



Conformity Assessment of Directive 2009/110/EC DENMARK

Final Report
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NATIONAL IMPLEMENTING MEASURES

List of the national implementing measures notified to the European Commission	General observations
<p>Lov nr. 1553 af 21/12/2010 om ændring af lov om betalingstjenester, lov om finansiel virksomhed, lov om forebyggende foranstaltninger mod hvidvask af udbytte og finansiering af terrorisme og lov om visse forbrugeraftaler – in force</p> <p>Act no. 1553 of 21/12/2010 amending the Act on Payment Services, the Act on Financial Business, the Act on Preventive Measures against Money Laundering of Profits and Financing of Terrorism and the Act on Certain Consumer Agreements</p> <p>(hereinafter referred to in the Report as the ‘E-money Act’)</p>	<p>The E-money Act is an act of amending legislation which came into force on 30 April 2011 with a view to transposing Directive 2009/110/EC (hereinafter referred to in the Report as ‘the Directive’).</p> <p>Whereas the previous regulation of electronic money activities following Directive 2000/46/EC was contained in the Financial Business Act (‘Lov om finansiel virksomhed’), the E-money Act transfers the regulation of this area to the Payment Services Act by introducing amendments to this latter Act while repealing the existing E-money provisions found in the Financial Business Act. In this connection, the title of the Payment Services Act was amended to become the Payment Services and E-money Act (‘Lov om betalingstjenester og elektroniske penge’).</p> <p>Furthermore, the E-money Act introduces a few consequential amendments regarding electronic money into the Act on Preventive Measures against Money Laundering of Profits and Financing of Terrorism and the Act on Certain Consumer Agreements.</p> <p>Subsequent to the issuing of the E-money Act, the Act on Payment Services and E-money was consolidated through Consolidated Act (‘LBK’) no. 365 of 26 April 2011 whereby the E-money Act was incorporated into the Act on Payment Services without amendments to any of the provisions of the E-money Act. This consolidated act, which is still in force, has been used for this assessment and is hereinafter referred to in the Report as the ‘PSE Act’.</p> <p>It should finally be noted that the E-money Act was proposed through Bill 2010/1 LF 20 dated 6 October 2010 (hereinafter referred to in the Report as ‘the Bill’). As the explanatory notes set forward in bills are of a high legislative value in the interpretation and application of Danish law, these comments have been included in the conformity assessment where necessary.</p> <p>The E-money Act can be viewed in Danish in the official database of Danish legislation: Lov om ændring af lov om betalingstjenester, lov om finansiel virksomhed, lov om forebyggende foranstaltninger mod hvidvask af udbytte og finansiering af terrorisme og lov om visse forbrugeraftaler - Gennemførelse af e-penge-direktivet m.v. - retsinformation.</p>

NATIONAL IMPLEMENTING MEASURES

List of additional national implementing measures referred to in the conformity assessment	General observations
<p>Lovbekendtgørelse nr. 365 af 26/04/2011, Bekendtgørelse af lov om betalingstjenester og elektroniske penge – in force</p> <p>Consolidated Act ('LBK') no. 365 of 26/4/2011 regarding Payment Services and Electronic Money (hereinafter referred to in the Report as the 'PSE Act')</p>	<p>Subsequent to the issuing of the E-money Act, the Act on Payment Services and E-money was consolidated through Consolidated Act ('LBK') no. 365 of 26 April 2011 whereby the E-money Act was incorporated into the Act on Payment Services without amendments to any of the provisions of the E-money Act. This consolidated act, which is still in force, has been used for this assessment and is hereinafter referred to in the Report as the 'PSE Act'.</p> <p>Subsequent amendments to the PSE Act have been introduced through Act no. 1369 of 28 November 2011. These amendments, however, do not affect the provisions relevant for this conformity assessment.</p> <p>The PSE Act can be viewed in Danish in the official database of Danish legislation: Bekendtgørelse af lov om betalingstjenester og elektroniske penge - retsinformation.dk</p> <p>A translated version of the PSE Act into English can furthermore be viewed on the official website of the Danish FSA ('Finanstilsynet'): http://www.finanstilsynet.dk/en/Regler-og-praksis/Translated-regulations/~/_media/Regler-og-praksis/2012/C_Act365_2011_new.ashx</p>
<p>(LBK) nr. 705 af 25/06/2012 af lov om finansiel virksomhed – in force</p> <p>Consolidated Financial Business Act no. 705 of 25/06/2012 (hereinafter referred to in the Report as 'the FB Act')</p>	<p>The Financial Business Act regulates financial business activities in general. As mentioned above, it contained the NIMs regarding electronic money pursuant to Directive 2000/46/EC, until the regulation of electronic money activities was transferred to the Payment Services Act with the transposition of Directive 2009/110/EC.</p> <p>A few of the provisions of the Directive are transposed through a reference in the Payment Services Act to the Financial Business Act.</p> <p>The Financial Business Act can be viewed in Danish in the official database of Danish legislation: Bekendtgørelse af lov om finansiel virksomhed - retsinformation.dk</p>
<p>Bekendtgørelse nr. 722 af 24/06/2011 om e-pengeinstitutters sikring af midler modtaget fra brugere med henblik på veksling til elektroniske penge – in force</p> <p>Executive Order no. 722 of 24/6/2011 on the Safeguarding of Funds Received by Electronic Money Institutions from Users For the Purpose of Exchange into Electronic Money</p>	<p>The Executive Order On the Safeguarding of Funds by Electronic Money Institutions is an act of secondary legislation which has been issued with a legal basis in the Payment Services Act. It is relevant for the transposition of Article 7(1) of the Directive concerning safeguarding requirements.</p> <p>The Executive Order On the Safeguarding of Funds by Electronic Money Institutions can be viewed in Danish in the official database of Danish legislation: Bekendtgørelse om e-pengeinstitutters sikring af midler modtaget fra brugere med henblik på veksling til elektroniske penge - retsinformation.dk</p>

NATIONAL IMPLEMENTING MEASURES

(hereinafter referred to in the Report as 'Executive Order 722/2011')

SUMMARY

1. Executive summary

Overall, the transposition of the Directive ensures that all the main requirements and principles hereof are provided for in the national legislation and, in general, with due respect for the full harmonisation purpose of the Directive as expressed in Article 16 hereof.

However, 17 instances of partial conformity and 8 instances of non-conformity have been observed, as further detailed and listed below in Part 3 of this Summary. All but one case of non-conformity pertain to the fact that no NIM has been identified in regard to the Directive provision in question.

Whereas the previous regulation of electronic money activities following Directive 2000/46/EC was contained in the generally applicable Financial Business Act ('Lov om finansiel virksomhed'), the E-money Act transferred the regulation of this area to the Payment Services Act by introducing amendments to this latter Act while repealing the existing electronic money provisions found in the Financial Business Act. The rationale for this transfer of the regulation of electronic money to the Payment Services Act was, according to the introductory notes in the Bill, the closeness of such activities to different types of payment services.

The Directive has thus been transposed in the same act as the Payment Services Directive. In some instances, reference is therefore made in the NIMs to provisions of the PSE Act which transpose the Payment Services Directive.

In connection with the transposition of the Directive, the title of the Payment Services Act was amended to become the Payment Services and E-money Act ('Lov om betalingstjenester og elektroniske penge'). The majority of the new provisions regarding electronic money were inserted into the PSE Act as a new Part 3 a titled 'Issuers of E-money' which covers both electronic money institutions and issuers with a so-called restricted authorisation in application of the optional waiver set out in Article 9 of the Directive, which has been transposed by Denmark. In general, the structure of the NIMs could be said to follow the structure applied for the transposition of the Payment Services Directive which, as mentioned above, is also transposed in the Payment Services and E-money Act. Literal transposition is found in a few instances. In some instances, reference is made in the NIMs to provisions of the PSE Act which transpose the Payment Services Directive, in particular in regard to the transposition of Article 3(1) of the Directive.

In addition to the E-money Act which was notified to the Commission, the conformity assessment additionally includes the PSE Act, into which the E-money Act has been incorporated, the general Financial Business Act and finally Executive Order no. 722 of 24/6/2011 on the Safeguarding of Funds by Electronic Money Institutions.

'Finanstilsynet', the Danish Financial Supervisory Authority is the general surveillance authority of financial legislation in Denmark, including in regard to the Payment Services and E-Money Act, and is part of the Ministry of Business and Growth.

2. The implementation of Directive 2009/110/EC

2.1. Scope

There are no issues regarding the scope of application of the Directive with the exception of findings of partial conformity in regard to Article 1(4) concerning the application to monetary value stored on instruments as specified in Article 3(k) of Directive 2007/64/EC and in regard to Article 1(1), point (d) concerning the recognition of the European Central Bank as electronic money issuer.

2.2. Terminology

There are no major discrepancies in the terminology used in national legislation compared to that of the Directive.

2.3. Explanatory note on the assessment

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

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

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

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

2.4. Legal analysis

2.4.1. Title I – Scope and definitions

Overall, Title I of the Directive has been transposed in a conform manner through provisions in the PSE Act, however with findings of partial conformity in regard to Articles 1(1), points (c), (d), (e) and 1(4) of the Directive, as further detailed in the following.

2.4.1.1. Article 1 – Subject matter and scope

Article 1(1), point (a) of the Directive has been transposed in a conform manner through Section 2 a, point (1) and Section 39 o of the PSE Act.

Article 1(1), point (b) of the Directive has been transposed in a conform manner through Section 6, point (20) of the PSE Act.

Partial conformity has been observed in regard to Article 1(1)(c) of the Directive as no NIM transposing this Directive provision has been identified which is probably due to the fact that there would be no such post giro office institutions entitled to issue electronic money under Danish law.

Article 1(1), point (d) of the Directive is not fully transposed on which basis partial conformity has been observed.

Partial conformity has been observed in regard to Article 1(1), point (e) of the Directive due to uncertainties in regard to the recognition of other Member States or their regional or local authorities. Article 1(2) of the Directive is transposed in a conform manner through various provisions in Part 3 a of the PSE Act.

The option set out in Article 1(3) of the Directive has not been transposed by Denmark.

Article 1(4) of the Directive has been transposed in a conform manner through Section 6, point (21) of the PSE Act. in regard to the first part of the exemption in Article 3(k) of Directive 2007/64/EC, but not in regard to the second part hereof, on which basis partial conformity has been observed.

Article 1(5) of the Directive has been transposed in a conform manner through Section 4, point (14) of the PSE Act.

2.4.1.2. Article 2 - Definitions

Article 2, point (1) of the Directive has been transposed in a conform manner through Section 6, point (20) and Section 39 a of the PSE Act.

Article 2, point (2) of the Directive has been transposed in a conform manner through Section 6, points (2) and (21) of the PSE Act.

Article 2, point (3) of the Directive has been transposed in a conform manner through Section 6, point (22) of the PSE Act.

Article 2, point (4) of the Directive has been transposed in a conform manner through Section 39 g of the PSE Act.

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

Overall, Title II of the Directive has been mainly transposed in a conform manner by provisions in the PSE Act. However, there were findings of partial conformity in regard to Articles 5(1), Article 6(1), first subparagraph, points (c) and (d), 7(1), 9(2), 9(6) and 9(9) of the Directive and findings of non-conformity in regard to Articles 5(4), 5(6), 7(2), second subparagraph, Article 9(1), second and fourth subparagraphs and Article 9(3) of the Directive, as further detailed in the following.

2.4.2.1. Article 3 – General prudential rules

Article 3(1) of the Directive has been transposed in a conform manner through various provisions of the PSE Act, including provisions of the FB Act which have been made applicable through provisions in the PSE Act.

Article 3(2) of the Directive has been transposed in a conform manner through Sections 8 and 39 b of the PSE Act.

