital to the entity according to the rules of paragraph 1 of this article.</p>	<p>base de la evaluación de los procesos de gestión de riesgos y de los mecanismos de control interno de la entidad de dinero electrónico, que la entidad de dinero electrónico posea una cifra de fondos propios hasta un 20 por ciento superior, o permitir que la entidad de dinero electrónico posea una cifra de recursos propios hasta un 20 por ciento inferior a la que resulte de las exigencias mínimas de capital requeridas a la entidad conforme a las normas del apartado 1 de este artículo.</p>	<p>less than the amount which would result from the minimum required capital to the entity according to Methods A, B, C or D.</p> <p>Article 7(1) of Law 21/2011 cross-refers to Article 18 of R.D. 778/2012, which correctly transposes Article 5(2) of the Directive concerning the methods for calculating own funds of electronic money institutions.</p> <p>The Bank of Spain must require the electronic money institution to hold such an amount only after it has done an evaluation of the risk-management processes and internal control mechanisms of the electronic money institution.</p> <p>It must be noted that unlike the Directive's provision, Article 7(2)(b) of Law 21/2011 does not require that such requirement must be done on the bases of an evaluation of the risk loss databases.</p> <p>However, it does not seem to affect the assessment of conformity of this provision.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 5(6), intr. wording</b>	<p>6. Member States shall take the necessary measures to prevent the multiple use of elements eligible for own funds:</p>	<p>6. Los Estados miembros adoptarán las medidas necesarias para impedir el uso múltiple de elementos que puedan considerarse fondos propios:</p>	<b>Art. 17(2), 1<sup>st</sup> sentence of R.D. 778/2012</b>	<b>Article 17(2), first sentence of R.D. 778/2012</b>	<b>Artículo 17, apartado 2, primera frase del R.D. 778/2012</b>	<b>CONFORM</b>
			<p>2. The Bank of Spain is allowed to take the necessary measures to prevent the multiple use of elements eligible for own funds where the electronic money institution belongs to the same group as</p>	<p>2. Se autoriza al Banco de España para adoptar las medidas necesarias para impedir el uso múltiple de elementos que puedan considerarse como recursos propios cuando la entidad de dinero</p>	<p>Article 17(2), first sentence of R.D. 778/2012 transposes Article 5(6), introductory wording of the Directive.</p> <p>According to Article 17(2) of R.D. 778/2012 the Bank of Spain shall take the necessary measures to prevent the multiple use of elements eligible for own funds.</p> <p>Thus, conformity has been observed.</p>	

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				another electronic money institution, a credit institution, a payment institution, an investment firm, an asset management company or an insurance undertaking;	electrónico pertenezca al mismo grupo de otra entidad de dinero electrónico, entidad de crédito, entidad de pago, empresa de servicios de inversión, empresa de gestión de activos o empresa de seguros.	
<b>Art. 5(6)(a)</b>	(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;	a) cuando la entidad de dinero electrónico pertenezca al mismo grupo que otra entidad de dinero electrónico, una entidad de crédito, una entidad de pago, una empresa de inversión, una empresa de gestión de activos o una empresa de seguros o de reaseguros;	<b>Art. 17(2), 1<sup>st</sup> sentence of R.D. 778/2012</b>	<b>Article 17(2), first sentence of R.D. 778/2012</b> 2. The Bank of Spain is allowed to take the necessary measures to prevent the multiple use of elements eligible for own funds 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 undertaking;	<b>Artículo 17, apartado 2, primera frase del R.D. 778/2012</b> 2. Se autoriza al Banco de España para adoptar las medidas necesarias para impedir el uso múltiple de elementos que puedan considerarse como recursos propios cuando la entidad de dinero electrónico pertenezca al mismo grupo de otra entidad de dinero electrónico, entidad de crédito, entidad de pago, empresa de servicios de inversión, empresa de gestión de activos o empresa de seguros.	<b>CONFORM</b> Article 17(2), first sentence of R.D. 778/2012 transposes Article 5(6)(a) of the Directive. According to that provision, one of the cases under which the Bank of Spain may take measures to prevent the multiple use of elements of own funds is 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 undertaking. Unlike the Directive's provision, the Spanish legislation does not cover the case where the electronic money institution belongs to the same group as a reinsurance undertaking. However, it does not seem to affect the assessment of conformity of this provision because the Spanish legislation covers the cases of insurance undertakings. Thus, conformity has been observed.
<b>Art. 5(6)(b)</b>	(b) where an electronic money institution carries	b) cuando una entidad de dinero electrónico realice	<b>Art. 17(2),</b>	<b>Article 17(2), second sentence of R.D.</b>	<b>Artículo 17, apartado 2, segunda frase del R.D.</b>	<b>PARTIALLY CONFORM</b> Article 17(2), second sentence of R.D.

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	out activities other than the issuance of electronic money.	actividades distintas de la emisión de dinero electrónico.	<b>2<sup>nd</sup> sentence of R.D. 778/2012</b>	<b>778/2012</b> This paragraph shall also apply where an electronic money institution carries out other activities other than the issuance of electronic money and those directly related to the issuance of electronic money.	<b>778/2012</b> El presente apartado se aplicará también cuando una entidad de dinero electrónico desarrolle otras actividades distintas de la emisión de dinero electrónico y aquellas directamente relacionadas con la emisión de dinero electrónico.	778/2012 transposes Article 5(6)(b) of the Directive.  According to that provision, the other case under which the Bank of Spain may take measures to prevent the multiple use of elements of own funds is where the electronic money institution carries out activities other than the issuance of electronic money.  However, unlike the Directive's provision, under the Spanish legislation the Bank of Spain is allowed to take the necessary measures to prevent the multiple use of elements eligible for own funds also where an electronic money institution carries out activities directly related to the issuance of electronic money. Even if does not cover the cases under which the electronic money institution carries out activities of issuance of electronic money, the Spanish legislation goes beyond the scope of this Directive's provision.  Thus, partial conformity has been observed.
<b>Art. 5(7)</b>	7. Where the conditions laid down in Article 69 of Directive 2006/48/EC are met, Member States or their competent authorities may choose not to apply paragraphs 2 and 3 of this Article to electronic money institutions which are included in the consolidated supervision of the parent credit	7. Cuando se cumplan las condiciones establecidas en el artículo 69 de la Directiva 2006/48/CE, los Estados miembros o sus autoridades competentes podrán optar por no aplicar los apartados 2 y 3 del presente artículo a aquellas entidades de dinero electrónico que estén incluidas en la	<b>Art. 7(2)(a) of Law 21/2011</b>	<b>Article 7(2)(a) of Law 21/2011</b> (a) may exempt electronic money institutions integrated into a consolidated group of credit institutions, as defined in points (a) and (b) of Article 8(3) of Law 13/1985, of 25 May, on investment coefficients, own funds and	<b>Artículo 7, apartado 2, letra a) de la Ley 21/2011</b> a) Podrá exceptuar a las entidades de dinero electrónico integradas en un grupo consolidable de entidades de crédito, tal y como se definen éstos en las letras a) y b) del artículo 8.3 de la Ley 13/1985, de 25 de mayo, de coeficientes de	<b>CONFORM</b> Article 5(7) of the Directive sets out an option, which Spain chose to apply.  According to Article 7(2)(a) of Law 21/2011 transposing this option, the Bank of Spain, that is, the competent authority of Spain, may exempt electronic money institutions integrated into a consolidated group of credit institutions from the individual fulfilment of all own funds requirements, that is the requirements of own funds laid down in

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	institutions pursuant to Directive 2006/48/EC.	supervisión consolidada de entidades de crédito matrices con arreglo a la Directiva 2006/48/CE.		information obligations of financial intermediaries, from the individual fulfilment of all own funds requirements.	inversión, recursos propios y obligaciones de información de los intermediarios financieros, del cumplimiento individual íntegro de las exigencias de recursos propios.	<p>Article 5(2) and (3) of the Directive.</p> <p>While the Directive’s provision refers to “consolidated supervision of the parent credit institutions”, the Spanish legislation refers to the equivalent of “consolidated group of credit institutions”.</p> <p>However, it does not affect the assessment of conformity of this Directive’s provision because according to Article 8(3)(a) and (b) of Law 13/1985, of 25 May, on investment coefficients, own funds and information obligations of financial intermediaries, “consolidated group of credit institutions” means a group of financial institutions where a credit institution controls the other institutions; or where the dominant institution’s main activity is holding holdings in credit institutions. Thus, they are parent credit institutions included in a consolidated supervision.</p> <p>In this regard, according to Article 7(2)(c) of Law 21/2011, the Bank of Spain shall take the necessary measures to prevent the multiple use of elements for own funds where the electronic money institution belongs to the same group as another electronic money institution or financial institution and to ensure an adequate distribution within the group.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 6(1), 1<sup>st</sup> subpar</b>	<p><i>Article 6 Activities</i></p> <p>1. In addition to issuing</p>	<p><i>Artículo 6 Actividades</i></p> <p>1. Además de la emisión</p>	<b>Art. 8(1), intro. wordin</b>	<b>Article 8(1), introductory wording of Law 21/2011</b> 1. Electronic money	<b>Artículo 8, apartado 1, frase introductoria de la Ley 21/2011</b>	<b>CONFORM</b> Article 8(1), introductory wording of Law 21/2011 transposes Article 6(1), first

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<b>a.</b>	electronic money, electronic money institutions shall be entitled to engage in any of the following activities:	de dinero electrónico, las entidades de dinero electrónico estarán habilitadas para llevar a cabo las siguientes actividades:	<b>g of Law 21/2011</b>	institutions, where laid down in their statutes, may carry out, in addition to the issuing of electronic money, the following activities:	1. Las entidades de dinero electrónico, cuando así se hubiera previsto en sus estatutos sociales, podrán realizar, además de la emisión de dinero electrónico, las actividades siguientes:	<p>subparagraph, introductory wording of the Directive.</p> <p>That provision lists the activities that electronic money institutions are entitled to engage, other than issuing electronic money.</p> <p>It must be noted that, unlike the Directive's provision, Article 8(1), introductory wording of Law 21/2011 explicitly mentions that electronic money institutions shall be entitled to do only the activities that are listed in the statutes of the electronic money institution.</p> <p>However, it does not affect the assessment of conformity of this Directive's provision because one of the requirements to be registered is to have a statute, where, among others, the activities that the electronic money institutions shall pursuit must be mentioned.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 6(1), 1<sup>st</sup> subpar a., pt (a)</b>	(a) the provision of payment services listed in the Annex to Directive 2007/64/EC;	a) prestación de los servicios de pago que se enumeran en el anexo de la Directiva 2007/64/CE;	<b>Art. 8(1)(a) of Law 21/2011</b>	<b>Article 8(1)(a) of Law 21/2011</b>  (a) the provision of payment services listed in Article 1(2) of Law 16/2009, of 13 November.	<b>Artículo 8, apartado 1, letra a) de la Ley 21/2011</b>  a) la prestación de los servicios de pago que se enumeran en el artículo 1.2 de la Ley 16/2009, de 13 de noviembre.	<b>CONFORM</b>  Article 8(1)(a) of Law 21/2011 transposes Article 6(1), first subparagraph, point (a) of the Directive.  Article 8(1)(a) of Law 21/2011 cross-refers to Article 1(2) of Law 16/2009, of 13 November, on payment services, which lays down the payment services that can be pursued.  Annex to Directive 2007/64/EC has been literally transposed by Article 1(2) of Law 16/2009, of 13 November, on payment services.



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						Thus, conformity has been observed.
<b>Art. 6(1), 1<sup>st</sup> subpar a., pt (b)</b>	(b) the granting of credit related to payment services referred to in points 4, 5 or 7 of the Annex to Directive 2007/64/EC, where the conditions laid down in Article 16(3) and (5) of that Directive are met;	b) concesión de créditos en relación con los servicios de pago contemplados en los puntos 4, 5 o 7 del anexo de la Directiva 2007/64/CE, siempre que se cumplan las condiciones establecidas en el artículo 16, apartados 3 y 5, de esa Directiva;	<b>Art. 8(1)(b), 1<sup>st</sup> subpar a. of Law 21/2011</b>	<b>Article 8(1)(b), first subparagraph of Law 21/2011</b>  (b) the granting of credit related to payment services referred to in Article 1(2)(d), (e) and (g) of Law 16/2009, of 13 November, where the following conditions are met:  1. That it is a credit granted exclusively in relation to the execution of a payment transaction;  2. That the credit granted in relation to a payment, executed in accordance with Article 11 of Law 16/2009, of 13 November, is refunded within a period which, in any case, does not exceed twelve months;  3. That the said credit is not granted from the funds received or held for the purpose of executing a payment transaction and,  4. That the own funds of the electronic money institution are adequate at	<b>Artículo 8, apartado 1, letra b), párrafo primero de la Ley 21/2011</b>  b) la concesión de créditos en relación con los servicios de pago contemplados en el artículo 1.2.d, e) y g) de la Ley 16/2009, de 13 de noviembre, siempre que se cumplan las siguientes condiciones:  1.º Que se trate de un crédito concedido exclusivamente en relación con la ejecución de una operación de pago;  2.º que el crédito concedido en relación con el pago, ejecutado con arreglo al artículo 11 de la Ley 16/2009, de 13 de noviembre, sea reembolsado dentro de un plazo que, en ningún caso, supere los doce meses;  3.º que dicho crédito no se conceda con cargo a los fondos recibidos o mantenidos a efectos de la ejecución de una	<b>CONFORM</b>  Article 8(1)(b), first subparagraph of Law 21/2011 transposes Article 6(1), first subparagraph, point (b) of the Directive.  According to that provision, electronic money institutions are entitled to grant credit related to payment services referred to in Article 1(2)(d), (e) and (g) of Law 16/2009 which literally transpose points 4, 5 and 7 of the Annex to Directive 2007/64/EC.  Electronic money institutions shall be entitled to pursue those activities only if the conditions laid down in Article 16(3) and (5) of Directive 2007/64/EC, which are literally transposed by Article 8(1)(b), first subparagraph, point (1) to (4) of Law 21/2011 are met. That is, only when the credit is granted exclusively in relation to the execution of a payment transaction; when it is refunded within a period which, in any case, does not exceed twelve months; when it is not granted from the funds received or held for the purpose of executing a payment transaction and that the own funds of the electronic money institution are adequate at all times taking into account the total amount of the credit granted.  Thus, conformity has been observed.