Article 3(3), first, third, fourth and fifth subparagraphs of the Directive regarding qualifying holdings have been transposed in a conform manner through principles in provisions of the FB Act which have been made applicable to electronic money institutions through Section 39 i of the PSE Act. Clarification might, however, be enquired from Denmark in regard to Article 3(3), fourth subparagraph of the Directive which contains a discretion in the application of sanctions by the Danish FSA which is not present in the Directive provision. Article 3(3), second subparagraph of the Directive is also transposed in a conform manner through Section 39 i(3) of the PSE Act. The option set out in Article 3(3), sixth subparagraph of the Directive has not been transposed by Denmark.

Article 3(4) of the Directive has been transposed in a conform manner through Section 39 n(2) in conjunction with Section 32, and Section 39 o(2) in conjunction with Section 35 of the PSE Act.

Article 3(5) of the Directive has been transposed in a conform manner through Section 39 n(2), Section 39 o(2) and Section 23 of the PSE Act.

2.4.2.2. Article 4 – Initial capital

Article 4 of the Directive regarding initial capital has been transposed in a conform manner through Section 39 f of the PSE Act, laying down a minimum capital requirement of not less than EUR 350 000 in accordance with the Directive provision. Such initial capital is comprised of the items set out in Article 57(a) and (b) of Directive 2006/48/EC.

2.4.2.3. Article 5 – Own funds

In accordance with Article 5(1) of the Directive, own funds shall not fall below the amount required in Article 5 of the Directive pursuant to Section 39 g(1) of the PSE Act. Partial conformity has, however, been observed since no NIMs transposing the definition of own funds as set out in Articles 57 to 61, 63, 64 and 66 of Directive 2006/48/EC have been identified.

Article 5(2) and (3) of the Directive have been transposed in a conform manner through Article 39 g(1), point (2) and paragraph (2) of the PSE Act.

No NIMs transposing Article 5(4) and 5(6) of the Directive have been identified, on which basis non-conformity has been observed.

The option set out in Article 5(5) of the Directive is transposed by Section 39 g(4) of the PSE Act.

The option set out in Article 5(7) of the Directive has not been transposed into Danish law.

2.4.2.4. Article 6 – Activities

Article 6(1) of the Directive has been transposed in a conform manner through Section 39 e and 39 k of the PSE Act, with the exception of Article 6(1), first subparagraph, point (d) where partial conformity has been observed on the basis of a reference differing from the reference contained in the Directive provision to Article 4, point (6) of Directive 2007/64/EC.

Article 6(2) and (3) of the Directive have been transposed in a conform manner through Section 39 k of the PSE Act.

Article 6(4) of the Directive has been transposed in a conform manner through Section 39 e of the PSE Act.

2.4.2.5. Article 7 – Safeguarding requirements

Partial conformity has been observed concerning Article 7(1) of the Directive since no express or inferred transposition has been identified in regard to the first sentence of Article 9(2) of Directive 2007/64/EC, as referred to in the first sentence of Article 7(1) of the Directive, nor in regard to the deadline of five business days set out in the third sentence of Article 7(1) of the Directive.

Article 7(2), first subparagraph and 7(3) of the Directive have been duly transposed through provisions in the Executive Order on the Safeguarding of Funds by electronic money institutions.

No NIMs transposing Article 7(2), second subparagraph of the Directive have been identified, on which basis non-conformity has been concluded.

The options set out in Article 7(2), third subparagraph and 7(4) of the Directive have not been transposed by Denmark.

2.4.2.6. Article 8 – Relations with third countries

Article 8(1) of the Directive is transposed by Section 39 o and Section 34 of the PSE Act which do not accord more favourable treatment to branches of electronic money institutions having their head office outside the EU.

Article 8(2) and (3) of the Directive do not as such require transposition into national law.

2.4.2.7. Article 9 – Optional exemptions

Denmark has transposed the optional exemptions set out in Article 9 of the Directive by allowing for a so-called restricted authorisation in Sections 39 p, 39 q and 39 r of the PSE Act.

Article 9(1), point (a) of the Directive is transposed in a conform manner through Section 39 p(1) of the PSE Act, setting a limit of a value corresponding to EUR 5 000 000. It should be noted that the NIM uses the term ‘outstanding electronic amounts’ whereas the Directive provision uses the term ‘average outstanding electronic money’. Clarification might be enquired from Denmark in this regard.

Article 9(1), point (b) of the Directive is transposed in a conform manner through Section 39 p(2).

No NIMs transposing Article 9(1), second and fourth subparagraphs have been identified, on which basis non-conformity has been observed in regard to both of these Directive provisions.

The option set out in Article 9(1), third subparagraph of the Directive has not been transposed by Denmark.

Article 9(2) of the Directive has been transposed through Section 39 p(2), point (1) of the PSE Act. Partial conformity has been observed since undertakings in another Member State or in a country with which the Union has entered into an agreement for the financial area are allowed to benefit from a waiver in Denmark.

Non-conformity has been observed in regard to Article 9(3) of the Directive since Denmark allows for the freedom to provide services and the freedom of establishment for undertakings with a restricted authorisation.

The option set out in Article 9(4) of the Directive has not been transposed by Denmark.

Article 9(5), point (a) of the Directive has been transposed in a conform manner through Section 39 r(1) and (2) of the PSE Act.

Article 9(5)(b) of the Directive has been transposed in a conform manner through Section 39 r(3) of the PSE Act..

Concerning Article 9(6) of the Directive, no NIMs transposing the Directive provision in regard to Article 9(1), point (b) and 9(2) of the Directive have been identified. In regard to Article 9(1), points (a) of the Directive, Section 39 q(1) of the PSE Act transposes the requirements of Article 9(6) of the Directive in a conform manner. Partial conformity has therefore been observed.

Article 9(7) of the Directive has been transposed in a conform manner through Section 87 of the PSE Act.

Conformity has been observed in regard to Article 9(8) of the Directive.

Partial conformity has been observed in regard to Article 9(9) of the Directive as no NIM has been identified.

2.4.3. Title III – Issuance and redeemability of electronic money

Overall, Title III of the Directive has been transposed in a conform manner through provisions in the PSE Act, however with findings of partial conformity in regard to Article 11(6), point (b), Article 11(7) and Article 13 of the Directive, as further detailed in the following.

2.4.3.1. Article 10 – Prohibition from issuing electronic money

Article 10 – The prohibition on issuing electronic money for other entities than electronic money institutions is transposed in a conform manner by Section 39 a(1) of the PSE Act.

2.4.3.2. Article 11 - Issuance and redeemability

Article 11 – The provisions of Article 11(1) to (6), point (a) of the Directive are transposed in a conform manner through Section 39 s of the PSE Act.

In regard to Article 11(6), point (b) of the Directive, partial conformity has been observed since the requirement of a full refund applies to further activities than those activities referred to in Article 6(1)(e) of the Directive.

Partial conformity has furthermore been observed in relation to Article 11(7) of the Directive, since Section 5 a of the PSE Act might provide for a derogation from the requirements of Article 11 of the Directive as a whole in the case of non consumers, and thus not only from the requirements of Article 11(4) to (6) of the Directive.

2.4.3.3. Article 12 – Prohibition of interest

Article 12 of the Directive has been transposed in a conform manner through Section 39 k of the PSE Act.

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

In regard to Article 13 of the Directive, partial conformity has been observed on the basis of a finding of a somewhat unresolved applicability of Articles 80, 82 and 83 of Directive 2007/64/EC to electronic money institutions in respect of their duties arising from Title III of the Directive.

2.4.4. Title IV – Final provisions and implementing measures

Overall, Title IV of the Directive has been transposed in a conform manner through provisions in the PSE Act, however with findings of partial conformity in regard to Articles 16(1) and 18(3), first sentence of the Directive, as further detailed in the following.

2.4.4.1 Article 16 – Full harmonization

Partial conformity has been observed in regard to Article 16(1) of the Directive due to the findings of partial and non-conformity throughout the Directive. Article 16(2) of the Directive has been transposed in a conform manner through Sections 5 a and 87 of the PSE Act.

2.4.3.2. Article 18 – Transitional provisions

Article 18(1), first subparagraph of the Directive has been transposed in a conform manner though Section 6 of the E-money Act.

Partial conformity has been observed in regard to Article 18(1), second subparagraph of the Directive as no NIM requiring electronic money institutions to submit all relevant information in order to assess compliance with the requirements of the Directive has been identified, but might possibly be inferred from Section 6(1) of the E-money Act.

Article 18(1), third subparagraph of the Directive has been transposed in a conform manner through Sections 39 a and 88(1) of the PSE Act and Section 6(1) of the E-money Act.

Denmark has not chosen to transpose the option set out in Article 18(2) of the Directive.

Partial conformity has been observed in regard to Article 18(3), first sentence of the Directive, since this Directive provision refers to national law transposing Article 8 of Directive 2000/46/EC, whereas the NIM refers to national law transposing Article 9 of Directive 2009/110/EC and the waiver contained in each of these two directives differs in some regards. A transposition of Article 18(3), second sentence of the Directive in a conform manner could be inferred from the wording of Section 6(2) of the E-money Act.

3. Conclusions on conformity

3.1. Cases of partial conformity

Article 1(1), point (c) of the Directive regarding post giro office institutions as no NIM transposing this Directive provision has been identified, probably due to the fact that there would be no such post giro office institutions entitled to issue electronic money under Danish law.

Article 1(1), point (d) of the Directive regarding the European Central Bank and national central banks or other public authorities is not fully transposed due to uncertainties in regard to the role of the European Central Bank.

Article 1(1), point (e) of the Directive regarding Member States or their regional or local authorities due to uncertainties in regard to the recognition of other Member States or their regional or local authorities.

Article 1(4) of the Directive regarding monetary value stored on exempted instruments as no NIMs have been identified concerning the exemption in the second part of Article 3(k) of Directive 2007/64/EC of instruments that can be used to acquire goods or services under a commercial agreement with the issuer either within a limited network of service providers or for a limited range of goods or services.

Article 5(1) of the Directive regarding own funds as no NIMs transposing the definition of own funds as set out in Articles 57 to 61, 63, 64 and 66 of Directive 2006/48/EC have been identified.

Article 6(1), first subparagraph, point (c) of the Directive regarding possible additional activities due to a requirement of a link in the NIMs between payment services listed in the Annex to Directive 2007/64/EC and the issuing of electronic money.

Article 6(1), first subparagraph, point (d) of the Directive regarding possible additional activities due to a reference differing from the reference contained in the Directive provision to Article 4, point (6) of Directive 2007/64/EC.

Article 7(1) of the Directive regarding safeguarding requirements as no NIMs have been identified in regard to the first sentence of Article 9(2) of Directive 2007/64/EC, as referred to in the first sentence of Article 7(1) of the Directive, nor in regard to the deadline of five business days set out in the third sentence of Article 7(1) of the Directive.

Article 9(2) of the Directive regarding optional exemptions since undertakings in another Member State or in a country with which the Union has entered into an agreement for the financial area, are allowed to benefit from a waiver in Denmark.

Article 9(6) of the Directive regarding the obligation to seek authorisation when the conditions for the Article 9(1) waiver are no longer **fulfilled** is transposed in regard to Article 9(1)(a), whereas no NIM have been identified in regard to Article 9(1)(b) and 9(2) of the Directive.

Article 11(6), point (b) of the Directive regarding redemption requested on or up to one year after the termination of the contract as the requirement of a full refund applies to further activities than those activities referred to in Article 6(1)(e) of the Directive.

Article 11(7) of the Directive regarding redemption rights of non consumers as Section 5 a of the PSE Act might provide for a derogation from the requirements of Article 11 of the Directive as a whole in the case of non consumers, and thus not only from the requirements of Article 11(4) to (6) of the Directive.

Article 13 of the Directive regarding procedures for the settlement of disputes on the basis of a finding of a somewhat unresolved applicability of Articles 80, 82 and 83 of Directive 2007/64/EC to electronic money issuers in respect of their duties arising from Title III of the Directive.

Article 16(1) of the Directive regarding full harmonisation on the basis of the findings of partial conformity and non-conformity in regard to the remaining provisions of the Directive.

Article 18(1), second subparagraph of the Directive containing transitional provisions as no NIM requiring electronic money institutions to submit all relevant information in order to assess compliance with the requirements of the Directive has been identified,

Article 18(3), first sentence of the Directive containing transitional provisions, since this Directive provision refers to national law transposing Article 8 of Directive 2000/46/EC, whereas the NIM refers to national law transposing Article 9 of Directive 2009/110/EC and the waiver contained in each of these two directives differs in some regards.

3.2. Cases of non-conformity

Article 5(4) of the Directive regarding the calculation of own funds requirements on the basis of a representative portion as no NIMs transposing this provision have been identified.

Article 5(6) of the Directive regarding the prevention of multiple use of elements eligible for own funds as no NIMs transposing this provision have been identified.

Article 7(2), second subparagraph of the Directive regarding UCITS units as secure, low risk assets as no NIMs transposing this provision have been identified.

Article 9(1), second subparagraph of the Directive regarding the calculation of the value of average outstanding electronic money in certain circumstances as no NIMs transposing this provision have been identified.

Article 9(1), fourth subparagraph of the Directive regarding payment services not related to electronic money provided by electronic money institutions benefiting from a waiver as no NIMs transposing this provision have been identified.

Article 9(3) of the Directive regarding restrictions in the rights of electronic money institutions benefiting from an Article 9 waiver since Denmark allows for the freedom to provide services and the freedom of establishment for such undertakings.

3.3. Option ('May' clause)

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

Article 5(5) of the Directive concerning the possibility for competent authorities to require electronic money institutions to hold 20% more or 20% less own funds.

Article 9(1), first subparagraph of the Directive concerning waiver of authorisation/supervision requirements for small electronic money institutions.

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

Article 1(3) of the Directive concerning the possibility to waive the application in whole or in part of the provisions of Title II of the Directive to certain institutions.

Article 3(3), sixth subparagraph of the Directive concerning the possibility to waive the application of all or part of the obligations in respect of electronic money institutions that carry out one or more of the activities listed in Article 6(1), point (e).

Article 5(7) of the Directive concerning the possibility not to apply Article 5(2) and (3) to certain electronic money institutions.

Article 7(1) of the Directive concerning the calculation of safeguarding requirements when funds can be used for future payment transactions and for non-payment services.

Article 7(2), third subparagraph of the Directive concerning the possibility to find some assets to not constitute secure, low-risk assets.

Article 7(4) of the Directive concerning the determination of which method shall be used by electronic money institutions to safeguard funds.

Article 9(1), third subparagraph of the Directive concerning an additional requirement of a maximum storage amount.

Article 9(4) of the Directive allowing for an optional exemption to apply only to some of the activities listed in Article 6(1).

Article 18(2) of the Directive concerning automatically granted authorisations.

4. List of acronyms

FSA: the Danish Financial Supervisory Authority

NIM(s): National Implementing Measure(s)

Directive 2009/110/EC			National Implementing Measures			Conformity Assessment
Article No.	EN	DK	Act, Article No.	EN	DK	Observations
Art. 1(1) intr. wording	<p>TITLE I SCOPE AND DEFINITIONS</p> <p><i>Article 1</i> Subject matter and scope</p> <p>1. This Directive lays down the rules for the pursuit of the activity of issuing electronic money to which end the Member States shall recognise the following categories of electronic money issuer:</p>	<p>AFSNIT I ANVENDELSESOMRÅDE OG DEFINITIONER</p> <p><i>Artikel 1</i> Genstand og anvendelsesområde</p> <p>1. Dette direktiv fastlægger regler for udøvelse af virksomhed som udstedere af elektroniske penge, hvorefter medlemsstaterne skal anerkende følgende kategorier af udstedere af elektroniske penge:</p>	PSE Act Section 2 a	<p>PSE Act Section 2 a</p> <p>Electronic money may only be issued by undertakings which have been granted authorisation pursuant to part 3 a or authorisation in another country within the European Union or in a country with which the Union has entered into an agreement for the financial area, and by the following:</p> <p>(1) Banks. (2) Danmarks Nationalbank. (3) Public authorities.</p>	<p>Lov om betalings-tjenester § 2 a</p> <p>Elektroniske penge må kun udstedes af virksomheder med tilladelse efter kapitel 3 a eller tilladelse i et andet land inden for Den Europæiske Union eller i et land, som Unionen har indgået aftale med på det finansielle område, og af følgende:</p> <p>1) Pengeinstitutter. 2) Danmarks Nationalbank. 3) Offentlige myndigheder.</p>	<p>CONFORM</p> <p>Section 2 a of the PSE Act lays down the categories of recognised electronic money issuers.</p> <p>The wording and the structure of this NIM differs from the Directive provision. Nevertheless, as shown in the assessment below, Article 1(1) of the Directive has been transposed in a mainly conform manner, on which basis conformity is concluded.</p>
Art. 1(1)(a)	(a) credit institutions as defined in point 1 of Article 4 of Directive 2006/48/EC including, in accordance with national law, a branch thereof within the meaning of point 3 of Article 4 of that	a) kreditinstitutter som defineret i artikel 4, nr. 1, i direktiv 2006/48/EF, herunder, i overensstemmelse med national lovgivning, en filial heraf efter artikel 4, stk. 3, i samme direktiv,	PSE Act Section 2 a, point (1)	<p>PSE Act Section 2 a, point (1)</p> <p>Electronic money may only be issued by undertakings which have been granted authorisation [...] and by the following:</p>	<p>Lov om betalings-tjenester § 2 a, nr. 1)</p> <p>Elektroniske penge må kun udstedes af virksomheder med tilladelse [...] og af følgende:</p>	<p>CONFORM</p> <p>Section 2 a, point (1) and Section 39 o of the PSE Act transpose the Directive provision.</p> <p>The term ‘credit institutions’ is not used in the NIMs. Instead, according to the PSE Act Section 2a, point (1), banks are accepted as</p>

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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;	hvis en sådan filial er placeret i Fællesskabet, og dens hjemsted er placeret uden for Fællesskabet i overensstemmelse med artikel 38 i samme direktiv	<p>PSE Act Section 39 o</p> <p>PSE Act Section 34(1)</p>	<p>(1) Banks. [...].</p> <p>PSE Act Section 39 o</p> <p>Sections 33 and 34 on foreign payment institutions which have been granted authorisation in another country within the European Union or in a country with which the Union has entered into an agreement for the financial area shall apply <i>mutatis mutandis</i> for e-money institutes.</p> <p>PSE Act Section 34(1)</p> <p>A foreign payment institution which has been granted authorisation in another country within the European Union or in a country with which the Union has entered into an agreement for the financial area, may begin providing payment services in Denmark through a branch when the Danish FSA has received information hereon from the supervisory authorities of the home country with information about the name and address of the</p>	<p>1) Pengeinstitutter. [...].</p> <p>Lov om betalings-tjenester § 39 o</p> <p>§§ 33 og 34 om udenlandske betalingsinstitutter, der er meddelt tilladelse i et andet land inden for Den Europæiske Union eller i et land, som Unionen har indgået aftale med på det finansielle område, finder tilsvarende anvendelse på e-penge-institutter.</p> <p>Lov om betalings-tjenester § 34, stk. 1</p> <p>Et udenlandsk betalingsinstitut, der er meddelt tilladelse i et andet land inden for Den Europæiske Union eller i et land, som Unionen har indgået aftale med på det finansielle område, kan begynde at udbyde betalingstjenester her i landet gennem en filial, når Finanstilsynet har modtaget meddelelse herom fra tilsynsmyndigheden i hjemlandet med oplysning om filialens navn og</p>	<p>electronic money issuers.</p> <p>The term ‘bank’ is used in the sense of credit institutions which, in accordance with the definition of credit institution set out in Article 4 of Directive 2006/48/EC, is defined in Section 5(1), point (2) of the FB Act as undertakings receiving deposits or other repayable funds from the public and granting loans at their own expense.</p> <p>As regards the requirement concerning the recognition of branches, Section 34(1) of the PSE Act applies <i>mutatis mutandis</i> to electronic money institutions through Section 39 o of the PSE Act.</p> <p>This means that electronic money institutions granted authorisation in another Member State or in a third country with which the Union has entered into an agreement may begin providing electronic money services in Denmark through a branch when the Danish FSA has received certain specified information hereon from the supervisory authorities of the home country.</p> <p>In this connection, the wording of Section 34(1) of the PSE Act might be sufficiently broad to encompass a situation where such a branch is located within the Community and its head office is located outside the Community as described in the Directive provision. Still, a clarification hereof might be enquired from Denmark and prove useful in this regard.</p> <p>Still, overall, conformity is concluded on the basis of the above findings.</p>

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				branch, the names of the persons responsible for management of the branch, its organisational structure and the type of payment services the institution wishes to provide through the branch and that these services are covered by the institution's authorisation in the home country.	adresse, navnene på de personer, der er ansvarlige for filialens ledelse, dens organisationsstruktur, hvilke betalingstjenester instituttet ønsker at udbyde gennem filialen, og om, at disse tjenester er omfattet af instituttets tilladelse i hjemlandet.	
Art. 1(1)(b)	(b) electronic money institutions as defined in point 1 of Article 2 of this Directive including, in accordance with Article 8 of this Directive and national law, a branch thereof, where such a branch is located within the Community and its head office is located outside the Community;	b) e-pengeinstitutter som defineret i artikel 2, nr. 1, i dette direktiv, herunder, i overensstemmelse med artikel 8 og national lovgivning, en filial heraf, hvis en sådan filial er placeret i Fællesskabet, og dens hjemsted er placeret uden for Fællesskabet	PSE Act Section 6, point (20)	PSE Act Section 6, point (20) E-money institution: A legal person which has obtained authorisation to issue electronic money pursuant to section 39 a.	Lov om betalings-tjenester § 6, nr. 20) E-penge-institut: En juridisk person, der har opnået tilladelse til at udstede elektroniske penge i henhold til § 39a.	CONFORM Section 6, point 20 of the PSE Act transposes Article 1(1)(b) of the Directive. In Section 6, point (20) of the PSE Act an electronic money institution is defined as a legal person who has obtained authorisation to issue electronic money pursuant to section 39 a which contains Title II requirements such as initial capital, safeguarding of funds and further. On this basis, conformity is concluded.
Art. 1(1)(c)	(c) post office giro institutions which are entitled under national law to issue electronic money;	c) postgirokontorer, der ifølge national lov har ret til at udstede elektroniske penge	N/A	N/A	N/A	PARTIALLY CONFORM No NIMs which transpose Article 1(1)(c) of the Directive have been identified. Probably this is due to the fact that there are no such institutions in Denmark since post giro activities are operated within the framework of a credit institution. However, further clarification might be enquired from