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				all times, in accordance with the criteria established for that purpose by the Bank of Spain taking into account the total amount of the credit granted.	operación de pago; y, 4.º que los fondos propios de la entidad de dinero electrónico sean en todo momento adecuados, conforme a los criterios que a tal efecto establezca el Banco de España teniendo en cuenta la cuantía total de los créditos concedidos.	
<b>Art. 6(1), 1<sup>st</sup> subpar a., pt (c)</b>	(c) the provision of operational services and closely related ancillary services in respect of the issuing of electronic money or to the provision of payment services referred to in point (a);	c) prestación de servicios operativos y servicios auxiliares estrechamente vinculados en relación con la emisión de dinero electrónico o a la prestación de los servicios de pago a que hace referencia la letra a);	<b>Art. 8(1)(c) of Law 21/2011</b>	<b>Article 8(1)(c) of Law 21/2011</b> (c) the provision of operational services and closely related ancillary services in respect of the issuing of electronic money or to the provision of payment services referred to in point (a) of this paragraph;	<b>Artículo 8, apartado 1, letra c) de la Ley 21/2011</b> c) la prestación de servicios operativos y servicios auxiliares estrechamente vinculados en relación con la emisión de dinero electrónico o en relación con la prestación de servicios de pago a que se refiere la letra a) de este apartado.	<b>CONFORM</b> Article 8(1)(c) of Law 21/2011 literally transposes Article 6(1), first subparagraph, point (c) of the Directive.  According to Article 8(1)(c) of Law 21/2011, electronic money institutions may pursue 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 Article 8(1)(a) of Law 21/2011.  The Directive's provision cross-refers to Article 6(1), first subparagraph, point (a) of the Directive which, as explained above, has been correctly transposed by Article 8(1)(a) of Law 21/2011.  Thus, conformity has been observed.
<b>Art. 6(1), 1<sup>st</sup> subpar</b>	(d) the operation of payment systems as defined in point 6 of Article 4 of Directive	d) gestión de sistemas de pago, tal como se definen en el artículo 4, punto 6, de la Directiva	<b>Art. 8(1)(d) of Law 21/2011</b>	<b>Article 8(1)(d) of Law 21/2011</b> (d) the operation of payment systems as	<b>Artículo 8, apartado 1, letra d) de la Ley 21/2011</b> d) la gestión de sistemas de pago, tal como se	<b>CONFORM</b> Article 8(1)(d) of Law 21/2011 transposes Article 6(1), first subparagraph, point (d) of

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<b>a., pt (d)</b>	2007/64/EC and without prejudice to Article 28 of that Directive;	2007/64/CE y sin perjuicio de lo dispuesto en el artículo 28 de la misma Directiva;	<b>1</b>	defined in Article 2(6) of Law 16/2009, of 13 November and without prejudice to Article 5 of that Law;	definen en el artículo 2.6 de la Ley 16/2009, de 13 de noviembre y sin perjuicio de lo dispuesto en el artículo 5 de la misma.	<p>the Directive.</p> <p>According to Article 8(1)(d) of Law 21/2011, electronic money institutions are entitled to pursue the operation of payment systems.</p> <p>Article 2(6) of Law 16/2009 defines the term “payment systems”, which literally transposes Article 4, point 6 of Directive 2007/64/EC.</p> <p>In addition, the Directive’s provision cross-refers to Article 28 of Directive 2007/64/EC, which has been also correctly transposed by Article 5 of Law 16/2009.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 6(1), 1<sup>st</sup> subpar a., pt (e)</b>	(e) business activities other than issuance of electronic money, having regard to the applicable Community and national law.	e) actividades empresariales distintas de la emisión de dinero electrónico, con arreglo a la normativa comunitaria y nacional aplicable.	<b>Art. 8(1)(e) of Law 21/2011</b>	<b>Article 8(1)(e) of Law 21/2011</b>  (e) other economic activities other than issuance of electronic money, having regard to the applicable European Union and national law.	<b>Artículo 8, apartado 1, letra e) de la Ley 21/2011</b>  e) otras actividades económicas distintas de la emisión de dinero electrónico, con arreglo a la legislación de la Unión Europea y nacional aplicable.	<p><b>CONFORM</b></p> <p>Article 8(1)(e) of Law 21/2011 transposes Article 6(1), first subparagraph, point (e) of the Directive.</p> <p>It must be noted that while the Directive’s provision refers to “business activities”, Article 8(1)(e) of Law 21/2011 refers to “economic activities”. However, it does not affect the assessment of conformity of this provision because the meaning and thus the kind of activities are the same.</p> <p>Thus, under the Spanish legislation, some of the activities that electronic money institutions are entitled to pursue are any economic activities other than issuance of electronic money.</p> <p>It must be noted that pursuing of those activities must be in accordance with the Community and national legislation. That is that electronic money institutions cannot</p>

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						pretend having access to regulated activities without meeting the requirements fixed in Community and national law for carrying out these activities.  Thus, conformity has been observed.
<b>Art. 6(1), 2<sup>nd</sup> subpar a.</b>	Credit referred to in point (b) of the first subparagraph shall not be granted from the funds received in exchange of electronic money and held in accordance with Article 7(1).	Los créditos contemplados en el párrafo primero, letra b), no se concederán con cargo a los fondos recibidos a cambio de dinero electrónico y de los que se disponga de conformidad con el artículo 7, apartado 1.	<b>Article 8(1)(b), 2<sup>nd</sup> subpar a. of Law 21/2011</b>	<b>Article 8(1)(b), second subparagraph of Law 21/2011</b>  Credit according to this paragraph shall not be granted from the funds received in exchange for electronic money and safeguarded in accordance with Article 9(1) of this Law.	<b>Artículo 8, apartado 1, letra b), párrafo segundo de la Ley 21/2011</b>  Los créditos conforme a este apartado no se concederán con cargo a los fondos recibidos a cambio de dinero electrónico y salvaguardados de conformidad con el artículo 9.1 de esta Ley.	<b>CONFORM</b>  Article 8(1)(b), second subparagraph of Law 21/2011 transposes Article 6(1), second subparagraph of the Directive.  Article 8(1)(b), second subparagraph of Law 21/2011 refers to payment services of execution of payment transactions where the funds are covered by a credit line for a payment service user; of issuing and/or acquiring of payment instruments; and of execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator, acting only as an intermediary between the payment service user and the supplier of the goods and services.  Credit related to those payment services shall not be granted from the funds received in exchange for electronic money and safeguarded by not being commingled at any time with the funds of any natural or legal person other than payment service users; being insulated in the interest of the payment service users against the claims of other creditors of the payment institution and being covered by an insurance policy. In addition,

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						<p>such funds shall be safeguarded by no later than five business days.</p> <p>Article 9(1) of Law 21/2011 correctly transposes Article 7(1) of the Directive.</p> <p>This is also in line with Recital 13 of the Directive, according to which electronic money institutions should not be allowed to grant credit from the funds received or held for the purpose of issuing electronic money.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 6(2)</b>	2. Electronic money institutions shall not take deposits or other repayable funds from the public within the meaning of Article 5 of Directive 2006/48/EC.	2. Las entidades de dinero electrónico no aceptarán del público depósitos u otros fondos reembolsables en el sentido del artículo 5 de la Directiva 2006/48/CE.	<b>Art. 8(2) of Law 21/2011</b>	<p><b>Article 8(2) of Law 21/2011</b></p> <p>2. Electronic money institutions may not raise deposits or other repayable funds from the public within the meaning of Article 28(2)(b) of Law 26/1988, of 29 July, on discipline and intervention of credit institutions.</p>	<p><b>Artículo 8, apartado 2 de la Ley 21/2011</b></p> <p>2. Las entidades de dinero electrónico no podrán llevar a cabo la captación de depósitos u otros fondos reembolsables del público en el sentido del artículo 28.2.b) de la Ley 26/1988, de 29 de julio, sobre disciplina e intervención de las entidades de crédito.</p>	<p><b>CONFORM</b></p> <p>Article 8(2) of Law 21/2011 transposes Article 6(2) of the Directive.</p> <p>According to Article 8(1)(b), second subparagraph of Law 21/2011, electronic money institutions may not raise deposits or other repayable funds from the public since according to Recital 13 of the Directive the issuance of electronic money does not constitute a deposit-taking activity. In this regard, raising repayable funds from the public, wherever their destination is, in the form of a deposit, loan, temporary disposals of assets or the like which are not subject to the regulation and discipline of the market is reserved to credit institutions. This is in line with Article 5 of Directive 2006/48/EC.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 6(3)</b>	3. Any funds received by electronic money institutions from the electronic money holder	3. Los fondos que el titular del dinero electrónico entregue a la entidad de dinero electrónico se	<b>Art. 8(3) of Law 21/2011</b>	<p><b>Article 8(3) of Law 21/2011</b></p> <p>3. Any funds received by</p>	<p><b>Artículo 8, apartado 3 de la Ley 21/2011</b></p> <p>3. Los fondos que el titular</p>	<p><b>CONFORM</b></p> <p>Article 8(3) of Law 21/2011 literally transposes Article 6(3) of the Directive.</p>

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	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.	<p>cambiarán por dinero electrónico sin demora. Estos fondos no constituirán un depósito u otros fondos reembolsables recibidos del público en el sentido de lo establecido en el artículo 5 de la Directiva 2006/48/CE.</p>	<b>1</b>	<p>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 28(2)(b) of Law 26/1988, of 29 July, on discipline and intervention of credit institutions.</p>	<p>del dinero electrónico entregue a la entidad de dinero electrónico se cambiarán de manera inmediata por dinero electrónico. Estos fondos no constituirán depósitos u otros fondos reembolsables del público en el sentido de lo establecido en el artículo 28.2.b) de la Ley 26/1988, de 29 de julio, sobre disciplina e intervención de las entidades de crédito.</p>	<p>In this regard, raising repayable funds from the public as a deposit, loan, temporary disposals of assets or the like which are not subject to the regulation and discipline of the market is reserved to credit institutions. This is in line with Article 5 of Directive 2006/48/EC.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 6(4)</b>	<p>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.</p>	<p>4. El artículo 16, apartados 2 y 4, de la Directiva 2007/64/CE se aplicará a los fondos recibidos para las actividades enunciadas en el apartado 1, letra a), del presente artículo que no esté vinculada a la emisión de dinero electrónico.</p>	<b>Art. 8(4)&amp;(5) of Law 21/2011</b>	<p><b>Article 8(4) and (5) of Law 21/2011</b></p> <p>4. Funds received from electronic money institutions in relation to the activities referred to in paragraph 1(a) of this article and that are not linked to the activity of issuing electronic money shall not be either deposits or other repayable funds.</p> <p>5. Electronic money institutions may hold only payment accounts as defined in Article 2(14) of Law 16/2009, of 13 November, on payment services, which use is exclusively limited to</p>	<p><b>Artículo 8, apartados 4 y 5 de la Ley 21/2011</b></p> <p>4. Tampoco constituirán depósitos u otros fondos reembolsables los fondos recibidos por las entidades de dinero electrónico en relación con las actividades recogidas en el apartado 1.a) de este artículo y que no estén vinculados a la emisión de dinero electrónico.</p> <p>5. Las entidades de dinero electrónico únicamente podrán mantener cuentas de pago, tal y como se definen en el artículo 2.14 de la Ley 16/2009, de 13 de noviembre, de servicios</p>	<p><b>CONFORM</b></p> <p>Article 8(4) and (5) of Law 21/2011 transposes Article 6(4) of the Directive.</p> <p>According to Article 8(4) of Law 21/2011, funds received from electronic money institutions in relation to activities listed in Annex to Directive 2007/64/EC, which is literally transposed into the Spanish legislation by Article 1(2) of Law 16/2009, and that are not linked to the activity of issuing electronic money do not constitute deposits neither other repayable funds.</p> <p>This is in line with Article 16(4) of Directive 2007/64/EC.</p> <p>In addition, according to Article 8(5) of Law 21/2011, electronic money institutions may hold only payment accounts the use of which is exclusively limited to payment transactions.</p>

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				<p>payment transactions. Such accounts may not generate any interests and shall be subject to other operational limits laid down by regulations in order to ensure their aim.</p>	<p>de pago, cuyo uso exclusivo se limite a operaciones de pago. Dichas cuentas no podrán devengar intereses y quedarán sujetas a las restantes limitaciones operativas que se determinen reglamentariamente para asegurar su finalidad.</p>	<p>This is in line with Article 16(2) of Directive 2007/64/EC.</p> <p>In addition, according to Article 2(14) of Law 16/2009, of 13 November, on payment services ‘payment account’ means an account held in the name of one or more payment service users, which is used for the execution of payment transactions. This definition is in line with Directive 2007/64/EC.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 7(1)</b>	<p><i>Article 7 Safeguarding requirements</i></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</p>	<p><i>Artículo 7 Requisitos de garantía</i></p> <p>1. Los Estados miembros establecerán que la entidad de dinero electrónico salvaguardará los fondos recibidos a cambio del dinero electrónico que haya sido emitido, conforme al artículo 9, apartados 1 y 2, de la Directiva 2007/64/CE. Los fondos recibidos en forma de pago mediante un instrumento de pago no han de ser protegidos hasta que no se hayan acreditado en la cuenta de pago de la entidad de dinero electrónico o se hayan puesto por otra vía a disposición de la entidad de dinero electrónico, en su caso, de conformidad</p>	<p><b>Art. 9(1)&amp;(3) of Law 21/2011</b></p> <p>1. Electronic money institutions shall safeguard funds that have been received in exchange for electronic money that has been issued, in accordance with Article 10(1)(a) of Law 16/2009, of 13 November, on payment services according to the conditions laid down by regulations.</p> <p>Funds given in exchange for issuing electronic money that are received by the electronic money institution by a payment instrument shall not be safeguarded in accordance with the previous paragraph until they have not been admitted to the</p>	<p><b>Article 9(1) and (3) of Law 21/2011</b></p> <p>1. Electronic money institutions shall safeguard funds that have been received in exchange for electronic money that has been issued, in accordance with Article 10(1)(a) of Law 16/2009, of 13 November, on payment services according to the conditions laid down by regulations.</p> <p>Funds given in exchange for issuing electronic money that are received by the electronic money institution by a payment instrument shall not be safeguarded in accordance with the previous paragraph until they have not been admitted to the</p>	<p><b>Artículo 9, apartados 1 y 3 de la Ley 21/2011</b></p> <p>1. Las entidades de dinero electrónico salvaguardarán los fondos recibidos a cambio del dinero electrónico que haya sido emitido, conforme a lo previsto en el artículo 10.1.a) de la Ley 16/2009, de 13 de noviembre, de servicios de pago, en las condiciones que reglamentariamente se determinen.</p> <p>Los fondos entregados a cambio de la emisión de dinero electrónico, que sean recibidos por la entidad de dinero electrónico a través de un instrumento de pago, no deberán ser salvaguardados de acuerdo</p>	<p><b>CONFORM</b></p> <p>Article 9(1) and (3) of Law 21/2011 transpose Article 7(1) of the Directive.</p> <p>According to Article 9(1), first subparagraph and Article 9(3) of Law 21/2011, electronic money institutions will safeguard funds that have been received in exchange for electronic money in accordance with Article 10(1)(a) and (b) of Law 16/2009, of 13 November, on payment services. Those two provisions literally transpose Article 9(1)(a) and (b) and Article 9(1)(c) of Directive 2007/64/EC, respectively, cross-referred to in this Directive’s provision.</p> <p>According to Article 9(2) of Directive 2007/64/EC, the funds to be used for future payment transactions shall be subject to the requirements of Article 9(1) of that Directive, hence of Article 10(1)(a) and (b) of Law 16/2009,</p> <p>Therefore, such funds can be safeguarded by one of the methods laid down in Article 10(1)(a) and (b) of Law 16/2009, that is by</p>

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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.	con las disposiciones relativas al tiempo de ejecución que establece la Directiva 2007/64/CE. En cualquier caso, esos fondos deberán salvaguardarse como máximo cinco días hábiles, en el sentido del artículo 4, punto 27, de dicha Directiva, después de la emisión del dinero electrónico.	<p>payment account of the electronic money institution or they are otherwise made available to the electronic money institution in accordance with the execution time laid down in Section II, Chapter III of Title IV of Law 16/2009, of 13 November, on payment services, when applicable.</p> <p>In any event, such funds shall be safeguarded by no later than five business days after the issuance of electronic money.</p> <p>[...]</p> <p>3. Notwithstanding the foregoing, the Bank of Spain, based on the uniqueness of the business of electronic money institutions and with the aim of improving the safeguarding of the funds received by them, may allow, upon request by the institution, the use of the safeguarding method under Article 10(1)(b) of Law 16/2009, of 13 November, on payment services, either to safeguard the funds</p>	<p>con el apartado anterior hasta que no hayan sido ingresados en la cuenta de pago de la entidad de dinero electrónico o se hayan puesto de alguna otra forma a disposición de ésta, conforme a los plazos de ejecución previstos en la sección II del capítulo III del título IV de la Ley 16/2009, de 13 de noviembre, de servicios de pago, cuando resulten aplicables.</p> <p>En cualquier caso, estos fondos habrán de ser salvaguardados transcurridos, como máximo, cinco días hábiles desde la emisión del dinero electrónico.</p> <p>[...]</p> <p>3. No obstante lo anterior, el Banco de España, atendiendo a la singularidad del negocio de las entidades de dinero electrónico y con el fin de mejorar la protección de los fondos recibidos por ellas, podrá autorizar, cuando así lo solicite la entidad, la utilización del método de salvaguarda</p>	<p>not being commingled at any time with the funds of any natural or legal person other than payment service users and being insulated in the interest of the payment service users against the claims of other creditors of the payment institution, or by covering them by an insurance policy or some other comparable guarantee from an insurance company or a credit institution.</p> <p>In addition, such funds will not be safeguarded until they have not been admitted to the payment account of the electronic money institution or they are otherwise made available, that is by card transactions, to the electronic money institution. In this regard, the execution time for doing that is the one laid down in Title IV, on rights and obligations in relation to the provision and use of payment services; Chapter III on execution of payment transactions; Section II on execution time and value date, that is, Articles 39 to 43 of Law 16/2009. Those provisions correctly transpose Articles 68 to 73 of Directive 2007/64/EC, with the sole exception of Article 68(1)(c) on payment transactions involving only one currency conversion between the euro and the currency of a Member State outside the euro area, which has been partially transposed into the Spanish legislation.</p> <p>Such funds shall be safeguarded by no later than five business days after the issuance of electronic money. The definition of the term “business days”, defined in Article 4, point 27 of Directive 2007/64/EC has been literally transposed into the Spanish legislation by</p>



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			received in exchange for electronic money issued, either those received for the provision of payment services not linked to such issue.	previsto en el artículo 10.1.b) de la Ley 16/2009, de 13 de noviembre, de servicios de pago, ya sea para proteger los fondos que se hayan recibido a cambio del dinero electrónico emitido, ya sea los recibidos para la prestación de servicios de pago no vinculados a dicha emisión.	Article 2(26) of Law 16/2009. Thus, conformity has been observed.
<b>Art. 7(2), 1<sup>st</sup> subpar a.</b>	2. For the purposes of paragraph 1, secure, low-risk assets are asset items falling into one of the categories set out in Table 1 of point 14 of Annex I to Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions for which the specific risk capital charge is no higher than 1,6 %, but excluding other qualifying items as defined in point 15 of that Annex.	2. A efectos del apartado 1, los activos seguros y de bajo riesgo son elementos del activo que entran dentro de una de las categorías del anexo I, punto 14, cuadro 1, de la Directiva 2006/49/CE del Parlamento Europeo y del Consejo, de 14 de junio de 2006, sobre la adecuación del capital de las empresas de inversión y las entidades de crédito, para los que la exigencia de capital por riesgo específico no sobrepasa el 1,6 % pero excluye otros elementos cualificados como los que se definen en el punto 15 del mismo anexo.	<b>Art. 16(2), 1<sup>st</sup> subpar a., points (a) &amp; (b) of R.D. 778/2012</b>  2. Where institutions opt for the procedure referred to in Article 10(1)(a) of Law 16/2009, of 13 November, secure, liquid and low-risk assets shall be considered the following: (a) Demand deposits within credit institutions subject to prudential supervision and domiciled in Member States of the European Union or of the Organisation of Economic Cooperation and Development. The denomination of those deposits must expressly mention their status of	<b>Artículo 16, apartado 2, párrafo primero, letras a) y b) del R.D. 778/2012</b>  2. En caso de que las entidades opten por el procedimiento señalado en el artículo 10.1.a) de la Ley 16/2009, de 13 de noviembre, se considerarán activos seguros, líquidos y de bajo riesgo: a) Depósitos a la vista en entidades de crédito sometidas a supervisión prudencial y domiciliadas en Estados miembros de la Unión Europea o de la Organización de Cooperación y Desarrollo Económico. La denominación de estos depósitos deberá hacer	<b>CONFORM</b>  Article 16(2), first subparagraph, points (a) and (b) of R.D. 778/2012 transpose Article 7(2), first subparagraph of the Directive.  Article 16(2) of R.D. 778/2012 lists the secure, liquid and low-risk assets. It must be noted that while the Directive's provision refer to "secure and low-risk assets", Article 16(2), introductory wording of R.D. 778/2012 refers also to "liquid assets".  Article 7(2), first subparagraph of the Directive cross-refers to Table 1 of point 14 of Annex I to Directive 2006/49/EC, which lists the categories of specific risk. In this regard, secure and low-risk assets are asset items falling into one of those categories for which the specific risk capital charge is no higher than 1,6 %.  Taking the above-mentioned into consideration, according to Article 16(2), first subparagraph, points (a) and (b) of R.D. 778/2012, secure, liquid and low-risk assets

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				<p>“balance of customers of electronic money institutions”.</p> <p>(b) Acquisitions of fixed income securities that have a null weighting for the purposes of credit risk and debt securities that have an external credit rating issued by a recognised ECAI equivalent at least to a level of creditworthiness of 3 or better and which would receive a weighting less than or equal to 50% for credit risk in accordance with the provisions of Chapter III of Royal Decree 216/2008, of 15 February, on own funds of financial institutions and their implementing rules.</p>	<p>mención expresa a su condición de «saldos de clientes de entidades de dinero electrónico».</p> <p>b) Adquisiciones de valores de renta fija que tengan una ponderación nula a efectos del riesgo de crédito, y valores de renta fija que dispongan de una calificación crediticia externa otorgada por una ECAI reconocida equivalente, al menos, a un nivel de calidad crediticia de 3 o mejor y que recibirían una ponderación inferior o igual al 50% por riesgo de crédito, de conformidad con lo previsto en el capítulo III del Real Decreto 216/2008, de 15 de febrero, de recursos propios de las entidades financieras, y sus normas de desarrollo.</p>	<p>are demand deposits within credit institutions subject to prudential supervision and domiciled in MS of the European Union or of the Organisation of Economic Cooperation and Development and acquisitions of fixed income securities that have a null weighting for the purposes of credit risk and debt securities that have an external credit rating at least to a level of creditworthiness of 3 or better and which would receive a weighting less than or equal to 50% for credit risk.</p> <p>Thus, conformity is observed.</p>
<b>Art. 7(2), 2<sup>nd</sup> subpar a.</b>	For the purposes of paragraph 1, secure, low-risk assets are also units in an undertaking for collective investment in transferable securities (UCITS) which invests solely in assets as specified in the first	A efectos del apartado 1, los activos seguros y de bajo riesgo son también participaciones en un organismo de inversión colectiva en valores mobiliarios (OICVM) que invierta únicamente en los activos que se indican en	<b>Art. 16(2), 1<sup>st</sup> subpar a., point (c) of R.D. 778/20</b>	<b>Article 16(2), first subparagraph, point (c) of R.D. 778/2012</b>  (c) Units in an undertaking for collective investment in transferable securities (UCITS) which invests solely in assets as	<b>Artículo 16, apartado 2, párrafo primero, letra c) del R.D. 778/2012</b>  c) Participaciones en un organismo de inversión colectiva en valores mobiliarios (OICVM) que invierta únicamente en los	<b>CONFORM</b>  Article 16(2), first subparagraph, point (c) of R.D. 778/2012 transposes Article 7(2), second subparagraph of the Directive.  According to Article 16(2), first subparagraph, point (c) of R.D. 778/2012 units in an undertaking for collective investment in transferable securities (UCITS)

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	subparagraph.	el párrafo primero.	12	specified in the previous subparagraph.	activos que se indican en el párrafo anterior.	<p>which invests solely in assets of demand deposits within credit institutions subject to prudential and of acquisitions of fixed income securities that have a null weighting will also be considered as secure, liquid and low-risk assets</p> <p>It must be noted that while the Directive's provision refer to "secure and low-risk assets", Article 16(2), introductory wording of R.D. 778/2012 refers also to "liquid assets". However, it does not seem to affect the assessment of conformity of this provision.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 7(2), 3<sup>rd</sup> subpar a.</b>	In exceptional circumstances and with adequate justification, the competent authorities may, based on an evaluation of security, maturity, value or other risk element of the assets as specified in the first and second subparagraphs, determine which of those assets do not constitute secure, low-risk assets for the purposes of paragraph 1.	En circunstancias excepcionales y con la justificación adecuada, las autoridades competentes podrán, sobre la base de una evaluación de la seguridad, del valor al vencimiento u otro elemento de riesgo de los activos que se especifican en los subapartados primero y segundo, determinar cuál de esos activos no constituye activos seguros y de bajo riesgo a efectos del apartado 1.	<b>Art. 16(2), 2<sup>nd</sup> subpar a., point (c) of R.D. 778/2012</b>	<b>Article 16(2), second subparagraph of R.D. 778/2012</b>  In exceptional circumstances and with adequate justification, the Bank of Spain may, based on an evaluation of the risk elements of the assets as specified in the previous subparagraphs, determine which of those assets do not constitute secure, low-risk assets for the purposes of paragraph 1.	<b>Artículo 16, apartado 2, párrafo segundo del R.D. 778/2012</b>  En circunstancias excepcionales y debidamente justificadas, el Banco de España podrá, sobre la base de una evaluación de los elementos de riesgo de los activos que se especifican en los incisos anteriores, determinar cuáles de ellos no constituyen activos seguros y de bajo riesgo a efectos del apartado 1.	<b>CONFORM</b>  Article 16(2), second subparagraph of R.D. 778/2012 transposes Article 7(2), third subparagraph of the Directive.  Thus, Spain has chosen to apply the option set out in this Directive's provision.  It must be noted that there is no definition of the term "exceptional circumstances" in Law 21/2011 neither in the act implementing it, that is, R.D. 778/2012.  According to Article 16(2), second subparagraph of R.D. 778/2012, the Bank of Spain may determine which of the risk elements of the assets of demand deposits, acquisitions of fixed income securities having a null weighting and units in an undertaking for collective investment in transferable securities do not constitute secure and low-