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						Denmark and prove useful in this regard. On the basis of the above findings, non-conformity is concluded until further confirmation.
Art. 1(1)(d)	(d) the European Central Bank and national central banks when not acting in their capacity as monetary authority or other public authorities;	d) Den Europæiske Centralbank og de nationale centralbanker, når de ikke handler i deres egenskab af pengepolitiske myndigheder, eller andre offentlige myndigheder	PSE Act Section 2 a	PSE Act Section 2 a Electronic money may only be issued by undertakings which have been granted authorisation pursuant to part 3 a or authorisation in another country within the European Union or in a country with which the Union has entered into an agreement for the financial area, and by the following: (1) Banks. (2) Danmarks Nationalbank. (3) Public authorities.	Lov om betalings-tjenester § 2 a Elektroniske penge må kun udstedes af virksomheder med tilladelse efter kapitel 3 a eller tilladelse i et andet land inden for Den Europæiske Union eller i et land, som Unionen har indgået aftale med på det finansielle område, og af følgende: 1) Pengeinstitutter. 2) Danmarks Nationalbank. 3) Offentlige myndigheder.	PARTIALLY CONFORM Section 2 a, point (2) of the PSE Act transposes the Directive provision. Section 2 a of the PSE Act sets out the categories of electronic money issuers. These are undertakings which have been granted an authorisation, as well as banks, the Danish Central Bank and public authorities. The Danish Central Bank is thus listed as an electronic money issuer pursuant to the PSE Act Section 2 a, point (2). However, the further qualification of ‘when not acting in [...] capacity as monetary authority’ has not been transposed in the NIMs. This might pertain to the fundamental principles of Danish administrative law whereby public authorities can indeed only act as electronic money issuers when acting in their capacity as public authorities. If not acting in their capacity as public authorities, the activity of issuing electronic money would be considered a business activity. As outlined in the explanatory notes of the Bill to Section 2 a of the PSE Act, such activities would require a legal basis and would have to be operated in the legal form of a separate company which would then be subject to an authorisation requirement. Thus, although the wording ‘when acting in

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						<p>their capacity as public authorities' is omitted in the NIMs, this can be inferred from the NIMs, as anything else would be contrary to well-established, fundamental principles of Danish administrative law.</p> <p>The role of the European Central Bank and national central banks of other Member States as a possible electronic money issuer has not been provided for in the NIMs.</p> <p>Further clarification might be enquired from Denmark and prove useful in regard to the above findings.</p> <p>Partial conformity is therefore concluded.</p>
Art. 1(1)(e)	(e) Member States or their regional or local authorities when acting in their capacity as public authorities.	e) medlemsstater eller deres regionale og lokale myndigheder, når de handler i deres egenskab af offentlige myndigheder.	<p>PSE Act Section 2 a</p> <p>PSE Act Section 39 a(1)</p>	<p>PSE Act Section 2 a</p> <p>Electronic money may only be issued by undertakings which have been granted authorisation [...], and by the following:</p> <p>(1) Banks.</p> <p>(2) Danmarks Nationalbank.</p> <p>(3) Public authorities.</p> <p>PSE Act Section 39 a(1)</p> <p>Undertakings shall have authorisation as an e-money institution in order to issue electronic money. This shall not apply for banks, Danmarks Nationalbank and public</p>	<p>Lov om betalings-tjenester § 2 a</p> <p>Elektroniske penge må kun udstedes af virksomheder med tilladelse [...], og af følgende:</p> <p>1) Pengeinstitutter.</p> <p>2) Danmarks Nationalbank.</p> <p>3) Offentlige myndigheder.</p> <p>Lov om betalings-tjenester § 39 a, stk. 1</p> <p>Virksomheder skal have tilladelse som e-penge-institut for at kunne udstede elektroniske</p>	<p>PARTIALLY CONFORM</p> <p>Sections 2 a and 39 a(1) of the PSE Act transpose Article 1(1), point (e) of the Directive.</p> <p>According to the Directive provision, public authorities shall be recognised as electronic money issuers when acting in their capacity as public authorities.</p> <p>In the PSE Act, in Sections 2 a and 39 a(1), it is stated that public authorities are recognised as electronic money issuers. The qualification 'when acting in their capacity as public authorities' is not present in the NIMs.</p> <p>This discrepancy in wording stems from the fact that according to the principles of Danish administrative law, public authorities can indeed only act as electronic money issuers when acting in their capacity as public</p>

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				authorities.	penge. Dette gælder ikke for pengeinstitutter, Danmarks Nationalbank og offentlige myndigheder	<p>authorities.</p> <p>If not acting in their capacity as public authorities, the activity of issuing electronic money would be considered a business activity. As outlined in the explanatory notes of the Bill to Section 2 a of the PSE Act, such activities would require a legal basis and would have to be operated in the legal form of a separate company which would then be subject to an authorisation requirement.</p> <p>Thus, although the wording ‘when acting in their capacity as public authorities’ is omitted in the NIMs, this can be inferred from the NIMs, as anything else would be contrary to fundamental principles of Danish administrative law.</p> <p>In the absence of any express indication hereof, it is, however, not clear whether Sections 2 a and 39 a(1) of the PSE Act also recognise public authorities of other Member States. Furthermore, no mention is made of other Member States acting as electronic money issuers. Further clarification might be enquired from Denmark and prove useful in this regard.</p> <p>On the basis of the above findings, partial conformity is therefore concluded.</p>
Art. 1(2)	2. Title II of this Directive lays down the rules for the taking up, the pursuit and the prudential supervision of the business of electronic money	2. Afsnit II i dette direktiv fastlægger regler for optagelse og udøvelse af virksomhed som e-pengeinstitut og for tilsyn med en sådan virksomhed.	PSE Act Part 3a	PSE Act Part 3 a Issuers of electronic money.	Lov om betalingstjenester Kapitel 3 a Udstedere af elektroniske penge	CONFORM The subject matter of Title II of this Directive is regulated by provisions of Part 3 a of the PSE Act titled ‘Issuers of Electronic Money.’

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	institutions.					
Art. 1(3)	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. Medlemsstaterne kan undtage institutter, der er omhandlet i artikel 2 i direktiv 2006/48/EF, bortset fra første og andet led i den pågældende artikel, fra anvendelsen af alle eller en del af bestemmelserne i afsnit II i dette direktiv.	N/A	N/A	N/A	Article 1(3) of the Directive sets out an option. Concerning this option, Denmark has not chosen to waive the application in whole or in part of the provisions of Title II of the Directive to the institutions referred to in the fourth indent of Article 2 of Directive 2006/48/EC.
Art. 1(4)	4. This Directive does not apply to monetary value stored on instruments exempted as specified in Article 3(k) of Directive 2007/64/EC.	4. Direktivet finder ikke anvendelse på en pengeværdi lagret på instrumenter, der er omfattet af en undtagelse i overensstemmelse med artikel 3, litra k), i direktiv 2007/64/EF.	PSE Act Section 6, point (21)	PSE Act Section 6, point (21) Electronic money: An electronically or magnetically stored monetary asset which represents a claim against the issuer, which is issued on the receipt of payment with a view to conducting payment transactions and which is accepted by others than the issuer of electronic money.	Lov om betalingstjenester § 6, nr. 21) Elektroniske penge: En elektronisk eller magnetisk lagret pengeværdi, der repræsenterer et krav mod udstederen, som udstedes ved modtagelse af betaling med henblik på at gennemføre betalingstransaktioner, og som accepteres af andre end udstederen af elektroniske penge.	PARTIALLY CONFORM Section 6, point (21) of the PSE Act transposes the Directive provision. According to the definition of electronic money contained in Section 6, point (21) of the PSE Act, transposing Article 2(2) of the Directive, the monetary asset shall represent a claim against the issuer which is accepted by others than the issuer. Since this definition explicitly requires that the claim against the issuer is accepted by others than the issuer, it can be inferred that the PSE Act does 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 as set out in the first part of Article 3(k) of Directive 2007/64/EC. However, regarding the second part of Article 3(k) of Directive 2007/64/EC concerning

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						<p>instruments that can be used under a commercial agreement with the issuer within a limited network of service providers or for a limited range of goods or services, it does not seem to be inferable from Section 6, point (21) or any other provision of the PSE Act that such instruments are not included under the scope of the transposing legislation. Further clarification might therefore be enquired from Denmark and prove useful in this regard.</p> <p>On the basis of the above findings, partial conformity is therefore concluded.</p>
Art. 1(5)	5. This Directive does not apply to monetary value that is used to make payment transactions exempted as specified in Article 3(1) of Directive 2007/64/EC.	5. Direktivet finder ikke anvendelse på en pengeværdi, der anvendes til at foretage betalingstransaktioner, som er undtaget i overensstemmelse med artikel 3, litra l), i direktiv 2007/64/EF.	PSE Act Section 4, point (14)	<p>PSE Act Section 4, point (14)</p> <p>This Act shall not apply to:</p> <p>[...]</p> <p>(14) Payment transactions and monetary assets used to carry out payment transactions that are executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediary</p>	<p>Lov om betalingstjenester § 4, nr. 14)</p> <p>Loven finder ikke anvendelse på:</p> <p>[...]</p> <p>14) Betalingstransaktioner og pengeværdier, der er anvendt til at foretage betalingstransaktioner, der er gennemført ved hjælp af alle former for telekommunikations-, digital- eller it-udstyr, hvor de erhvervede varer eller tjenesteydelser leveres til og skal anvendes ved hjælp af telekommunikations-, digital- eller it-udstyr, forudsat at</p>	<p>CONFORM</p> <p>Section 4, point (14) of the PSE Act transposes Article 1(5) of the Directive.</p> <p>In addition to containing the provisions transposing the Directive, the PSE Act furthermore transposes Directive 2007/64/EC into Danish law. Therefore, the exemption specified in Article 3(1) of Directive 2007/64/EC was already contained in the PSE Act through a literal transposition of this exemption.</p> <p>Through the E-money Act, the wording ‘and monetary assets used to carry out payment transactions’ was inserted into Section 4, point (14) of the PSE Act to obtain its present wording which fully reflects the content of Article 1(5) of the Directive.</p> <p>Concerning the term ‘monetary value’ used in the Directive provision, it should be noted that the NIM uses the same wording, namely</p>

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				between the payment service user and the supplier of the goods and services.	telekommunikations-, digital- eller it-operatøren ikke udelukkende agerer som mellemmand mellem brugeren af betalingstjenester og leverandøren af varer og tjenesteydelser.	‘pengeeværdi’, as used in the Directive as published in the DA version of the Official Journal. Therefore, the fact that ‘monetary asset’ is used instead of ‘monetary value’ in the non- legally binding English translation of the PSE Act provided on the website of the FSA does not raise any terminology issues. On the basis of the above findings, conformity is therefore concluded.
Art. 2 intr. wording	<i>Article 2</i> Definitions For the purposes of this Directive, the following definitions shall apply:	<i>Artikel 2</i> Definitioner I dette direktiv forstås ved:	PSE Act Section 5, intr. wording	PSE Act Section 6, intr. wording For the purposes of this Act the following definitions shall apply:	Lov om betalingstjenester § 6, indledning I denne lov forstås ved:	CONFORM Section 5, introductory wording of the PSE Act almost literally transposes the Directive provision, on which basis conformity is concluded.
Art. 2 pt (1)	1. "electronic money institution" means a legal person that has been granted authorisation under Title II to issue electronic money;	1) "e-pengeinstitut" : en juridisk person, der har opnået tilladelse til at udstede elektroniske penge i henhold til afsnit II	PSE Act Section 6, point (20) PSE Act Section 39 a(2)	PSE Act Section 6, point (20) E-money institution: A legal person who has obtained authorisation to issue electronic money pursuant to section 39a. PSE Act Section 39 a(2) The Danish FSA shall grant authorisation when (1) the undertaking meets the requirements of section 7(2), points (1)-(3), (5)-(7) and (8), cf. section 19, (2) the undertaking meets	Lov om betalingstjenester § 6, nr. 20) E-penge-institut: En juridisk person, der har opnået tilladelse til at udstede elektroniske penge i henhold til § 39 a. Lov om betalingstjenester § 39 a, stk. 2 Finanstilsynet giver tilladelse, når 1) virksomheden opfylder kravene i § 7, stk. 2, nr. 1-	CONFORM Section 6, point (20) and Section 39 a of the PSE Act duly reflect the Directive provision. According to Section 6, point (20) of the PSE Act, an electronic money institution is a legal institution which has obtained an authorisation to issue electronic money pursuant to section 39 a of the PSE Act. This reference to Section 39 a of the PSE Act means that the undertaking has obtained its authorisation after meeting certain requirements in regard to the taking up and the pursuit of electronic money activities as covered by Title II of the Directive. It should be noted specifically that electronic money institutions are thus not considered as