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						<p>risk assets.</p> <p>The Bank of Spain may determine this only in exceptional circumstances, with adequate justification and based on an evaluation of the risk elements of those assets.</p> <p>It must be noted that while Article 16(2), second subparagraph of R.D. 778/2012 refers in general to any risk element of those assets, the Directive's provision refers to an evaluation of security, maturity, value or other risk element of the assets.</p> <p>However, it does not affect the assessment of conformity of this provision because the Spanish legislation covers any risk element.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 7(3)</b>	3. Article 9 of Directive 2007/64/EC shall apply to electronic money institutions for the activities referred to in Article 6(1)(a) of this Directive that are not linked to the activity of issuing electronic money.	3. El artículo 9 de la Directiva 2007/64/CE se aplicará a las entidades de dinero electrónico para las actividades enunciadas en el artículo 6, apartado 1, letra a), de la presente Directiva, que no estén vinculadas a la emisión de dinero electrónico.	<b>Art. 9(2) of Law 21/2011</b>	<b>Article 9(2) of Law 21/2011</b> 2. According to what is laid down in the first subparagraph of the previous paragraph, funds received from electronic money institutions in relation to the activities mentioned in Article 8(1)(a) of this Law which are not linked to the issuing of electronic money institutions shall also be safeguarded.	<b>Artículo 9, apartado 2 de la Ley 21/2011</b> 2. Se salvaguardarán asimismo conforme a lo previsto en el primer párrafo del apartado anterior los fondos recibidos por las entidades de dinero electrónico en relación con las actividades enunciadas en el artículo 8.1.a) de esta Ley que no estén vinculadas a la emisión de dinero electrónico.	<b>CONFORM</b> Article 9(2) of Law 21/2011 transposes Article 7(3) of the Directive. Thus, Spain has chosen to apply the option set out in this Directive's provision. According to Article 9(2) of R.D. 778/2012 funds received from electronic money institutions in relation to the activities mentioned in Article 1(2) of Law 16/2009, which literally transposes Annex to Directive 2007/64/C regarding payment services, and that are not linked to the issuing of electronic money institutions will also be safeguarded. Those funds will be safeguarded in accordance with Article 9(1), first subparagraph of R.D. 778/2012 which cross-refers to Article 10(1) and (2), which is

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						transposing Article 9(1), (2) and (3) of Directive 2007/64/EC. It must be noted that Article 9(4) of the said Directive sets out an option, which Spain did not choose to apply.  Thus, conformity has been observed.
<b>Art. 7(4)</b>	4. For the purposes of paragraphs 1 and 3, Member States or their competent authorities may determine, in accordance with national legislation, which method shall be used by the electronic money institutions to safeguard funds.	4. A efectos de los apartados 1 y 3, los Estados miembros o sus autoridades competentes podrán determinar, de conformidad con la legislación nacional, qué método deberán aplicar las entidades de dinero electrónico para salvaguardar los fondos.	<b>Art. 9(2) &amp; (3) of Law 21/2011</b>	<b>Article 9(2) and (3) of Law 21/2011</b>  2. According to what is laid down in the first subparagraph of the previous paragraph, funds received from electronic money institutions in relation to the activities mentioned in Article 8(1)(a) of this Law which are not linked to the issuing of electronic money institutions shall also be safeguarded.  3. Notwithstanding the foregoing, the Bank of Spain, based on the uniqueness of the business of electronic money institutions and with the aim of improving the safeguarding of the funds received by them, may allow, upon request by the institution, the use of the safeguarding method under Article 10(1)(b) of Law 16/2009, of 13	<b>Artículo 9, apartado 3 de la Ley 21/2011</b>  2. Se salvaguardarán asimismo conforme a lo previsto en el primer párrafo del apartado anterior los fondos recibidos por las entidades de dinero electrónico en relación con las actividades enunciadas en el artículo 8.1.a) de esta Ley que no estén vinculadas a la emisión de dinero electrónico.  3. No obstante lo anterior, el Banco de España, atendiendo a la singularidad del negocio de las entidades de dinero electrónico y con el fin de mejorar la protección de los fondos recibidos por ellas, podrá autorizar, cuando así lo solicite la entidad, la utilización del método de salvaguarda previsto en el artículo 10.1.b) de la Ley 16/2009,	<b>CONFORM</b>  Article 9(2) and (3) of Law 21/2011 transpose Article 7(4) of the Directive.  Thus, Spain has chosen to apply the option set out in this Directive's provision.  According to Article 9(2) of Law 21/2011, the general rule under the Spanish legislation is that funds will be safeguarded in accordance with Article 10(1)(a) of Law 16/2009 which correctly transposes Article 9(1)(a) and (b) of Directive 2007/64/EC.  However, the Bank of Spain will allow electronic money institutions to safeguard funds in accordance with Article 10(1)(b) of Law 16/2009, which correctly transposes Article 9(1)(c) of Directive 2007/64/EC.  This exemption will be allowed due to the uniqueness of the business of electronic money institutions and with the aim of improving the safeguarding of the funds received by them. The authorisation will be granted prior to the request of the electronic money institution.  Thus, conformity has been observed.

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				November, on payment services, either to safeguard the funds received in exchange for electronic money issued, either those received for the provision of payment services not linked to such issue.	de 13 de noviembre, de servicios de pago, ya sea para proteger los fondos que se hayan recibido a cambio del dinero electrónico emitido, ya sea los recibidos para la prestación de servicios de pago no vinculados a dicha emisión.	
<b>Art. 8(1)</b>	<p><i>Article 8</i> <b>Relations with third countries</b></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><i>Artículo 8</i> <b>Relaciones con terceros países</b></p> <p>1. Para el acceso a su actividad y para su ejercicio, los Estados miembros no aplicarán a las sucursales de las entidades de dinero electrónico que tengan su domicilio social fuera de la Comunidad disposiciones que conduzcan a un trato más favorable que aquel al que estén sometidas las entidades de dinero electrónico que tengan su domicilio social en la Comunidad.</p>	<b>Art. 4(1) of R.D. 778/2012</b>	<p><b>Article 4(1) of R.D. 778/2012</b></p> <p>1. The authorisation of the establishment in Spain of branches of foreign electronic money institutions authorised or domiciled in a non-EU Member State shall observe the provisions of the preceding articles, where applicable, with the following particularities:</p> <p>(a) The reference to draft statutes referred to in Article 3(1)(a), shall be construed as referring to the draft of the constitution document of the branch and the status of the electronic money institution which are in force.</p> <p>(b) minimum capital</p>	<p><b>Artículo 4, apartado 1 del R.D. 778/2012</b></p> <p>1. En la autorización del establecimiento en España de sucursales de entidades de dinero electrónico extranjeras autorizadas o domiciliadas en un Estado no miembro de la Unión Europea se observará lo dispuesto en los artículos anteriores, en lo que le sea de aplicación, con las particularidades siguientes:</p> <p>a) La mención al proyecto de Estatutos a que se refiere el artículo 3.1.a), se entenderá referida al proyecto de escritura de constitución de la sucursal y a los propios Estatutos vigentes de la entidad de dinero electrónico.</p>	<p><b>CONFORM</b></p> <p>Article 4(1) of R.D. 778/2012 transposes Article 8(1) of the Directive.</p> <p>Article 4 of R.D. 778/2012 lays down the procedure to be followed for authorising the establishment in Spain of branches of electronic money institutions authorised or domiciled in a non EU Member State that is, having its head office outside the Community.</p> <p>According to paragraph 1 thereof, such branches will follow the same procedure for the authorisation as the electronic money institutions having their head office in Spain since Articles 1, 2 and 3 of R.D. 778/2012 also apply to them.</p> <p>Notwithstanding the foregoing, such branches will also follow some particularities, which are laid down in points (a) to (e) of Article 4(1) of R.D. 778/2012.</p> <p>Such branches will provide, when requesting the authorisation for acting in Spain, the document for which the branch is constituted and the statutes of the electronic money</p>

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		<p>means the endowment maintained by the institution in Spain of permanent funds and indefinite duration, available to cover losses of the branch.</p> <p>(c) it shall have at least one person who is responsible for the management of the branch intended to be located in Spain and that effectively determine the orientation of the branch. Such a person must meet the requirements of good repute, knowledge and experience referred to in point (e) of Article 2.</p> <p>(d) The statutory purpose of the branch must not contain activities not permitted to electronic money institutions in their home country.</p> <p>(e) The documentation accompanying the application shall contain the necessary information to know the exact legal status which applies to the foreign electronic money institution, the supervision which applies to it, as well</p>	<p>b) Por capital social mínimo se entenderá la dotación mantenida por la entidad en España de fondos de carácter permanente y duración indefinida, disponibles para la cobertura de pérdidas de la sucursal.</p> <p>c) Deberán contar al menos con una persona que sea responsable de la gestión de la sucursal que pretenden establecer en España y que determine de modo efectivo la orientación de la sucursal. Dicha persona deberá cumplir los requisitos de honorabilidad, conocimientos y experiencia a que se refiere el párrafo e) del artículo 2.</p> <p>d) El objeto social de la sucursal no podrá contener actividades no permitidas a la entidad de dinero electrónico en su país de origen.</p> <p>e) La documentación que acompañe la solicitud contendrá la información necesaria para conocer con exactitud el régimen</p> <p>institution; its minimum capital will be the endowment of permanent funds in Spain of the institution; it must have at least one person responsible for the management of the branch; the branch may not pursue activities which are not allowed to the electronic money institution and the information concerning the legal status of the institution, the supervision which applies to it, the financial status, the measures adopted for safeguarding the funds and a description of the organisational structure. It will prove that it holds the authorisations required in its home country.</p> <p>The authorisation will not be granted for the same reasons which apply to electronic money institutions having their head of office within the Community and also by application of the reciprocity principle, which is in line with Recital 15 of the Directive. Hence, branches of electronic money institutions which have their head office outside the Community should benefit neither from the freedom of establishment nor the freedom to provide services.</p> <p>The branches of non-EU electronic money institutions can only provide payment services linked to the issuance of electronic money. However, they cannot provide any other payment services not linked to the issuance of electronic money. Moreover, the electronic money issuance activities and the payment services linked to such issuance activity of such a branch are limited within the territory of the Member State where the authorisation has been granted.</p>

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				<p>as its financial situation and a specific description of the measures adopted by the institution to safeguard the funds received in exchange for electronic money issued. It shall also include a description of the organisational structure of the institution and the group in which it shall eventually be integrated. It shall also prove that it holds the authorisations required by its home country to open the branch.</p> <p>The authorisation may be refused, in addition to the grounds listed in Article 4(2) of Law 21/2011, of 26 July, by applying the principle of reciprocity.</p>	<p>jurídico de la entidad de dinero electrónico extranjera solicitante, la supervisión a que está sometida, así como su situación financiera y una descripción específica de las medidas adoptadas por la entidad para salvaguardar los fondos recibidos a cambio del dinero electrónico emitido. También se incluirá una descripción de la estructura organizativa de la entidad y del grupo en la que ésta eventualmente se integre. Asimismo, se acreditará que está en posesión de las autorizaciones que en su caso exija su país de origen para abrir la sucursal.</p> <p>La autorización podrá ser denegada, además de por las causas señaladas en el artículo 4.2 de la Ley 21/2011, de 26 de julio, por la aplicación del principio de reciprocidad.</p>	Thus, conformity has been observed.
<b>Art. 8(2)</b>	2. The competent authorities shall notify the Commission of all authorisations for branches	2. Las autoridades competentes notificarán a la Comisión todas las autorizaciones de	<b>Art. 4(2) of R.D. 778/20</b>	<p><b>Article 4(2) of R.D. 778/2012</b></p> <p>2. The Bank of Spain shall notify the European</p>	<p><b>Artículo 4, apartado 2 del R.D. 778/2012</b></p> <p>2. El Banco de España notificará a la Comisión</p>	<p><b>CONFORM</b></p> <p>Article 4(2) of R.D. 778/2012 almost literally transposes Article 8(2) of the Directive.</p>



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	of electronic money institutions having their head office outside the Community.	sucursales de entidades de dinero electrónico que tengan su domicilio social fuera de la Comunidad.	12	Commission of all authorisations for branches of electronic money institutions having their head office outside the European Union, once they have been registered in the special register of electronic money institutions of the Bank of Spain.	Europea todas las autorizaciones de sucursales de entidades de dinero electrónico que tengan su domicilio social fuera de la Unión Europea, una vez inscritas en el Registro Especial de entidades de dinero electrónico del Banco de España.	<p>According to Article 4(2) of R.D. 778/2012 the Bank of Spain shall notify the European Commission of all authorisations for branches of electronic money institutions having their head office outside the European Union.</p> <p>Such notification shall be done once those branches have been registered in the special register of electronic money institutions of the Bank of Spain, which it is also a requirement for electronic money institutions having their head office within the Community.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 8(3)</b>	3. Without prejudice to paragraph 1, the Community may, through agreements concluded with one or more third countries, agree to apply provisions that ensure that branches of an electronic money institution having its head office outside the Community are treated identically throughout the Community.	3. Sin perjuicio de lo dispuesto en el apartado 1, la Comunidad podrá, mediante acuerdos con uno o más terceros países, acordar la aplicación de disposiciones que concedan a las sucursales de una entidad de dinero electrónico con domicilio social fuera de la Comunidad el mismo trato en el conjunto de la Comunidad.	N/A	N/A	N/A	<p>No disposition of Spanish legislation transposes Article 8(3) of the Directive, as it does not contain any positive obligation for the MS.</p> <p>The Spanish legislation does not mention any agreement concluded with third countries providing for the application of rules, which accord branches of electronic money institutions, which have their head office outside the Community the same treatment throughout the Community.</p> <p>According to Article 4(1), second subparagraph of R.D. 778/2012 the authorisation may be refused, in addition to the grounds listed in Article 4(2) of Law 21/2011, by application of the principle of reciprocity. Thus, it can be inferred that Spain has a case-by-case authorisation process based on the reciprocity principle for branches of electronic money institutions having their head office outside the</p>

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						Community.
<b>Art. 9(1), 1<sup>st</sup> subpara., intr. wording</b>	<p><i>Article 9</i> <b>Optional Exemptions</b></p> <p>1. Member States may waive or allow their competent authorities to waive the application of all or part of the procedures and conditions set out in Articles 3, 4, 5 and 7 of this Directive, with the exception of Articles 20, 22, 23 and 24 of Directive 2007/64/EC, and allow legal persons to be entered in the register for electronic money institutions if both of the following requirements are complied with:</p>	<p><i>Artículo 9</i> <b>Excepciones facultativas</b></p> <p>1. Los Estados miembros podrán no aplicar o autorizar a sus autoridades competentes a no aplicar total o parcialmente el procedimiento y las condiciones establecidos en los artículos 3, 4, 5 y 7 de la presente Directiva, a excepción de los artículos 20, 22, 23 y 24 de la Directiva 2007/64/CE, y permitir la inclusión de personas jurídicas en el registro de entidades de dinero electrónico, siempre que se cumplan los dos requisitos siguientes:</p>	N/A	N/A	N/A	<p>Article 9(1), introductory wording of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.</p> <p>Spain has not waived, neither all neither part of the application of certain provisions of this Directive, such as procedures and conditions as regards institutions issuing only a limited amount of electronic money, which is an option mentioned in Recital 16 of the Directive.</p>
<b>Art. 9(1), 1<sup>st</sup> subpara., pt (a)</b>	<p>(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</p>	<p>a) que la totalidad de las actividades empresariales genere una cuantía media de dinero electrónico en circulación que no sobrepase un límite establecido por el Estado miembro y que, en ningún caso, podrá ser superior a los 5 000 000 EUR, y</p>	N/A	N/A	N/A	<p>Article 9(1)(a) of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.</p>

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<b>Art. 9(1), 1<sup>st</sup> subpar a., pt (b)</b>	(b) none of the natural persons responsible for the management or operation of the business has been convicted of offences relating to money laundering or terrorist financing or other financial crimes.	b) que ninguna de las personas físicas responsables de la gestión o explotación de las actividades empresariales haya sido condenada por delitos de blanqueo de dinero o financiación del terrorismo u otros delitos de carácter financiero.	N/A	N/A	N/A	Article 9(1)(b) of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.
<b>Art. 9(1), 2<sup>nd</sup> subpar a,</b>	Where an electronic money institution carries out any of the activities referred to in Article 6(1)(a) that are not linked to the issuance of electronic money or any of the activities referred to in Article 6(1)(b) to (e) and the amount of outstanding electronic money is unknown in advance, the competent authorities shall allow that electronic money institution to apply point (a) of the first subparagraph on the basis of a representative portion assumed to be used for the issuance of electronic money, provided that such a representative portion can be reasonably estimated on the basis of historical data and to the	Cuando las entidades de dinero electrónico realicen alguna de las actividades enunciadas en el artículo 6, apartado 1, letra a), que no estén vinculadas a la emisión de dinero electrónico, o cualquiera de las actividades enunciadas en el artículo 6, apartado 1, letras b) a e), y el volumen del dinero electrónico en circulación no se conozca con antelación, las autoridades competentes permitirán que dichas entidades de dinero electrónico apliquen la letra a) del párrafo primero sobre la base de un porcentaje representativo que se presume se utilizará para la emisión de dinero electrónico, siempre que	N/A	N/A	N/A	Article 9(1), second subparagraph of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.

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	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.	dicho porcentaje representativo pueda calcularse razonablemente sobre la base de los datos históricos y a satisfacción de las autoridades competentes. Cuando una entidad de dinero electrónico no haya completado un período de actividad suficiente, este requisito se apreciará sobre la base del dinero electrónico en circulación previsto en su plan de negocios, a menos que las autoridades competentes exijan cualquier adaptación de dicho plan.				
<b>Art. 9(1), 3<sup>rd</sup> subpar a.</b>	Member States may also provide for the granting of the optional exemptions under this Article to be subject to an additional requirement of a maximum storage amount on the payment instrument or payment account of the consumer where the electronic money is stored.	Los Estados miembros podrán igualmente disponer que las excepciones facultativas en virtud del presente artículo estén sujetas a un requisito suplementario de un importe máximo almacenado en el instrumento de pago o la cuenta de pago del cliente en el que esté almacenado el dinero electrónico.	N/A	N/A	N/A	Article 9(1), third subparagraph of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.  However, it must be noted that according to Article 24, point (c), second subparagraph of R.D. 778/2012 debit balances of payment accounts must be replenished within one month and the amount must not exceed at any time to the amount of EUR 600.
<b>Art. 9(1),</b>	A legal person registered in accordance with this	Toda persona jurídica registrada de conformidad	N/A	N/A	N/A	Article 9(1), fourth subparagraph of the Directive sets out an option. Owing to this

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<b>4<sup>th</sup> subpar a.</b>	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.	con el presente apartado podrá prestar servicios de pago no relacionados con dinero electrónico emitido de conformidad con el presente artículo únicamente si se cumplen las condiciones que establece el artículo 26 de la Directiva 2007/64/CE.				option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.
<b>Art. 9(2)</b>	2. A legal person registered in accordance with paragraph 1 shall be required to have its head office in the Member State in which it actually pursues its business.	2. Toda persona jurídica inscrita con arreglo al apartado 1 estará obligada a fijar su domicilio social en el Estado miembro en que desarrolle efectivamente sus actividades.	N/A	N/A	N/A	Article 9(2) of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.
<b>Art. 9(3)</b>	3. A legal person registered in accordance with paragraph 1 shall be treated as an electronic money institution. However, Article 10(9) and Article 25 of Directive 2007/64/EC shall not apply to it.	3. Toda persona jurídica inscrita con arreglo al apartado 1 tendrá la consideración de entidad de dinero electrónico. No obstante, el artículo 10, apartado 9, y el artículo 25 de la Directiva 2007/64/CE no le será de aplicación.	N/A	N/A	N/A	Article 9(3) of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.
<b>Art. 9(4)</b>	4. Member States may provide for a legal person registered in accordance with paragraph 1 to engage only in some of the	4. Los Estados miembros podrán disponer que las personas jurídicas inscritas con arreglo al apartado 1 puedan ejercer únicamente	N/A	N/A	N/A	Article 9(4) of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.

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	activities listed in Article 6(1).	algunas de las actividades enumeradas en el artículo 6, apartado 1.				
<b>Art. 9(5), intr. wording</b>	5. A legal person referred to in paragraph 1 shall:	5. Las personas jurídicas indicadas en el apartado 1:	N/A	N/A	N/A	Article 9(5), introductory wording of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.
<b>Art. 9(5)(a)</b>	(a) notify the competent authorities of any change in its situation which is relevant to the conditions specified in paragraph 1; and	a) comunicarán a las autoridades competentes todo cambio de su situación que atañe a las condiciones especificadas en el apartado 1, y	N/A	N/A	N/A	Article 9(5)(a) of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.
<b>Art. 9(5)(b)</b>	(b) at least annually, on date specified by the competent authorities, report on the average outstanding electronic money.	b) al menos una vez al año, en la fecha que determinen las autoridades competentes, informarán de la media de dinero electrónico en circulación.	N/A	N/A	N/A	Article 9(5)(b) of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either
<b>Art. 9(6)</b>	6. Member States shall take the necessary steps to ensure that where the conditions set out in paragraphs 1, 2 and 4 are no longer met, the legal person concerned shall seek authorisation within 30 calendar days in accordance with Article 3. Any such person that has not sought authorisation	6. Los Estados miembros adoptarán las medidas necesarias para garantizar que cuando no se cumplan ya las condiciones establecidas en los apartados 1, 2 y 4, la persona jurídica de que se trate solicite autorización dentro de los 30 días naturales, de conformidad con el procedimiento	N/A	N/A	N/A	Article 9(6) of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either

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	within that period shall be prohibited, in accordance with Article 10, from issuing electronic money.	contemplado en el artículo 3. Las personas en esa situación que hayan solicitado autorización en ese plazo tendrán prohibido seguir emitiendo dinero electrónico, de conformidad con el artículo 10.				
<b>Art. 9(7)</b>	7. Member States shall ensure that their competent authorities are sufficiently empowered to verify continued compliance with the requirements laid down in this Article.	7. Los Estados miembros se asegurarán de que sus propias autoridades competentes dispongan de las competencias suficientes para comprobar el cumplimiento permanente de los requisitos que establece el presente artículo.	N/A	N/A	N/A	Article 9(7) of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.
<b>Art. 9(8)</b>	8. This Article shall not apply in respect of the provisions of Directive 2005/60/EC or national anti-money-laundering provisions.	8. El presente artículo no se aplicará con respecto a las disposiciones establecidas en la Directiva 2005/60/CE o con respecto a la normativa nacional contra el blanqueo de capitales.	N/A	N/A	N/A	Article 9(8) of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.
<b>Art. 9(9)</b>	9. Where a Member State avails itself of the waiver provided for in paragraph 1, it shall notify the	9. Cuando un Estado miembro haga uso de la excepción prevista en el apartado 1, deberá	N/A	N/A	N/A	Article 9(9) of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in

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	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.	notificarlo a la Comisión a más tardar el 30 de abril de 2011. Dicho Estado miembro informará inmediatamente a la Comisión de toda modificación que efectúe. Asimismo, el Estado miembro informará a la Comisión del número de personas jurídicas de que se trata y le comunicará anualmente la cantidad total de dinero electrónico en circulación emitido hasta el 31 de diciembre de cada año natural, como dispone el apartado 1.				the legislation of Spain either.
<b>Art. 10</b>	<p style="text-align: center;"><b>TITLE III ISSUANCE AND REDEEMABILITY OF ELECTRONIC MONEY</b></p> <p style="text-align: center;"><i>Article 10</i></p> <p style="text-align: center;"><b>Prohibition from issuing electronic money</b></p> <p>Without prejudice to Article 18, Member States shall prohibit natural or legal persons who are not electronic money issuers from issuing electronic money.</p>	<p style="text-align: center;"><b>TÍTULO III EMISIÓN Y REEMBOLSO DE DINERO ELECTRÓNICO</b></p> <p style="text-align: center;"><i>Artículo 10</i></p> <p style="text-align: center;"><b>Prohibición de emisión de dinero electrónico</b></p> <p>Sin perjuicio de lo establecido en el artículo 18, los Estados miembros prohibirán a toda persona física o jurídica que no sea emisora de dinero electrónico emitir dinero electrónico.</p>	<b>Art. 3 of Law 21/201 1</b>	<b>Article 3 of Law 21/2011</b>  1. Electronic money institutions shall be those legal persons other than those referred to in Article 2(1)(a) of this Act, which have been granted authorisation to issue electronic money under this Chapter.  2. The term "electronic money institution" and its abbreviation "EMI" shall be restricted to those institutions, which may be included in its denomination in	<b>Artículo 3 de la Ley 21/2011</b>  1. Tendrán la consideración de entidades de dinero electrónico aquellas personas jurídicas distintas de las contempladas en el artículo 2.1.a) de esta Ley, a las cuales se haya otorgado autorización para emitir dinero electrónico conforme a este capítulo.  2. La denominación «entidad de dinero electrónico», así como su abreviatura «EDE»,	<b>CONFORM</b>  Article 3 of Law 21/2011 transposes Article 10 of the Directive.  According to Article 3 of Law 21/2011, electronic money institutions shall be those legal persons authorised to issue electronic money. The use of the abbreviation "EMI" is restricted to those authorised institutions. Thus, natural or legal persons who violate this reserve will be punished in accordance with Article 29 of Law 26/1988, of 26 July, on discipline and intervention of credit institutions.  Therefore, it can be inferred that natural or legal persons who are not electronic money issuers are not allowed to issue electronic



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				accordance with regulations. Natural or legal persons who violate this reserve shall be punished as provided for in paragraph 3 of Article 2.	quedará reservada a estas entidades, las cuales podrán incluirlas en su denominación social en la forma que reglamentariamente se determine. Las personas físicas o jurídicas que infrinjan esta reserva serán sancionadas conforme a lo previsto en el apartado 3 del artículo 2.	money. Thus, conformity has been observed.
<b>Art. 11(1)</b>	<b>Article 11 Issuance and redeemability</b> 1. Member States shall ensure that electronic money issuers issue electronic money at par value on the receipt of funds.	<b>Artículo 11 Emisión y reembolso</b> 1. Los Estados miembros velarán por que los emisores de dinero electrónico emitan dinero electrónico por su valor nominal al recibo de los fondos.	<b>Art. 17(1) of Law 21/2011</b>	<b>Article 17(1) of Law 21/2011</b> 1. Electronic money issuers shall issue electronic money at par value on the receipt of funds.	<b>Artículo 17, apartado 1 de la Ley 21/2011</b> 1. Los emisores de dinero electrónico emitirán, al recibo de los fondos, dinero electrónico por su valor nominal.	<b>CONFORM</b> Article 17(1) of Law 21/2011 literally transposes Article 11(1) of the Directive. According to Article 17(1) of Law 21/2011, electronic money issuers shall issue electronic money at par value on the receipt of funds. Hence, redemption shall be possible at any time, which is also in line with Recital 18. Thus, conformity has been observed.
<b>Art. 11(2)</b>	2. Member States shall ensure that, upon request by the electronic money holder, electronic money issuers redeem, at any moment and at par value, the monetary value of the electronic money held.	2. Los Estados miembros velarán por que los emisores de dinero electrónico reembolsen al titular del mismo, cuando este así lo solicite, en todo momento y por su valor nominal, el valor monetario del dinero electrónico de que disponga.	<b>Art. 17(2) of Law 21/2011</b>	<b>Article 17(2) of Law 21/2011</b> 2. Upon request by the electronic money holder, electronic money issuers shall redeem, at any moment and at par value, the monetary value of the electronic money held.	<b>Artículo 17, apartado 2 de la Ley 21/2011</b> 2. Los emisores de dinero electrónico reembolsarán al titular del mismo, cuando éste lo solicite, en todo momento y por su valor nominal, el valor monetario del dinero electrónico de que disponga.	<b>CONFORM</b> Article 17(2) of Law 21/2011 literally transposes Article 11(2) of the Directive.