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				<p>the requirement for initial capital in section 39f, and</p> <p>(3) if, in addition to issuing electronic money, the undertaking carries out other business activities, cf. section 39 e(1), points (2)-(4), appropriate measures have been taken to protect the funds belonging to holders of electronic money, cf. section 39 l.</p>	<p>3, 5-7 og 8, jf. § 19,</p> <p>2) virksomheden opfylder kravet til startkapital i § 39 f og</p> <p>3) der, hvis virksomheden ud over udstedelse af elektroniske penge udfører andre forretningsaktiviteter, jf. § 39 e, stk. 1, nr. 2-4, er truffet passende foranstaltninger for at beskytte de midler, der tilhører indehavere af elektroniske penge, jf. § 39 l.</p>	<p>credit institutions as outlined in recital 25 of the Directive.</p> <p>On the basis of the above findings, conformity is therefore concluded.</p>
Art. 2 pt (2)	<p>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 legal person other than the electronic money issuer;</p>	<p>2) "elektroniske penge" : en elektronisk eller magnetisk lagret pengeværdi som repræsenteret ved et krav på udstederen, der er udstedt efter modtagelse af midler med henblik på at gennemføre betalingstransaktioner som defineret i artikel 4, nr. 5, i direktiv 2007/64/EF, og som accepteres af en anden fysisk eller juridisk person end udstederen af elektroniske penge</p>	<p>PSE Act Section 6, point (21)</p> <p>PSE Act Section 6, point (2)</p>	<p>PSE Act Section 6, point (21)</p> <p>Electronic money:</p> <p>An electronically or magnetically stored monetary asset which represents a claim against the issuer, which is issued on the receipt of payment with a view to conducting payment transactions and which is accepted by others than the issuer of electronic money.</p> <p>PSE Act Section 6, point (2)</p>	<p>Lov om betalingstjenester § 6, nr. 21)</p> <p>Elektroniske penge:</p> <p>En elektronisk eller magnetisk lagret pengeværdi, der repræsenterer et krav mod udstederen, som udstedes ved modtagelse af betaling med henblik på at gennemføre betalingstransaktioner, og som accepteres af andre end udstederen af elektroniske penge.</p> <p>Lov om</p>	<p>CONFORM</p> <p>Section 6, point (21) of the PSE Act almost literally transposes the Directive provision.</p> <p>However, section 6, point (21) of the PSE Act makes no reference to point 5 of Article 4 of Directive 2007/64/EC. Instead of such reference, the term payment transaction is defined in PSE Act Section 6, point (2) which contains an almost literal transposition of Article 4, point (5) of Directive 2007/64/EC.</p> <p>The definition of electronic money found in the NIMs is thereby technically neutral and encompassing future products to be developed, as further specified in recitals 7 and 8 of the Directive.</p> <p>On the basis of the above findings,</p>

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				<p>Payment transaction:</p> <p>A transaction, initiated by a payer or by a payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee.</p>	<p>betalingstjenester § 6, nr. 2)</p> <p>Betalingstransaktion:</p> <p>En handling, der iværksættes af en betaler eller en betalingsmodtager med henblik på at indbetale, overføre eller hæve midler uden hensyn til eventuelle underliggende forpligtelser mellem betaleren og betalingsmodtageren.</p>	conformity is therefore concluded.
Art. 2 pt (3)	3. "electronic money issuer" means entities referred to in Article 1(1), institutions benefiting from the waiver under Article 1(3) and legal persons benefiting from a waiver under Article 9;	3) "udsteder af elektroniske penge" : enheder omhandlet i artikel 1, stk. 1, institutter, der er omfattet af undtagelsen i artikel 1, stk. 3, og juridiske personer, der er omfattet af en undtagelse i artikel 9	<p>PSE Act Section 6, point (22)</p> <p>Issuer of electronic money:</p> <p>Issuers mentioned in section 2 a.</p> <p>PSE Act Section 2 a</p> <p>Electronic money may only be issued by undertakings which have been granted authorisation pursuant to part 3 a or authorisation in another country within the European Union or in a country with which the Union has entered into an agreement for the financial</p>	<p> Lov om betalingstjenester § 6, nr. 22)</p> <p>Udsteder af elektroniske penge:</p> <p>Udstedere nævnt i § 2 a.</p> <p> Lov om betalings-tjenester § 2 a</p> <p>Elektroniske penge må kun udstedes af virksomheder med tilladelse efter kapitel 3 a eller tilladelse i et andet land inden for Den Europæiske Union eller i et land, som Unionen har indgået aftale med på det finansielle område, og af</p>	<p>CONFORM</p> <p>Section 6, point (22) of the PSE Act transposes the Directive provision.</p> <p>In Section 6, point (22) of the PSE Act, electronic money issuers are defined as issuers mentioned in Section 2 a of the PSE Act.</p> <p>This latter provision concerns the permitted electronic money issuers and lists undertakings granted an authorisation, banks, the Danish Central Bank and public authorities.</p> <p>The reference to undertakings granted an authorisation includes undertakings benefiting from a waiver under Article 9 of the Directive as these are also regulated in Part 3 a of the PSE Act to which Section 2 a of the PSE Act refers.</p>	

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				area, and by the following: 1) Banks. 2) Danmarks Nationalbank. 3) Public authorities.	følgende: 1) Pengeinstitutter. 2) Danmarks Nationalbank. 3) Offentlige myndigheder.	In regard to institutions benefiting from the waiver under Article 1(3) of the Directive, this option has not been transposed by Denmark. On the basis of the above findings, conformity is therefore concluded.
Art. 2 pt (4)	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) "gennemsnitligt udestående elektroniske penge" : det gennemsnitlige samlede beløb af finansielle forpligtelser i forbindelse med elektroniske penge, der er udstedt ved udgangen af hver kalenderdag i løbet af de foregående seks kalendermåneder beregnet på den første kalenderdag i hver kalendermåned og gældende for den pågældende kalendermåned.	PSE Act Section 39 g(3)	PSE Act Section 39 g(3) The average outstanding electronic money, cf. paragraph 1, point (2), shall be calculated as the total claims against the issuer pertaining to the outstanding electronic money, calculated on the basis of the daily amount outstanding at the end of each day for the preceding 6 months. The calculation shall be carried out on the first day of each month. [...].	Lov om betalings-tjenester § 39 g, stk. 3 Gennemsnittet af udestående elektroniske penge, jf. stk. 1, nr. 2, beregnes som de samlede krav på udstederen, der hidrører fra udestående elektroniske penge, opgjort på baggrund af det daglige udestående ved udgangen af hver dag i de foregående 6 måneder. Opgørelsen foretages den første dag i hver måned. [...].	CONFORM Section 39 g(3) of the PSE Act transposes the Directive provision. The term ‘average outstanding electronic money’ is not included among the definitions set out in the PSE Act. It is instead applied and described in Section 39 g of the PSE Act in connection with the transposition of Article 5 of the Directive. In this context, Section 39 g(3) of the PSE Act prescribes that the ‘average outstanding electronic money’ shall be calculated as the total claims against the issuer regarding electronic money calculated on the basis of the daily amount outstanding at the end of each day for the preceding 6 months. The calculation shall be carried out on the first day of each month. Although days and months are not expressly defined in the NIM as calendar days, this could be said to be inferred from the accounting context of the NIM. Thereby, the term ‘average outstanding electronic money’ is applied in the NIMs in

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						<p>accordance with the definition hereof as set out in the Directive provision.</p> <p>On this basis, conformity is therefore concluded.</p>
Art. 3(1)	<p>TITLE II REQUIREMENTS FOR THE TAKING UP, PURSUIT AND PRUDENTIAL SUPERVISION OF THE BUSINESS OF ELECTRONIC MONEY INSTITUTIONS</p> <p><i>Article 3</i></p> <p>General prudential rules</p> <p>1. Without prejudice to this Directive, Articles 5 and 10 to 15, Article 17(7) and Articles 18 to 25 of Directive 2007/64/EC shall apply to electronic money institutions <i>mutatis mutandis</i>.</p>	<p>AFSNIT II BETINGELSER FOR AT OPTAGE OG UDØVE VIRKSOMHED SOM E-PENGEINSTITUT OG TILSYN MED EN SÅDAN VIRKSOMHED</p> <p><i>Artikel 3</i></p> <p>Generelle tilsynsregler</p> <p>1. Uden at det berører dette direktiv finder artikel 5, artikel 10-15, artikel 17, stk. 7, og artikel 18-25 i direktiv 2007/64/EF tilsvarende anvendelse på e-pengeinstitutter.</p>	<p>PSE Act Section 39 a</p> <p>PSE Act Section 7</p> <p>PSE Act Section 39 c</p> <p>PSE Act Section 9</p> <p>PSE Act Section 90(2) and (3)</p>	<p>PSE Act Section 90(2) and (3)</p> <p>(2) The authorisation of an undertaking as an E-money institution or restricted authorisation to issue electronic money shall lapse, if the undertaking fails to make use of the authorisation within a time limit of 12 months, expressly renounces the authorisation, or has not issued electronic money for a period of more than 6 months,</p> <p>(3) The Danish FSA may withdraw an undertaking's authorisation as an E-money institution or a restricted authorisation to issue electronic money, if the undertaking</p> <p>(1) has obtained authorisation on the basis of incorrect information which was deemed significant in granting authorisation, or in some</p>	<p>Lov om betalingstjenester § 90, stk. 2 og 3</p> <p>Stk. 2. En virksomheds tilladelse som e-pengeinstitut eller begrænset tilladelse til udstedelse af elektroniske penge bortfalder, hvis virksomheden ikke gør brug af tilladelsen inden for 12 måneder, udtrykkeligt giver afkald på at gøre brug af tilladelsen eller ikke har udstedt elektroniske penge i en periode på over 6 måneder.</p> <p>Stk. 3. Finanstilsynet kan inddrage en virksomheds tilladelse som e-pengeinstitut eller begrænset tilladelse til udstedelse af elektroniske penge, hvis virksomheden</p> <p>1) har opnået tilladelsen på baggrund af urigtige oplysninger, der er tillagt vægt ved meddelelse af tilladelse, eller på anden</p>	<p>CONFORM</p> <p>The general principle set out in recital 9 of the Directive that 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, is applied in the Danish legislation as further described in the following:</p> <p>Sections 7, 18 and 19 of the PSE Act transpose Articles 5 and 10 of Directive 2007/64/EC in a conform manner.</p> <p>Section 39 c of the PSE Act, which refers to Section 9 of the PSE Act, transposes Article 11 of Directive 2007/64/EC in a conform manner. It should be noted that Section 9 does not contain the requirement of statement of reasons to accompany a refusal. Such a requirement, however, is stated in the explanatory notes in the Bill to Section 39 c of the PSE Act and would also follow from Section 22 of the Administrative Practices Act.</p> <p>Section 90 of the PSE Act transposes Article 12 of Directive 2007/64/EC in a conform manner. This provision has been expanded with new paragraphs (2) and (3) to separately regulate electronic money issuers. The regulation of electronic money issuers compared to payment institutions consists of</p>