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<b>Art. 11(3)</b>	3. The contract between the electronic money issuer and the electronic money holder shall clearly and prominently state the conditions of redemption, including any fees relating thereto, and the electronic money holder shall be informed of those conditions before being bound by any contract or offer.	3. El contrato entre el emisor de dinero electrónico y el titular de dinero electrónico estipulará clara y explícitamente las condiciones de reembolso, incluidos los gastos conexos, y se informará de esas condiciones al titular del dinero electrónico antes de que este quede sujeto a un contrato u oferta.	<b>Art. 17(3) of Law 21/2011</b>	<b>Article 17(3) of Law 21/2011</b> 3. The contract between the electronic money issuer and the electronic money holder shall clearly and prominently state the conditions of redemption, including any fees relating thereto, and the electronic money holder shall be informed of those conditions before being bound by any contract or offer.	<b>Artículo 17, apartado 3 de la Ley 21/2011</b> 3. El contrato entre el emisor de dinero electrónico y el titular del dinero electrónico estipulará clara y explícitamente las condiciones de reembolso, incluidos los gastos conexos, y se informará de esas condiciones al titular del dinero electrónico antes de que éste quede sujeto a un contrato u oferta.	<b>CONFORM</b> Article 17(3) of Law 21/2011 literally transposes Article 11(3) of the Directive.
<b>Art. 11(4), 1<sup>st</sup> subpara., intr. wording</b>	4. Redemption may be subject to a fee only if stated in the contract in accordance with paragraph 3 and only in any of the following cases:	4. El reembolso podrá estar sujeto a cargas únicamente si así se estipula en el contrato de conformidad con el apartado 3 y solo en uno de los siguientes casos:	<b>Art. 17(4), 1<sup>st</sup> subpara., intro. wording of Law 21/2011</b>	<b>Article 17(4), first subparagraph, introductory wording of Law 21/2011</b> 4. Redemption may be subject to a fee only if stated in the contract in accordance with the previous paragraph and only in any of the following cases:	<b>Artículo 17, apartado 4, párrafo primero, frase introductoria de la Ley 21/2011</b> 4. El reembolso podrá estar sujeto a gastos únicamente si así se estipula en el contrato de conformidad con el apartado anterior y sólo en alguno de los siguientes casos:	<b>CONFORM</b> Article 17(4), first subparagraph, introductory wording of Law 21/2011 literally transposes Article 11(4), introductory wording of the Directive.  Article 17(4), first subparagraph of Law 21/2011 lists the cases where redemption may be subject to a fee.  Such fees will apply only if it is stated in the contract that the redemption will be subject to a fee. Those conditions of redemption will be determined in accordance with the contractual freedom.  Thus, conformity has been observed.
<b>Art. 11(4),</b>	(a) where redemption is requested before the	a) cuando el reembolso se solicite antes de concluir	<b>Art. 17(4),</b>	<b>Article 17(4), first subparagraph, point (a)</b>	<b>Artículo 17, apartado 4, párrafo primero, letra a)</b>	<b>CONFORM</b> Article 17(4), first subparagraph, point (a) of

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<b>1<sup>st</sup> subpar a., pt (a)</b>	termination of the contract;	el contrato;	<b>1<sup>st</sup> subpar a., point (a) of Law 21/2011</b>	<b>of Law 21/2011</b> (a) where redemption is requested before the termination of the contract;	<b>de la Ley 21/2011</b> a) cuando el reembolso se solicite antes de la finalización del contrato.	Law 21/2011 literally transposes Article 11(4)(a) of the Directive.
<b>Art. 11(4), 1<sup>st</sup> subpar a., pt (b)</b>	(b) where the contract provides for a termination date and the electronic money holder terminates the contract before that date; or	b) cuando el contrato determine una fecha de finalización y el titular del dinero electrónico haya resuelto el contrato con anterioridad a dicha fecha, o	<b>Art. 17(4), 1<sup>st</sup> subpar a., point (b) of Law 21/2011</b>	<b>Article 17(4), first subparagraph, point (b) of Law 21/2011</b> (b) where the contract provides for a termination date and the electronic money holder terminates the contract before that date; or	<b>Artículo 17, apartado 4, párrafo primero, letra b) de la Ley 21/2011</b> b) cuando el contrato determine una fecha de finalización y el titular del dinero electrónico haya resuelto el contrato con anterioridad a dicha fecha.	<b>CONFORM</b> Article 17(4), first subparagraph, point (b) of Law 21/2011 literally transposes Article 11(4)(b) of the Directive.
<b>Art. 11(4), 1<sup>st</sup> subpar a., pt (c)</b>	(c) where redemption is requested more than one year after the date of termination of the contract.	c) cuando el reembolso se solicite con más de un año de antelación respecto de la fecha de finalización del contrato.	<b>Art. 17(4), 1<sup>st</sup> subpar a., point (c) of Law 21/2011</b>	<b>Article 17(4), first subparagraph, point (c) of Law 21/2011</b> (c) where redemption is requested one year after the date of termination of the contract.	<b>Artículo 17, apartado 4, párrafo primero, letra c) de la Ley 21/2011</b> c) cuando el reembolso se solicite una vez transcurrido un año desde la fecha de finalización del contrato.	<b>CONFORM</b> Article 17(4), first subparagraph, point (c) of Law 21/2011 transposes Article 11(4)(c) of the Directive.  According to Article 17(4), first subparagraph, point (c) of Law 21/2011, another case under which redemption may be subject to a fee is where redemption is requested one year after the date of termination of the contract.  While the Directive's provision refers to "more than one year after", Article 17(4), first subparagraph, point (c) of Law 21/2011 refers to "one year after". However, it does not affect the assessment of conformity of this

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						<p>Directive's provision because in any case, the request is that the redemption is requested when at least one year has passed after the date of termination of the contract.</p> <p>It should be noted that the translation into Spanish of this Directive's provision should be reviewed. While the Directive's provision refers to "more than one year after the date", the translation into Spanish reads the equivalent of "more than one year before the date". However, it does affect the assessment of conformity of this Directive's provision because Article 17(4), first subparagraph, point (c) of Law 21/2011 follows the wording of the English version of this Directive's provision.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 11(4), 2<sup>nd</sup> subpar a.</b>	Any such fee shall be proportionate and commensurate with the actual costs incurred by the electronic money issuer.	Toda carga será proporcional y adecuada a los costes reales en que incurra el emisor de dinero electrónico.	<b>Art. 17(4), 2<sup>nd</sup> subpar a. of Law 21/2011</b>	<b>Article 17(4), second subparagraph of Law 21/2011</b>  Any such fee shall be proportionate and commensurate with the actual costs incurred by the electronic money issuer.	<b>Artículo 17, apartado 4, párrafo segundo de la Ley 21/2011</b>  Todo gasto será proporcional y adecuado a los costes reales en que incurra el emisor de dinero electrónico.	<b>CONFORM</b>  Article 17(4), second subparagraph of Law 21/2011 literally transposes Article 11(4), second subparagraph of the Directive.
<b>Art. 11(5)</b>	5. Where redemption is requested before the termination of the contract, the electronic money holder may request redemption of the electronic money in whole	5. Cuando el reembolso se solicita antes de la finalización del contrato, el titular del dinero electrónico podrá solicitar el reembolso total o parcial.	<b>Art. 17(5) of Law 21/2011</b>	<b>Article 17(5) of Law 21/2011</b>  5. Where redemption is requested before the termination of the contract, the electronic money holder may request	<b>Artículo 17, apartado 5 de la Ley 21/2011</b>  5. Cuando el reembolso se solicite antes de la finalización del contrato, el titular del dinero electrónico podrá solicitar	<b>CONFORM</b>  Article 17(5) of Law 21/2011 literally transposes Article 11(5) of the Directive.

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	or in part.			redemption of the electronic money in whole or in part.	el reembolso total o parcial.	
<b>Art. 11(6), intr. wording</b>	6. Where redemption is requested by the electronic money holder on or up to one year after the date of the termination of the contract:	6. Cuando el titular del dinero electrónico solicite el reembolso en la fecha de finalización del contrato o hasta un año después de dicha fecha:	<b>Art. 17(6), intro. wording of Law 21/2011</b>	<b>Article 17(6), introductory wording of Law 21/2011</b> 6. Where redemption is requested by the electronic money holder on or up to one year after the date of the termination of the contract:	<b>Artículo 17, apartado 6, frase introductoria de la Ley 21/2011</b> 6. Cuando el titular del dinero electrónico solicite el reembolso en la fecha de finalización del contrato o hasta un año después de dicha fecha:	<b>CONFORM</b> Article 17(6), introductory wording of Law 21/2011 literally transposes Article 11(6), introductory wording of the Directive.  In case of undetermined contracts, redemption will be free of charge where the redemption is requested between the moment of termination of the contract up to one year after the termination.  In case of fix term contracts, redemption will be free of charge as long as the holder does not terminated the contract before the fixed termination dated. However, in case the electronic money holder terminates the contract before the agreed date, a cost-based fee can be charged.  Thus, conformity has been observed.
<b>Art. 11(6)(a)</b>	a) the total monetary value of the electronic money held shall be redeemed; or	a) se reembolsará el valor monetario total del dinero electrónico que se posea;	<b>Art. 17(6)(a) of Law 21/2011</b>	<b>Article 17(6)(a) of Law 21/2011</b> (a) the total monetary value of the electronic money held shall be redeemed; or	<b>Artículo 17, apartado 6, letra a) de la Ley 21/2011</b> a) Se reembolsará el valor monetario total del dinero electrónico que se posea.	<b>CONFORM</b> Article 17(6)(a) of Law 21/2011 literally transposes Article 11(6)(a) of the Directive.
<b>Art. 11(6)(b)</b>	(b) where the electronic money institution carries out one or more of the activities listed in Article 6(1)(e) and it is unknown	b) cuando una entidad de dinero electrónico realice una o varias de las actividades que se enumeran en el artículo 6,	<b>Art. 17(6)(b) of Law 21/2011</b>	<b>Article 17(6)(b) of Law 21/2011</b> (b) where the electronic money institution carries	<b>Artículo 17, apartado 6, letra b) de la Ley 21/2011</b> b) Cuando una entidad de dinero electrónico realice	<b>CONFORM</b> Article 17(6)(b) of Law 21/2011 literally transposes Article 11(6)(b) of the Directive. Article 17(6)(b) of Law 21/2011 cross-refers

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	in advance what proportion of funds is to be used as electronic money, all funds requested by the electronic money holder shall be redeemed.	apartado 1, letra e), y se desconozca de antemano el porcentaje de fondos que se va a utilizar como dinero electrónico, se reembolsarán al titular del dinero electrónico todos los fondos que solicite.	1	out one or more of the activities listed in Article 8(1)(e) of this Law 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.	una o varias de las actividades que se enumeran en el artículo 8.1.e) de esta Ley, y se desconozca de antemano el porcentaje de fondos que se va a utilizar como dinero electrónico, se reembolsarán al titular del dinero electrónico todos los fondos que solicite.	to Article 8(1)(e) of the same Law, which cross-refers to Article 1(2) of Law 16/2009, of 13 November, on payment services, which lays down the payment services that can be pursued and literally transposes the Annex to Directive 2007/64/EC.
<b>Art. 11(7)</b>	7. Notwithstanding paragraphs 4, 5 and 6, redemption rights of a person, other than a consumer, who accepts electronic money shall be subject to the contractual agreement between the electronic money issuer and that person.	7. No obstante lo dispuesto en los apartados 4, 5 y 6, los derechos de reembolso de las personas distintas a los clientes, que acepten dinero electrónico estarán sujetos a las estipulaciones contractuales acordadas entre los emisores de dinero electrónico y dichas personas.	<b>Art. 17(7) of Law 21/2011</b>	<b>Article 17(7) of Law 21/2011</b> 7. Redemption rights of natural or legal persons, who accept electronic money, shall be subject to the contractual agreement with the electronic money issuer. Notwithstanding, paragraphs 4, 5 and 6 above shall apply to them when they request the redemption as holders of electronic money.	<b>Artículo 17, apartado 7 de la Ley 21/2011</b> 7. Los derechos de reembolso de las personas físicas o jurídicas que acepten dinero electrónico se regirán por las estipulaciones contractuales acordadas con el emisor de dinero electrónico. No obstante, lo previsto en los apartados 4, 5 y 6 anteriores les será de aplicación cuando soliciten el reembolso en su condición de titulares de dinero electrónico.	<b>CONFORM</b> Article 17(7) of Law 21/2011 transposes Article 11(7) of the Directive. Article 17(7) of Law 21/2011 establishes that the redemption rights of natural or legal persons who accept electronic money will be subject to the contractual agreement with the electronic money issuer. It must be noted that while the Directive's provision refers to "person, other than a consumer", Article 17(7) of Law 21/2011 refers to "natural or legal persons". Therefore, it could be inferred that under the Spanish legislation the redemption rights of any person, hence also consumers, will be subject to contractual agreements. However, Article 11(4), (5) and (6) of the Directive lay down that holders of electronic money who accepts electronic money will be subject to the contractual agreement with the electronic money issuer. Hence, according to the Directive, any person