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			<p>PSE Act Section 88(1), points (3) and (4)</p> <p>other dishonest manner, (2) no longer fulfils the conditions for granting the authorisation pursuant to part 3 a, or (3) fails to comply with the Act on Measures to Prevent Money Laundering and Financing of Terrorism.</p> <p>PSE Act Section 8</p> <p>PSE Act Section 39 a PSE Act Section 7 PSE Act Section 39 c</p> <p>PSE Act Section 9 PSE Act Section 88(1), points (3) and (4) PSE Act Section 8</p> <p>PSE Act Section 39 j</p> <p>PSE Act Section 20 PSE Act Section 28 PSE Act Section 27 PSE Act Section 39 m</p> <p>PSE Act Section 27 PSE Act Section 39 m PSE Act Section 39 d</p> <p>PSE Act Section 10 PSE Act Section 86(1) to</p>	<p>uredelig vis, 2) ikke længere opfylder betingelserne for meddelelse af tilladelse efter kapitel 3 a eller 3) ikke overholder lov om forebyggende foranstaltninger mod hvidvask af udbytte og finansiering af terrorisme.</p> <p>Lov om betalingstjenester § 90, stk. 2 og 3</p> <p>Lov om betalingstjenester § 39 a</p> <p>Lov om betalingstjenester § 7</p> <p>Lov om betalingstjenester § 39 c</p> <p>Lov om betalingstjenester § 9</p> <p>Lov om betalingstjenester § 88(1), points (3) and (4)</p> <p>Lov om betalingstjenester § 8</p> <p>Lov om betalingstjenester § 39 j</p> <p>Lov om betalingstjenester § 20</p>	<p>an omission of Article 12(1)(d) regarding threat to the stability of the electronic money service system and an unconditional, in the sense of ‘shall’, withdrawal of an authorisation in cases falling under Article 12(1)(a), whereas an authorisation ‘may’ be withdrawn in the remaining cases covered by Article 12(1).</p> <p>Section 88(1), points (3) and (4) of the PSE Act transpose Article 13 of Directive 2007/64/EC in a conform manner.</p> <p>Section 8 of the PSE Act transposes Article 14 of Directive 2007/64/EC in a conform manner.</p> <p>Section 20 of the PSE Act, in conjunction with Section 39 j of the PSE Act, transposes Article 15 of Directive 2007/64/EC in a conform manner.</p> <p>Section 28 of the PSE Act, which pursuant to Section 39 m of the PSE Act shall apply <i>mutatis mutandis</i> to electronic money institutions, transposes Article 17(7) of Directive 2007/64/EC in a conform manner.</p> <p>Section 27 of the PSE Act, which pursuant to Section 39 m of the PSE Act shall apply <i>mutatis mutandis</i> to electronic money institutions, transposes Article 18 of Directive 2007/64/EC in a conform manner.</p> <p>Section 10 of the PSE Act, which pursuant to Section 39 d of the PSE Act shall apply <i>mutatis mutandis</i> to electronic money institutions, transposes Article 19 of Directive 2007/64/EC in a conform manner. through</p>

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			<p>n 27</p> <p>(3)</p> <p>PSE Act Section 87</p> <p>PSE Act Section 92</p> <p>FB Act Sections 354 and 356</p> <p>PSE Act Section 87(1) and (2)</p> <p>PSE Act Section 97(2)</p> <p>PSE Act Section 98(2)</p> <p>PSE Act Section 20(3)</p> <p>PSE Act Section 90(1)</p> <p>PSE Act Section 97(3)</p> <p>PSE Act Section 99(1)</p> <p>PSE Act Section 86(1)</p> <p>PSE Act Section 91</p> <p>PSE Act Section 97(5)</p> <p>PSE Act Section 98(3)</p> <p>PSE Act Section 92</p> <p>FB Act Sections 354 and 356</p> <p>PSE Act Section 87(3)</p> <p>FB Act Section 346</p> <p>PSE Act Section 92</p> <p>FB Act Section 354</p>	<p>betalingstjenester § 28</p> <p>Lov om betalingstjenester § 27</p> <p>Lov om betalingstjenester § 39 m</p> <p>Lov om betalingstjenester § 27</p> <p>Lov om betalingstjenester § 39 m</p> <p>Lov om betalingstjenester § 39 d</p> <p>Lov om betalingstjenester § 10</p> <p>Lov om betalingstjenester § 86(1) to (3)</p> <p>Lov om betalingstjenester § 87</p> <p>Lov om betalingstjenester § 92</p> <p>FB Act §§ 354 og 356</p> <p>Lov om betalingstjenester § 87(1) og (2)</p> <p>Lov om betalingstjenester § 97(2)</p> <p>Lov om betalingstjenester § 98(2)</p> <p>Lov om</p>	<p>Sections 86(1) to (3) and 87 of the PSE Act and, as regards Article 20(3), Sections 354 and 356 of the FB Act transpose Article 20 of Directive 2007/64/EC in a conform manner.</p> <p>Sections 87(1) and (2), 97(2), 98(2), 20(3), 90(1), 97(3), 99(1) and 86(1) of the PSE Act transpose Article 21 of Directive 2007/64/EC in a conform manner.</p> <p>Section 20(3) of the PSE Act transposes Article 21, second subparagraph, point (c) of Directive 2007/64/EC. A right for an administrative supervisory authority to issue recommendations and guidelines is inherent, as a less invasive measure, in the right to take administrative decisions under the PSE Act. Therefore, conformity is also observed in this regard.</p> <p>Section 92 of the PSE Act transposes Article 22 of Directive 2007/64/EC in a conform manner.</p> <p>Sections 91, 97(5) and 98(3) of the PSE Act transpose Article 23 of Directive 2007/64/EC in a conform manner.</p> <p>Section 92 of the PSE Act which refers to Sections 354 and 356 of the FB Act transposes Article 24 of Directive 2007/64/EC in a conform manner.</p> <p>Sections 30, 31 and 32 of the PSE Act as regards Danish payment institutions and Sections 33, 34 and 35 of the PSE Act as regards foreign payment institutions transpose Article 25(1) of Directive 2007/64/EC in a conform manner.</p>

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		<p>to (3)</p> <p>PSE Act Section 87</p> <p>PSE Act Section 92</p> <p>FB Act Sections 354 and 356</p> <p>PSE Act Section 87(1) and (2)</p> <p>PSE Act Section 97(2)</p> <p>PSE Act</p>		<p>betalingstjenester § 20(3)</p> <p>Lov om betalingstjenester § 90(1)</p> <p>Lov om betalingstjenester § 97(3)</p> <p>Lov om betalingstjenester § 99(1)</p> <p>Lov om betalingstjenester § 86(1)</p> <p>Lov om betalingstjenester § 91</p> <p>Lov om betalingstjenester § 97(5)</p> <p>Lov om betalingstjenester § 98(3)</p> <p>Lov om betalingstjenester § 92</p> <p>FB Act § 354 og 356</p> <p>Lov om betalingstjenester § 87(3)</p> <p>FB Act § 346</p> <p>Lov om betalingstjenester § 92</p> <p>FB Act § 354</p>	<p>Sections 86(3) and (4) of the PSE Act transpose Article 25(2) of Directive 2007/64/EC in a conform manner.</p> <p>Section 87(3) of the PSE Act, referring to Section 346 of the FB Act, transposes Article 25(3) of Directive 2007/64/EC in a conform manner.</p> <p>Section 92 of the PSE Act, referring to Section 354 of the FB Act, transposes Article 25(4) of Directive 2007/64/EC in a conform manner.</p> <p>Concerning Article 25(5) of Directive 2007/64/EC, no national provisions has been held to contradict the requirements set out in the Directive provision in regard to payment institutions, on which basis conformity has been held. The same applies to electronic money institutions.</p> <p>In conclusion, minor discrepancies were detected in the transposition of Article 12(1)(a) and (d) of Directive 2007/64/EC in regard to electronic money institutions and further clarification might be enquired from Denmark in this regard. However, overall, Article 3(1) of the Directive is transposed in a conform manner on which basis conformity is concluded.</p>

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			Section 98(2)		
			PSE Act Section 20(3)		
			PSE Act Section 90(1)		
			PSE Act Section 97(3)		
			PSE Act Section 99(1)		
			PSE Act Section 86(1)		
			PSE Act Section		

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			n 91 PSE Act Section n 97(5) PSE Act Section n 98(3) PSE Act Section n 92 FB Act Sections 354 and 356 PSE Act Section n 87(3) FB Act Section		

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			n 346 PSE Act Section 92 FB Act Section 354			
Art. 3(2)	2. Electronic money institutions shall inform the competent authorities in advance of any material change in measures taken for safeguarding of funds that have been received in exchange for electronic money issued.	E-pengeinstitutter underretter på forhånd de kompetente myndigheder om væsentlige ændringer i de foranstaltninger, der træffes for at beskytte de midler, der modtages som vederlag for elektroniske penge	PSE Act Section 39b PSE Act Section 8	PSE Act Section 39 b Section 8 on information obligations shall apply correspondingly to e-money institutions. PSE Act Section 8 The payment institution shall notify the Danish FSA if there are changes in relation to the information received by the Danish FSA and forming the basis of the authorisation granted. Notification shall be in advance, if the change can be considered as significant. In other circumstances notification shall be as soon as possible.	Lov om betalingstjenester § 39 b § 8 om underretningspligt finder tilsvarende anvendelse på e-pengeinstitutter. Lov om betalingstjenester § 8 Betalingsinstituttet er forpligtet til at underrette Finanstilsynet, hvis der indtræder ændringer i forhold til de oplysninger, som Finanstilsynet har modtaget og lagt til grund ved meddelelse af tilladelse. Underretning skal ske på forhånd, hvis ændringen må betragtes som væsentlig. I andre tilfælde skal underretning finde sted snarest muligt.	CONFORM Sections 8 and 39 b of the PSE Act transpose the Directive provision. Pursuant to Section 39 b of the PSE Act, Section 8 of the PSE Act concerning information obligations for payment institutions shall apply <i>mutatis mutandis</i> to electronic money institutions. According to Section 8 of the PSE Act, as made applicable to electronic money institutions, the Danish FSA shall be notified if there are changes in relation to the information received by the Danish FSA and taken into account in the granting of the authorisation. The safeguarding of funds received is one of the criteria for the granting of an authorisation set out in Section 39 a(2), point (3) of the PSE Act. Changes in relation to the safeguarding of funds would thus qualify as ‘information received by the Danish FSA and taken into account in the granting of the

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						<p>authorisation' as described in Section 8 of the PSE Act. The Danish FSA shall therefore be informed hereof.</p> <p>Pursuant to Section 8 of the PSE Act, such notification shall be in advance, if the change can be considered as significant; otherwise notification shall be as soon as possible.</p> <p>This requirement of advance notification for significant changes corresponds to the requirements expressed in recital 14 of the Directive and further set out in Article 3(2) of the Directive.</p> <p>On the basis of the above findings, conformity is therefore concluded.</p>
Art. 3(3) 1st subpara.	3. Any natural or legal person who has taken a decision to acquire or dispose of, directly or indirectly, a qualifying holding within the meaning of point 11 of Article 4 of Directive 2006/48/EC in an electronic money institution, or to further increase or reduce, directly or indirectly, such qualifying holding as a result of which the proportion of the capital or of the voting rights held would reach, exceed or fall below 20 %, 30 % or 50 %, or so that the	Enhver fysisk eller juridisk person, som enten påtænker direkte eller indirekte at erhverve en kvalificeret deltagelse ifølge artikel 4, nr. 11, i direktiv 2006/48/EF i et e-pengeinstitut eller direkte eller indirekte at forøge eller reducere en sådan kvalificeret deltagelse yderligere med det resultat, at vedkommendes kapitalandele eller andel af stemmerettigheder derved når op på, overstiger eller falder under 20 %, 30 % eller 50 %, eller at e-pengeinstituttet derved bliver eller ophører med at	<p>PSE Act Section 39 i</p> <p>FB Act Section 61(1)</p> <p>FB Act Section 61 b(1)</p>	<p>PSE Act Section 39 i</p> <p>On submission of an application for authorisation as an E-money institution, and at all times after authorisation has been notified, owners of qualifying interests in the undertaking shall comply with the principles of sections 61-62 of the Financial Business Act on ownership, although such that the percentages stated in section 61(1) and section 61b of the Financial Business Act amount to 20%, 30% and</p>	<p>Lov om betalings-tjenester § 39 i</p> <p>Ved indgivelse af ansøgning om tilladelse som e-penge-institut, og til enhver tid efter tilladelsen er meddelt, skal ejere af kvalificerede andele i virksomheden opfylde principperne i §§ 61-62 om ejerforhold i lov om finansiel virksomhed, dog således, at de i § 61, stk. 1, og § 61 b i lov om finansiel virksomhed anførte procentsatser udgør henholdsvis 20 pct., 30 pct. og 50 pct.</p> <p>Stk. 2. Ved kvalificeret</p>	<p>CONFORM</p> <p>Section 39 i of the PSE Act transposes the Directive provision.</p> <p>Pursuant to Section 39 i of the PSE Act, owners of qualified holdings (termed as 'qualified interests') in an electronic money institution shall comply with the principles of Sections 61 to 62 of the Financial Business Act.</p> <p>In this regard, Section 39 i(2) of the PSE Act lays down a specification of the term 'qualifying interests/holding' which is in accordance with the definition contained in point 11 of Article 4 of Directive 2006/48/EC, to which Article 3(3), first subparagraph refers.</p> <p>According to Section 61(1) of the FB Act, approval shall be obtained from the Danish</p>

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<p>electronic money institution would become or cease to be its subsidiary, shall inform the competent authorities of their intention in advance of such acquisition, disposal, increase or reduction.</p>	<p>være vedkommendes datterselskab, skal underrette de kompetente myndigheder inden sådan erhvervelse, salg, forøgelse eller reduktion.</p>	<p>50%, respectively.</p> <p>(2) ‘Qualifying interests’ pursuant to subsection (1) shall mean direct or indirect ownership of 10 percent or more of the capital or voting rights, or ownership of an interest which provides the opportunity for exercising significant influence on the management of the E-money institution.</p> <p>[...].</p> <p>FB Act Section 61(1)</p> <p>Any natural or legal person, or natural or legal persons acting in understanding with each other, planning directly or indirectly to acquire a qualifying interest, cf. section 5(3), in a financial undertaking or a financial holding company shall apply to the Danish FSA in advance for approval of the acquisition planned. The same shall apply to an increase in the qualifying interest which, after the acquisition, results in the interest equalling or exceeding a limit of 20 percent, 33 percent or 50</p>	<p>andel i henhold til stk. 1 forstås direkte eller indirekte besiddelse af mindst 10 pct. af kapitalen eller stemmerettighederne eller en andel, som giver mulighed for at udøve en betydelig indflydelse på ledelsen af e-pengeinstituttet.</p> <p>[...].</p> <p>Lov om finansiel virksomhed § 61, stk. 1</p> <p>Enhver fysisk eller juridisk person eller fysiske og juridiske personer, som handler i forståelse med hinanden, der påtænker direkte eller indirekte at erhverve en kvalificeret andel, jf. § 5, stk. 3, i en finansiel virksomhed eller en finansiel holdingvirksomhed, skal på forhånd ansøge Finanstilsynet om godkendelse af den påtænkte erhvervelse. Det samme gælder ved forøgelse af den kvalificerede andel, der medfører, at denne efter erhvervelsen vil udgøre eller overstige en grænse</p>	<p>FSA prior to the acquisition of a qualifying interest. The same applies prior to an increase of a qualifying interest resulting in the qualifying interest equalling or exceeding certain thresholds. These thresholds are, read in conjunction with Section 39i, 20%, 30% and 50%, respectively, of the share capital or voting rights, or results in the electronic money institution or the financial holding company becoming a subsidiary undertaking. These thresholds comply with the requirements of Article 3(3), first subparagraph of the Directive.</p> <p>Although the Directive provision uses the term ‘inform’ whereas the NIMs require an approval, based on the following subparagraphs of Article 3(3) of the Directive, an approval, or at least an abstention from opposition by the national FSA, is assumed.</p> <p>The same rules as described above shall apply in the event of a full disposal or a decrease of a qualifying interest which is regulated separately in Section 61b of the FB Act. In these cases, Section 61b of the FB Act requires that the Danish FSA be informed on a prior basis, whereas no approval is required.</p> <p>On the basis of the above findings, conformity is concluded.</p>

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			<p>percent respectively of the share capital or voting rights, or results in the financial undertaking or the financial holding company becoming a subsidiary undertaking.</p> <p>FB Act Section 61 b(1)</p> <p>Any natural or legal person, or natural and legal persons who act in mutual understanding, planning directly or indirectly to dispose of a qualifying interest, cf. section 5(3), or reduce a qualifying interest in a financial undertaking or a financial holding company, such that the disposal entails that the limit of 20 percent, 33 percent or 50 percent respectively of the company capital or voting rights is no longer achieved, or entails that the undertaking or holding company ceases to be a subsidiary of the relevant parent, shall notify the Danish FSA of this in writing in advance, stating the size of the planned future holding.</p>	<p>på henholdsvis 20 pct., 33 pct. eller 50 pct. af selskabskapitalen eller stemmerettighederne, eller medfører, at den finansielle virksomhed eller den finansielle holdingvirksomhed bliver en dattervirksomhed.</p> <p>Lov om finansiel virksomhed § 61 b, stk. 1</p> <p>Enhver fysisk eller juridisk person eller fysiske og juridiske personer, som handler i forståelse med hinanden, der påtænker direkte eller indirekte at afhænde en kvalificeret andel, jf. § 5, stk. 3, eller formindske en kvalificeret andel i en finansiel virksomhed eller en finansiel holdingvirksomhed således, at afhændelsen bevirker, at grænsen på henholdsvis 20 pct., 33 pct. eller 50 pct. af selskabskapitalen eller stemmerettighederne ikke længere er nået, eller bevirker, at virksomheden eller holdingvirksomheden ophører med at være vedkommendes datterselskab, skal</p>	

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					forinden skriftligt underrette Finanstilsynet herom med angivelse af størrelsen af den påtænkte fremtidige kapitalandel.	
Art. 3(3) 2nd subpar a.	The proposed acquirer shall supply to the competent authority information indicating the size of the intended holding and relevant information referred to in Article 19a(4) of Directive 2006/48/EC.	Den påtænkte erhverver oplyser de kompetente myndigheder om størrelsen af den påtænkte deltagelse og relevante oplysninger i overensstemmelse med artikel 19a, stk. 4, i direktiv 2006/48/EF.	FB Act Section 61(1) FB Act Section 61 b(1) PSE Act Section 39 i(3)	FB Act Section 61(1) [...] shall apply to the Danish FSA in advance for approval of the acquisition planned. [...] FB Act Section 61 b(1) [...] shall notify the Danish FSA of this in writing in advance, stating the size of the planned future holding. PSE Act Section 39 i(3) The Danish FSA shall lay down more detailed regulations on the procedure for applications for authorisation and reporting obligation for e-money institutions and owners of qualifying interests in e-money institutions.	Lov om finansiel virksomhed § 61, stk. 1 [...] skal på forhånd ansøge Finanstilsynet om godkendelse af den påtænkte erhvervelse. [...]. Lov om finansiel virksomhed § 61 b, stk. 1 [...] skal forinden skriftligt underrette Finanstilsynet herom med angivelse af størrelsen af den påtænkte fremtidige kapitalandel. Lov om betalings-tjenester § 39 i, stk. 3 Finanstilsynet fastsætter nærmere regler om fremgangsmåden ved ansøgning om godkendelse og underretningspligt for e-penge-instituttet og ejere af kvalificerede andele i e-penge-instituttet.	CONFORM Sections 61(1) and 61 b(1) of the FB Act and Section 39 i(3) of the PSE Act transpose the Directive provision. As detailed above under the assessment of Article 3(3), first subparagraph of the Directive, Sections 61(1) and 61 b(1) of the FB Act regarding, respectively, acquisitions and disposals require prior notification to the Danish FSA (even prior approval in the case of acquisition). It would follow inherently from this requirement that the size of the intended holding shall be supplied to the Danish FSA. In Section 61 b(1) of the FB Act regarding disposals, this is furthermore stated expressly. Pursuant to Section 39 i(3) of the PSE Act, the Danish FSA shall lay down more detailed regulations concerning inter alia the reporting obligation for owners of qualifying interests in electronic money institutions. In the application forms available on the website of the Danish FSA regarding qualifying holdings in financial undertakings and financial holding companies, including electronic money institutions, it is specified which information shall be submitted to the Danish FSA: Application for authorisation

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						<p>for acquisition of, or increase in, a qualifying interest.</p> <p>The information required by the Danish FSA corresponds to that provided for under Article 19a(4) of Directive 2006/48/EC.</p> <p>On the basis of the above findings regarding information on the size of the intended holding and relevant information referred to in Article 19a(4) of Directive 2006/48/EC, conformity is concluded.</p>
<p>Art. 3(3) 3rd subpar a.</p>	<p>Where the influence exercised by the persons referred to in the second subparagraph is likely to operate to the detriment of the prudent and sound management of the institution, the competent authorities shall express their opposition or take other appropriate measures to bring that situation to an end. Such measures may include injunctions, sanctions against directors or managers, or the suspension of the exercise of the voting rights attached to the shares held by the shareholders or members in question.</p>	<p>I tilfælde af at de i andet afsnit omhandlede personer gør deres indflydelse gældende på en måde, der vil kunne skade en forsigtig og sund ledelse af instituttet, skal de kompetente myndigheder gøre indsigelse eller træffe de fornødne foranstaltninger til at bringe denne situation til ophør. Sådanne foranstaltninger kan omfatte påbud, sanktioner over for ledelsen eller ophævelse af den stemmeret, der er knyttet til de aktier eller andele, der besiddes af de pågældende aktionærer eller selskabsdeltagere.</p>	<p>FB Act Section 61a</p> <p>FB Act Section 62</p>	<p>FB Act Section 61 a</p> <p>In its assessment of an application received pursuant to section 61(1), the Danish FSA shall ensure that account is taken of sensible and proper management of the undertaking in which the acquisition is intended. The assessment shall also take into account the likely influence of the intended acquirer on the undertaking, the suitability of the intended acquirer, and the financial soundness of the intended acquisition in relation to the following criteria:</p> <p>[...].</p> <p>(2) The Danish FSA may refuse an application for</p>	<p>Lov om finansiel virksomhed § 61 a</p> <p>Finanstilsynet skal i forbindelse med sin vurdering af en ansøgning modtaget efter § 61, stk. 1, sikre hensynet til en fornuftig og forsvarlig forvaltning af den virksomhed, hvori erhvervelsen påtænkes. Vurderingen skal endvidere ske under hensyntagen til den påtænkte erhververs sandsynlige indflydelse på virksomheden, den påtænkte erhververs egnethed og den påtænkte erhvervelses finansielle soliditet i forhold til følgende kriterier:</p> <p>[...].</p>	<p>CONFORM</p> <p>Section 61 a and Section 62 of the FB Act transpose the Directive provision.</p> <p>According to Section 61 a(2) of the FB Act, an application may be refused by the Danish FSA where there are reasonable grounds to believe that the intended acquirer will hinder the sensible and proper management of the undertaking on the basis of criteria set out in Section 61 a(1) of the FB Act.</p> <p>These criteria include the likely influence of the intended acquirer on the undertaking, the suitability of the intended acquirer, and the financial soundness of the intended acquisition in relation to the reputation and financial situation of the intended acquirer, the reputation and experience of managers, whether the undertaking can continue to comply with the supervision requirements and finally grounds for suspecting money laundering or terrorist financing activities.</p> <p>Financial needs of the market may expressly not be taken into consideration by the Danish</p>