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						<p>who accepts electronic money will be subject to the contractual agreement between the electronic money issuer and that person.</p> <p>Moreover, Article 17(7) of Law 21/2011 explicitly mentions that when any person, natural or legal, accepts electronic money and requests its redemption as holder of electronic money, then the conditions regarding the fees to which redemption may be subject and the timing for requesting such redemption shall apply, that is Article 17(4), (5) and (6) of Law 21/2011.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 12</b>	<p><i>Article 12</i> <b>Prohibition of interest</b></p> <p>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.</p>	<p><i>Artículo 12</i> <b>Prohibición de intereses</b></p> <p>Los Estados miembros prohibirán la concesión de intereses o cualquier otro beneficio relacionado con el tiempo durante el cual un titular de dinero electrónico está en posesión de dinero electrónico.</p>	<b>Art. 18 of Law 21/2011</b>	<b>Article 18 of Law 21/2011</b>	<b>Artículo 18 de la Ley 21/2011</b>	<b>CONFORM</b>
						<p>Article 18 of Law 21/2011 literally transposes Article 12 of the Directive.</p> <p>According to Article 18 of Law 21/2011, electronic money institutions are not allowed to grant interest or any other benefit related to the length of time the electronic money has been held, which is in line with Recital 13 of the Directive.</p>
<b>Art. 13</b>	<p><i>Article 13</i> <b>Out-of-court complaint and redress procedures for the settlement of disputes</b></p> <p>Without prejudice to this Directive, Chapter 5 of Title IV of Directive 2007/64/EC shall apply</p>	<p><i>Artículo 13</i> <b>Procedimientos de reclamación y de recurso extrajudicial para la solución de litigios</b></p> <p>Sin perjuicio de lo dispuesto en la presente Directiva, el título IV, capítulo 5, de la Directiva</p>	<b>Art. 19 of Law 21/2011</b>	<b>Article 19 of Law 21/2011</b>	<b>Artículo 19 de la Ley 21/2011</b>	<b>CONFORM</b>
						<p>Article 19 of Law 21/2011 transposes Article 13 of the Directive.</p> <p>Article 19 of Law 21/2011 cross-refers to Article 50 of Law 16/2009 which regulates the out-of-court proceedings and which correctly transposes Title IV of Directive 2007/64/EC. In particular, it transposes</p>

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	mutatis mutandis to electronic money issuers in respect of their duties arising from this Title.	2007/64/CE se aplicará <i>mutatis mutandis</i> a los emisores de dinero electrónico en lo que respecta a sus obligaciones derivadas del presente título.		16/2009, of 13 November, on payment services with the adaptations laid down by regulations shall apply to issuers of electronic money.	aplicación a los emisores de dinero electrónico lo dispuesto en el artículo 50 de la Ley 16/2009, de 13 de noviembre, de servicios de pago, con las adaptaciones que reglamentariamente se determinen.	<p>Article 51(2), under Title IV, on rights and obligations in relation to the provision and use of payment services, Chapter 1, on common provisions; Article 80 under Chapter 5, on out-of-court complaint and redress procedures for the settlement of disputes, Section 1 on complaint procedures and Article 83 under Section 2 on out-of-court redress procedures of Directive 2007/64/EC.</p> <p>According to Article 19 of Law 21/2011, the above-mentioned provisions, which are under Title IV of Directive 2007/64/EC, shall apply, with the adaptations done by regulations, that is <i>mutatis mutandis</i>, to issuers of electronic money. Hence, electronic money holders can use out-of-court complaint and redress procedures, which is in line with Recital 19 of the Directive.</p> <p>Article 19 of Law 21/2011 is more detailed than this Directive's provision since it specifies that the provisions shall apply to issuers of electronic money in their relations with holders of electronic money, and where appropriate, with users of payments services not linked to such issuing. However, it does not affect the assessment of conformity of this Directive's provision.</p> <p>Thus, conformity has been observed.</p>
<b>Art. 16(1)</b>	<p><b>TITLE IV FINAL PROVISIONS AND IMPLEMENTING MEASURES</b></p> <p><i>Article 16</i></p>	<p><b>TÍTULO IV DISPOSICIONES FINALES Y MEDIDAS DE APLICACIÓN</b></p> <p><i>Artículo 16</i></p>	N/A	N/A	N/A	<p><b>PARTIALLY CONFORM</b></p> <p>Article 16(1) of the Directive has been partially transposed into the Spanish legislation.</p> <p>Spain has not maintained or introduced</p>



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	<p><b>Full harmonization</b></p> <p>1. Without prejudice to Article 1(3), the sixth subparagraph of Article 3(3), Article 5(7), Article 7(4), Article 9 and Article 18(2) and in so far as this Directive provides for harmonisation, Member States shall not maintain or introduce provisions other than those laid down in this Directive.</p>	<p><b>Plena armonización</b></p> <p>1. Sin perjuicio de lo dispuesto en el artículo 1, apartado 3, en el artículo 3, apartado 3, párrafo sexto, en el artículo 5, apartado 7, en el artículo 7, apartado 4, en el artículo 9, y en el artículo 18, apartado 2, en la medida en que la presente Directiva contenga disposiciones armonizadas, los Estados miembros no podrán mantener o introducir disposiciones distintas de las establecidas en la presente Directiva.</p>			<p>provisions other than those transposing those laid down in this Directive.</p> <p>The transposition of this Directive into the Spanish legislation is conform with the only exception of Article 3(1) which has not been transposed as such, although it could be retrieved from the Spanish legislation and Article 5(6)(b) of the Directive which has been partially transposed by Article 17(2), second sentence of R.D. 778/2012.</p> <p>In the Spanish legislation assessed for this conformity assessment no reference to the fact that Articles 5 and 10 to 15, Article 17(7) and Articles 18 to 25 of Directive 2007/64/EC should apply to electronic money institutions <i>mutatis mutandis</i>. In addition, the Bank of Spain is allowed to take the necessary measures to prevent the multiple use of elements eligible for own funds also where an electronic money institution carries out activities directly related to the issuance of electronic money.</p> <p>Thus, partial conformity has been observed.</p>
<b>Art. 16(2)</b>	<p>2. Member States shall ensure that an electronic money issuer does not derogate, to the detriment of an electronic money holder, from the provisions of national law implementing or corresponding to provisions of this Directive except where</p>	<p>2. Los Estados miembros velarán por que los emisores de dinero electrónico no establezcan, en detrimento de los titulares del dinero electrónico, excepciones a las disposiciones de Derecho nacional que apliquen o desarrollen las disposiciones de la</p>	<b>Art. 20 of Law 21/2011</b>	<b>Artículo 20 de la Ley 21/2011</b>	<b>CONFORM</b>
			<p>1. The Bank of Spain controls and inspections electronic money institutions and their registration in the Special Register of electronic money institutions which shall be created for this purpose. That control and</p>	<p>1. Corresponderá al Banco de España el control e inspección de las entidades de dinero electrónico y su inscripción en el Registro Especial de Entidades de Dinero Electrónico que se creará al efecto. El citado</p>	<p>Article 20 of Law 21/2011 transposes Article 16(2) of the Directive.</p> <p>Article 20 of Law 21/2011 lists the supervision competencies of the Bank of Spain. According to that, the Bank of Spain is responsible for the monitoring, surveillance and registration of electronic money institutions and shall be able to get all the relevant information for that purpose from the</p>

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explicitly provided for therein.	presente Directiva o corresponda a ellas, salvo disposición expresa de esta.	inspection shall be conducted under the provisions of Article 43 a of Law 26/1988, of 29 July, on discipline and intervention of credit institutions with the adaptations laid down by regulation. This power shall be extended to any office or place within or outside the Spanish territory, and, to the extent to which the performance of the competences entrusted to the Bank of Spain requires so, to companies that are integrated in the group of the credit institution affected.  In this regard, the Bank of Spain may obtain from the institutions and persons subject to its supervision all the information needed to verify the compliance with the ordination and disciplinary rules subject to those. In order the Bank of Spain may obtain such information or confirm its veracity, entities and persons mentioned are obliged to make available to the Bank of Spain all	control e inspección se realizará en el marco de lo establecido por el artículo 43 bis de la Ley 26/1988, de 29 de julio, sobre disciplina e intervención de las entidades de crédito, con las adaptaciones que reglamentariamente se determinen. Esta competencia se extenderá a cualquier oficina o centro, dentro o fuera del territorio español, y, en la medida en que el cumplimiento de las funciones encomendadas al Banco de España lo exija, a las sociedades que se integren en el grupo de la afectada.  A estos efectos, el Banco de España podrá recabar de las entidades y personas sujetas a su supervisión cuanta información sea necesaria para comprobar el cumplimiento de la normativa de ordenación y disciplina a que aquéllas estén sujetas. Con el fin de que el Banco de España pueda obtener dicha información o confirmar su veracidad, las entidades	<p>legal and natural persons under its control. The Bank of Spain is competent also for making inspections of the electronic money institutions <i>in situ</i> in the host Member State. The Bank of Spain is entitled also to control that the payment system works properly. To do so, it can conduct inspections of the electronic money institutions branches, which should provide the Bank of Spain with the same information as requested from the Spanish institutions. The Bank of Spain may also control Spanish persons controlling electronic money institutions from other Member States</p> <p>Hence, electronic money issuers do not derogate to the detriment of electronic money holders from the provisions of Law 21/2011 and R.D. 778/2012.</p> <p>Thus, conformity has been observed.</p>

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			<p>the books, records and documents deemed accurate, including computer programs, files and databases whatever their support is, physical or virtual.</p> <p>It may also issue guidelines in accordance with the provisions of Article 10 bis (1)(d) of Law 13/1985, of 25 May, on investment ratios, own funds and information obligations of financial intermediaries.</p> <p>2. The Bank of Spain shall inform the competent authorities of the host Member State whenever it intends to perform in situ inspections in the territory of the latter. The Bank of Spain may entrust the competent authorities of the host Member State to conduct inspections in situ in the entity in question.</p> <p>3. The Bank of Spain may, in exercising their powers of control, particularly in regard to the proper functioning of the payment system, inspect the branches of electronic</p>	<p>y personas mencionadas quedan obligadas a poner a disposición del Banco cuantos libros, registros y documentos considere precisos, incluidos los programas informáticos, ficheros y bases de datos, sea cual sea su soporte, físico o virtual.</p> <p>También podrá emitir guías de acuerdo con lo previsto en el artículo 10 bis.1.d) de la Ley 13/1985, de 25 de mayo, de coeficientes de inversión, recursos propios y obligaciones de información de los intermediarios financieros.</p> <p>2. El Banco de España deberá informar a las autoridades competentes del Estado miembro de acogida siempre que desee efectuar inspecciones in situ en el territorio de este último. El Banco de España podrá encomendar a las autoridades competentes del Estado miembro de acogida la realización de inspecciones in situ en la entidad de que se trate.</p>	

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			<p>money institutions authorised in other Member States of the European Union. In addition, it may assume conducting inspections in relation to those branches that have been allocated by the supervisory authorities of the Member State where the entity has been authorised.</p> <p>4. For the proper exercise of its competences, the Bank of Spain may request branches of electronic money institutions of the European Union the same information required to Spanish institutions.</p> <p>5. The Bank of Spain may also supervise Spanish persons controlling electronic money institutions from other Member States of the European Union, within the cooperation framework with the authorities responsible for the supervision of those entities.</p> <p>6. The resolutions adopted by the Bank of Spain in the exercise of the</p>	<p>3. El Banco de España podrá, en el ejercicio de sus propias competencias de control, en particular en lo que se refiere al adecuado funcionamiento del sistema de pagos, inspeccionar las sucursales de entidades de dinero electrónico autorizadas en otros Estados miembros de la Unión Europea. Asimismo, podrá asumir la realización de las inspecciones que en relación con esas sucursales le hayan sido encomendadas por las autoridades supervisoras del Estado miembro donde la entidad haya sido autorizada.</p> <p>4. Para el adecuado ejercicio de sus funciones, el Banco de España podrá recabar de las sucursales de las entidades de dinero electrónico de la Unión Europea la misma información que exija a las entidades españolas.</p> <p>5. La supervisión del Banco de España podrá alcanzar igualmente a las personas españolas que controlen entidades de</p>	

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				<p>competences referred to in the preceding paragraphs may be appealed to the Minister of Finance.</p> <p>7. Intervention and substitution measures under Title III and Article 62 of Law 26/1988, of 29 July, on discipline and intervention of credit institutions may apply to electronic money institutions.</p>	<p>dinero electrónico de otros Estados miembros de la Unión Europea, dentro del marco de la colaboración con las autoridades responsables de la supervisión de dichas entidades.</p> <p>6. Las resoluciones que dicte el Banco de España en el ejercicio de las funciones a que se refieren los apartados anteriores serán susceptibles de recurso ante el Ministro de Economía y Hacienda.</p> <p>7. Las medidas de intervención y de sustitución previstas en el título III y el artículo 62 de la Ley 26/1988, de 29 de julio, sobre disciplina e intervención de las entidades de crédito, podrán aplicarse a las entidades de dinero electrónico.</p>	
<b>Art. 18(1), 1<sup>st</sup> subpara a.</b>	<p><i>Article 18</i> <b>Transitional provisions</b></p> <p>1. Member States shall allow electronic money institutions that have taken up, before 30 April 2011, activities in accordance</p>	<p><i>Artículo 18</i> <b>Disposiciones transitorias</b></p> <p>1. Los Estados miembros permitirán que las entidades de dinero electrónico que hayan</p>	<b>Transitional provision (1) of Law 21/2011</b>	<b>Transitional provision (1) of Law 21/2011</b>	<b>Disposición transitoria, apartado 1 de la Ley 21/2011</b>	<b>CONFORM</b>
			1. Electronic money institutions that have been authorised for issuing electronic money before 30 April 2011, in	1. Las entidades de dinero electrónico que hubieran sido autorizadas para la emisión de dinero	<p>Transitional provision, paragraph (1) of Law 21/2011 transposes Article 18(1), first subparagraph of the Directive.</p> <p>Thus, Spain has chosen to apply the option set out in this Directive's provision.</p>	

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	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.	iniciado, antes del 30 de abril de 2011, sus actividades con arreglo a la legislación nacional que incorpore la Directiva 2000/46/CE en el Estado miembro en el que radique su administración central, sigan ejerciéndolas en dicho Estado miembro o en cualquier otro Estado miembro, de conformidad con los acuerdos de reconocimiento mutuo mencionados en la Directiva 2000/46/CE sin que tengan que solicitar la autorización prevista en el artículo 3 de la presente Directiva y sin estar obligados a cumplir otras disposiciones establecidas o mencionadas en el título II de la presente Directiva.		accordance with Article 21 of Law 44/2002, of 22 November, on the measures for reforming the financial system may continue issuing electronic money in Spain or in another Member State of the European Union in accordance with the mutual recognition arrangements mentioned in Directive 2000/46/EC of the European Parliament and of the Council, of 18 September 2000, on the access to the activity of the electronic money institutions and its exercise and the prudential supervision of those entities. For that, it shall not be needed to request the prior authorisation laid down in Article 4 and they shall not be obliged to fulfil those other provisions of this Law laid down by regulations.	electrónico antes del 30 de abril de 2011, conforme a lo establecido en el artículo 21 de la Ley 44/2002, de 22 de noviembre, de medidas de reforma del sistema financiero, podrán seguir emitiendo dinero electrónico en España o en cualquier otro Estado miembro de la Unión Europea, de conformidad con los acuerdos de reconocimiento mutuo mencionados en la Directiva 2000/46/CE del Parlamento Europeo y del Consejo, de 18 de septiembre de 2000, sobre el acceso a la actividad de las entidades de dinero electrónico y su ejercicio así como la supervisión cautelar de dichas entidades. Para ello, no será preciso solicitar la autorización prevista en el artículo 4 y no estarán obligadas al cumplimiento de aquellas otras disposiciones de esta Ley que se determinen reglamentariamente.	In this regard and according to paragraph 1 of the Transitional provision of Law 21/2011, electronic money institutions that have been authorised for issuing electronic money before 30 April 2011 may continue issuing electronic money in Spain or in another Member State of the European Union, which is in line with Recital 23 of the Directive. This will be based on the mutual recognition arrangements mentioned in Directive 2000/46/EC. Therefore, no prior authorisation shall be requested to create electronic money institutions whose shall not be obliged either to fulfil the provisions of Title II of the Directive.  Thus, conformity has been observed.
<b>Art. 18(1),</b>	Member States shall require such electronic	Los Estados miembros obligarán a esas entidades	<b>Transitional</b>	<b>Transitional provision (2), first subparagraph of</b>	<b>Disposición transitoria, apartado 2, párrafo</b>	<b>PARTIALLY CONFORM</b>

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2 <sup>nd</sup> subpar a.	money institutions to submit all relevant information to the competent authorities in order to allow the latter to assess, by 30 October 2011, whether the electronic money institutions comply with the requirements laid down in this Directive and, if not, which measures need to be taken in order to ensure compliance or whether a withdrawal of authorisation is appropriate.	de dinero electrónico a presentar toda la información pertinente a las autoridades competentes, con objeto de que estas puedan determinar, a más tardar el 30 de octubre de 2011, si dichas entidades de dinero electrónico se ajustan a los requisitos establecidos en la presente Directiva, y, en caso negativo, qué medidas han de adoptarse para garantizar su cumplimiento, o si procede retirar la autorización.	provisi on (2), 1 <sup>st</sup> subpar a. of Law 21/2011	<p><b>Law 21/2011</b></p> <p>2. Electronic money institutions referred to in the previous paragraph shall submit before 30 October 2011 the relevant information to the General Direction of Treasure and Financial Policy in accordance with Article 4 in order to determine whether such institutions comply with the requirements laid down in this Law and, if not, which measures need to be taken in order to ensure compliance or whether a withdrawal of authorisation is appropriate.</p>	<p><b>primero de la Ley 21/2011</b></p> <p>2. Las entidades de dinero electrónico a que se refiere el apartado anterior deberán presentar antes del 30 de octubre de 2011 ante la Dirección General del Tesoro y Política Financiera la información pertinente de acuerdo con lo establecido en el artículo 4, a fin de que pueda determinarse si dichas entidades se ajustan a los requisitos establecidos en esta Ley y, en caso de que no sea así, las medidas que han de adoptarse para garantizar su cumplimiento o si procede retirar la autorización.</p>	<p>Transitional provision, paragraph (2), first subparagraph of Law 21/2011 transposes Article 18(1), second subparagraph of the Directive.</p> <p>According to paragraph 2 of Transitional provision of Law 21/2011, electronic money institutions that have been authorised for issuing electronic money before 30 April 2011 shall submit before 30 October 2011 the relevant information to the General Direction of Treasure and Financial Policy.</p> <p>In case such institutions do not comply with the requirements laid down in this Law, the General Direction of Treasure and Financial Policy shall take the relevant measures to ensure compliance or withdraw the authorisation.</p> <p>It must be noted that the time line laid down in the Directive provision is different from the one referred to in the Transitional provision, paragraph (2), first subparagraph of Law 21/2011.</p> <p>In accordance with the Directive provision, by 30 October 2011 the competent authorities shall assess whether the electronic money institutions comply with the requirements laid down in the Directive or not. However, according to the Transitional provision, paragraph (2), first subparagraph of Law 21/2011 electronic money institutions shall submit all the relevant information by 30 October 2011. Hence, the General Direction of Treasure and Financial Policy shall assess the compliance with the requirements only</p>

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						later than 30 October 2011. Thus, partial conformity is observed.
<b>Art. 18(1), 3<sup>rd</sup> subpar a.</b>	Compliant electronic money institutions shall be granted authorisation, shall be entered in the register, and shall be required to comply with the requirements in Title II. Where electronic money institutions do not comply with the requirements laid down in this Directive by 30 October 2011, they shall be prohibited from issuing electronic money.	Las entidades de dinero electrónico que reúnan los requisitos serán autorizadas e inscritas en el registro y deberán cumplir, asimismo, los requisitos del título II. Se prohibirá la emisión de dinero electrónico a aquellas entidades de dinero electrónico que, a más tardar el 30 de octubre de 2011, no cumplan los requisitos establecidos en la presente Directiva.	<b>Transitional provision (2), 2<sup>nd</sup> subpar a. of Law 21/2011</b>	<b>Transitional provision (2), second subparagraph of Law 21/2011</b>  Compliant electronic money institutions shall be granted authorisation, shall be entered in the Special Register of Electronic Money Institutions of the Bank of Spain, in accordance with Article 4. Where electronic money institutions do not comply with the requirements laid down in this Law by 30 October 2011, they shall be prohibited from issuing electronic money.	<b>Disposición transitoria, apartado 2, párrafo segundo de la Ley 21/2011</b>  Las entidades de dinero electrónico que reúnan los requisitos anteriores serán autorizadas e inscritas en el Registro Especial de Entidades de Dinero Electrónico del Banco de España, según lo establecido en el artículo 4. Se prohibirá la emisión de dinero electrónico a aquellas entidades de dinero electrónico que no hayan acreditado a 30 de octubre de 2011 el cumplimiento de los requisitos establecidos en esta Ley.	<b>CONFORM</b>  Transitional provision, paragraph (2), second subparagraph of Law 21/2011 transposes Article 18(1), third subparagraph of the Directive.  According to Transitional provision, paragraph (2), second subparagraph of Law 21/2011, electronic money institutions that have been authorised for issuing electronic money before 30 April 2011 and have submitted all the relevant information by 30 October 2011 shall be entered in the Special Register of Electronic Money Institutions of the Bank of Spain.  Electronic money institutions which do not prove compliance with the requirements by 30 October 2011 shall be prohibited from issuing electronic money.  Thus, conformity is observed.
<b>Art. 18(2)</b>	2. Member States may provide for an electronic money institution to be automatically granted authorisation and entered in the register provided for in Article 3 if the competent authorities already have evidence that	2. Los Estados miembros podrán disponer que se conceda automáticamente autorización a las entidades de dinero electrónico y que queden automáticamente inscritas en el registro, de conformidad con el	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	Article 18(2) of the Directive sets out an option. Owing to this option, Spain has not chosen to apply. In this regard, no corresponding provision could be located in the legislation of Spain either.  Therefore, electronic money institutions that have been authorised for issuing electronic money before 30 April 2011 shall always submit before 30 October 2011 the relevant



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	the electronic money institution concerned complies with the requirements laid down in Articles 3, 4 and 5. The competent authorities shall inform the electronic money institutions concerned before the authorisation is granted.	artículo 3, si las autoridades competentes disponen ya de pruebas de que la entidad de dinero electrónico cumple los requisitos establecidos en los artículos 3, 4 y 5. Las autoridades competentes informarán a las entidades de dinero electrónico antes de concederles la autorización.				information to the General Direction of Treasure and Financial Policy.
<b>Art. 18(3)</b>	3. Member States shall allow electronic money institutions that have taken up, before 30 April 2011, activities in accordance with national law transposing Article 8 of Directive 2000/46/EC, to continue those activities within the Member State concerned in accordance with Directive 2000/46/EC until 30 April 2012, without being required to seek 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	3. Los Estados miembros permitirán que las entidades de dinero electrónico que hayan emprendido, antes del 30 de abril de 2011, sus actividades de conformidad con las disposiciones nacionales de incorporación del artículo 8 de la Directiva 2000/46/CE, prosigan esas actividades en el Estado miembro de que se trate de conformidad con la Directiva 2000/46/CE hasta el 30 de abril de 2012, sin que tengan que solicitar autorización con arreglo a lo previsto en el artículo 3 de la presente Directiva ni cumplir las demás disposiciones establecidas o	<b>Transitional provision of R.D. 778/2012</b>	<b>Transitional provision of R.D. 778/2012. Transitional arrangements for electronic money institutions authorized under Article 21 of Law 44/2002</b>  1. The electronic money institutions that have been authorized to issue electronic money before April 30, 2011, as provided for in Article 21 of Law 44/2002 (...) shall be required in order to maintain such authorization to comply with all the requirements set out within Law 21/2011 of 26 July and within this Royal Decree,	<b>Disposición transitoria única del of R.D. 778/2012. Régimen transitorio para las entidades de dinero electrónico autorizadas conforme al artículo 21 de la Ley 44/2002, de 22</b>  1. Las entidades de dinero electrónico que hubieran sido autorizadas para la emisión de dinero electrónico antes del 30 de abril de 2011, conforme a lo establecido en el artículo 21 de la Ley 44/2002 (...) estarán obligadas, para conservar dicha autorización, al cumplimiento de todos los requisitos previstos en la Ley 21/2011, de 26 de	<b>CONFORM</b>  The transitional provision of R.D. 778/2012 transposes Article 18(3) of the Directive.  Article 18(3) of the Directive establishes a year transitional period (from 30 April 2011 to 30 April 2012) which allows electronic money institutions previously authorised to carry out their activities under Article 8 of Directive 2000/46 (replaced and repealed by the Directive) to continue with their activities within that year without being authorised in the form provided for in Article 3 of the Directive.  From its part, the transitional provision of R.D. 778/2012 stipulates that electronic money institutions that were authorised to issue money before 30 April 2011 in accordance with the repealed Article 21 of Law 44/2002 which transposed Article 8 of Directive 2000/46 (replaced and repealed by the Directive) will be required to comply with all the requirements set out within the Spanish

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meaning of Article 9 of this Directive, shall be prohibited from issuing electronic money.	mencionadas en el título II de la presente Directiva. Las entidades de dinero electrónico que, durante ese período, no hayan sido objeto de autorización o de una excepción en el sentido de lo establecido en el artículo 9 de la presente Directiva no estarán autorizadas a emitir dinero electrónico.	except as provided in the following section.	julio, y en este real decreto, salvo lo previsto en el apartado siguiente.	<p>legislation transposing the Directive, namely Law 21/2011 and R.D. 778/2012 in order to keep that authorisation. At this point, it is important to stress that the Spanish provision does not grant a transitional period of one year to those entities per se. However taking into account that the R.D. 778/2012 entered into force after the expiry of the transitional period set out within Article 18(3) of the Directive (on 6 May 2012) it seems appropriate to say that probably the Spanish legislator decided to eliminate any mention of that transitional period since it would have been incongruent. Instead, the Spanish provision allows those entities to maintain their authorisations as long as they comply with the current rules and initiated their activities before 30 April 2011.</p> <p>The last part of Article 18(3) where the Directive refers to the prohibition to issuing electronic money to those electronic money institutions which, during the abovementioned period, have been neither authorised nor waived within the meaning of Article 9 of this Directive has not been transposed within the Spanish legislation due to the fact that Article 9 of the Directive sets out an option which Spain decided not to transpose.</p> <p>Thus, from the abovementioned observations it can be stated that Article 18(3) of the Directive is transposed in a conform manner within the Spanish legislation.</p>