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		<p>approval of an intended acquisition if, on the basis of the criteria mentioned in subsection (1), there are reasonable grounds to believe that the intended acquirer will hinder sensible and proper management of the undertaking, cf. subsection (1), or if, in the assessment of the Danish FSA, the information submitted by the intended acquirer is not sufficient.</p> <p>FB Act Section 62</p> <p>Where owners of capital holding, who are in possession of one of the interests mentioned in section 61(1) in a financial undertaking or a financial holding company, fail to meet the requirements of section 61 a(1), the Danish FSA may order said undertaking or holding company to follow specific guidelines and withdraw the voting rights associated with the equity investments of the relevant owners.</p> <p>(2) [...]</p> <p>(3) The Danish FSA shall</p>	<p>Stk. 2. Finanstilsynet kan afslå en ansøgning om godkendelse af en påtænkt erhvervelse, hvis der på baggrund af kriterierne nævnt i stk. 1 er rimelig grund til at antage, at den påtænkte erhverver vil modvirke en fornuftig og forsvarlig forvaltning af virksomheden, jf. stk. 1, eller de af den påtænkte erhverver afgivne oplysninger efter Finanstilsynets vurdering ikke er fyldestgørende.</p> <p>Lov om finansiel virksomhed § 62</p> <p>Såfremt kapitalejere, der er i besiddelse af en af de i § 61, stk. 1, omhandlede andele i en finansiel virksomhed eller en finansiel holdingvirksomhed, ikke opfylder kravene i § 61 a, stk. 1, kan Finanstilsynet ophæve den stemmeret, der er knyttet til de pågældende ejeres kapitalandele, eller påbyde virksomheden at følge bestemte retningslinjer.</p> <p>Stk. 2. [...]</p> <p>Stk. 3. Såfremt en fysisk</p>	<p>FSA pursuant to Section 61 a(3) of the FB Act.</p> <p>The above described criteria relate to the prudent and sound management of the institution and are thus in conformity with the Directive provision.</p> <p>In regard to measures to be taken by the national authorities, Section 62(1) of the FB Act provides for the withdrawal of voting rights by the Danish FSA in accordance with the alternatives set out in the second sentence of Article 3(3), third subparagraph of the Directive.</p> <p>On the basis of the above findings, conformity is concluded.</p>

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				<p>withdraw the voting rights associated with equity investments owned by natural or legal persons who have acquired equity investments as specified in section 61(1) notwithstanding the fact that the Danish FSA has refused approval of this acquisition of equity investments.</p> <p>[...].</p>	<p>eller juridisk person har erhvervet kapitalandele som omhandlet i § 61, stk. 1, uanset at Finanstilsynet har afslået at godkende denne erhvervelse af kapitalandele, skal Finanstilsynet ophæve stemmeretten tilknyttet disse kapitalandele.</p> <p>[...].</p>	
Art. 3(3) 4th subpara. a.	<p>Similar measures shall apply to natural or legal persons who fail to comply with the obligation to provide prior information, as laid down in this paragraph.</p>	<p>Lignende foranstaltninger skal anvendes over for fysiske eller juridiske personer, som ikke overholder forpligtelsen til forudgående underretning som fastsat i dette stykke.</p>	<p>FB Act Section 62(2)</p> <p>PSE Act Section 39 i(1)</p>	<p>FB Act Section 62(2)</p> <p>The Danish FSA may withdraw the voting rights associated with equity investments owned by natural or legal persons who do not comply with the duty to submit to the Danish FSA prior notification mentioned in section 61(1). Said equity investments shall have their full voting rights restored if the Danish FSA is able to approve the acquisition.</p> <p>PSE Act Section 39 i(1)</p> <p>On submission of an application for authorisation as an e-money institution, and at</p>	<p>Lov om finansiel virksomhed § 62, stk. 2</p> <p>Finanstilsynet kan ophæve den stemmeret, der er knyttet til kapitalandele ejet af fysiske eller juridiske personer, som ikke overholder forpligtelsen i § 61, stk. 1, til forudgående ansøgning om godkendelse. Kapitalandelene tildeles igen fuld stemmeret, hvis Finanstilsynet kan godkende erhvervelsen.</p> <p>Lov om betalingstjenester § 39 i, stk. 1</p> <p>Ved indgivelse af ansøgning om tilladelse som e-penge-institut, og til</p>	<p>CONFORM</p> <p>Section 62 of the FB Act transposes the Directive provision.</p> <p>The principles of Section 62(2) of the FB Act have been made applicable to electronic money institutions through Section 39 i(1) of the PSE Act as described further above in the assessment.</p> <p>Pursuant to Section 62(2) of the FB Act, the failure to comply with the obligation to provide prior information may be sanctioned by withdrawal of the voting rights attached to the shares concerned. Such measures are similar to the measures applied in the transposition of Article 3(3), third subparagraph, as required by Article 3(3), fourth subparagraph of the Directive.</p> <p>As expressly specified in Section 62(2) of the FB Act, the above-mentioned measures apply to the voting rights associated with equity</p>

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				all times after authorisation has been notified, owners of qualifying interests in the undertaking shall comply with the principles of sections 61-62 of the Financial Business Act on ownership, although such that the percentages stated in section 61(1) and section 61b of the Financial Business Act amount to 20%, 30% and 50%, respectively.	enhver tid efter tilladelsen er meddelt, skal ejere af kvalificerede andele i virksomheden opfylde principperne i §§ 61-62 om ejerforhold i lov om finansiel virksomhed, dog således, at de i § 61, stk. 1, og § 61 b i lov om finansiel virksomhed anførte procentsatser udgør henholdsvis 20 pct., 30 pct. og 50 pct.	investments owned by either natural or legal persons who do not comply with the duty of prior notification to the Danish FSA. Overall, based on the above findings conformity is concluded.
Art. 3(3) 5th subpara.	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.	Hvis en kapitalandel erhverves trods de kompetente myndigheders modvilje, skal disse myndigheder, uafhængigt af andre sanktioner, gøre det muligt at suspendere erhververens stemmerettigheder, erklære de afgivne stemmer ugyldige eller annullere dem.	FB Act Section 62(3)	FB Act Section 62(3) The Danish FSA shall withdraw the voting rights associated with equity investments owned by natural or legal persons who have acquired equity investments as specified in section 61(1) notwithstanding the fact that the Danish FSA has refused approval of this acquisition of equity investments.	Lov om finansiel virksomhed § 62, stk. 3 Såfremt en fysisk eller juridisk person har erhvervet kapitalandele som omhandlet i § 61, stk. 1, uanset at Finanstilsynet har afslået at godkende denne erhvervelse af kapitalandele, skal Finanstilsynet ophæve stemmeretten tilknyttet disse kapitalandele.	CONFORM Section 62(3) of the FB Act, transposes the Directive provision. Pursuant to Section 62(3) of the FB Act, the Danish FSA shall withdraw the voting rights associated with equity investments acquired despite the opposition of the Danish FSA. Such withdrawal of voting rights is in conformity with the alternatives set out in the Directive provision. On this basis, conformity is concluded.
Art. 3(3) 6th subpara.	The Member States may waive or allow their competent authorities to waive the application of all or part of the	Medlemsstaterne kan undtage, eller tillade at deres kompetente myndigheder undtager e-pengeinstitutter helt eller	N/A	N/A	N/A	Article 3(3), sixth subparagraph of the Directive sets out an option. Concerning this option, Denmark did not choose to transpose it within its national legal system.

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	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).	delvis for forpligtelserne i dette stykke, såfremt de udøver en eller flere af de aktiviteter, der er omhandlet i artikel 6, stk. 1, litra e).				
Art. 3(4)	4. Member States shall allow electronic money institutions to distribute and redeem electronic money through natural or legal persons which act on their behalf. Where the electronic money institution wishes to distribute electronic money in another Member State by engaging such a natural or legal person, it shall follow the procedure set out in Article 25 of Directive 2007/64/EC.	4. Medlemsstaterne tillader, at e-pengeinstitutter distribuerer og indløser elektroniske penge via fysiske eller juridiske personer, der handler på deres vegne. Ønsker e-pengeinstituttet at distribuere elektroniske penge i en anden medlemsstat via en sådan fysisk eller juridisk person, følger denne procedurerne i artikel 25 i direktiv 2007/64/EF.	<p>PSE Act Section n 39 n(2)</p> <p>PSE Act Section n 32(1) - (2)</p> <p>PSE Act Section n 39 o(2)</p> <p>PSE Act Section n 35(1)</p>	<p>PSE Act Section 39 n(2) Section 32 shall apply correspondingly to E-money institutions [...].</p> <p>PSE Act Section 32(1) - (2) Payment institutions which have been granted authorisation in Denmark and which wish to provide payment services in another country [...] through an agent, shall notify the Danish FSA hereof in advance, indicating the information stated in section 23(2) and the type of payment services the institution wishes to provide through the agent.</p> <p>(2) The Danish FSA shall forward the notification mentioned in paragraph (1) and a declaration stating that the activities planned are covered by the</p>	<p>Lov om betalingstjenester § 39 n, stk. 2 § 32 finder tilsvarende anvendelse på e-pengeinstitutter [...].</p> <p>Lov om betalingstjenester § 32, stk. 1 - 2 Betalingsinstitutter, der er meddelt tilladelse her i landet, og som ønsker at udbyde betalingstjenester i et andet land [...] gennem en agent, skal forinden give Finanstilsynet meddelelse herom med angivelse af de oplysninger, som fremgår af § 23, stk. 2, og oplysning om, hvilke betalingstjenester instituttet ønsker at udbyde gennem agenten.</p> <p>Stk. 2. Finanstilsynet videresender den i stk. 1 nævnte meddelelse og en</p>	<p>CONFORM</p> <p>Section 39 n(2) in conjunction with Section 32 and Section 39 o(2) in conjunction with Section 35 of the PSE Act transpose the Directive provision.</p> <p>Section 39 n(2) of the PSE Act regulates the use of agents by national electronic money institutions, prescribing that Section 32 of the PSE Act on payment institutions shall apply correspondingly.</p> <p>Under Danish contract law, agents are commercial intermediaries acting in the name and at the expense of the principal and thus on their behalf.</p> <p>According to Section 32(1) of the PSE Act, nationally authorised electronic money institutions wishing to provide services abroad through agents shall notify the Danish FSA hereof in advance.</p> <p>According to Section 32(2) of the PSE Act, the Danish FSA shall within one month pass on the information obtained to the authorities of the host country, which is in conformity with Article 25 of Directive 2007/64/EC.</p> <p>Where Denmark acts as the host country, Section 39 o(2) prescribes that Section 35 of</p>

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			<p>payment institution's authorisation, to the supervisory authorities in the host country no later than one month after receipt of the notification mentioned in paragraph (1) with a request for a statement prior to registration of the agent.</p> <p>PSE Act Section 39 o(2)</p> <p>Section 35 shall apply correspondingly to E-money institutions [...].</p> <p>PSE Act Section 35(1)</p> <p>A foreign payment institution which has been granted authorisation in another country [...] may begin providing payment services in Denmark through an agent when the Danish FSA has received information hereon from the supervisory authorities of the home country with information about the type of payment services the institution wishes to provide through the agent and that these services are covered by the institution's authority in the home country.</p>	<p>erklæring om, at de planlagte aktiviteter er omfattet af betalingsinstituttets tilladelse, til tilsynsmyndigheden i værtslandet senest 1 måned efter modtagelsen af den i stk. 1 nævnte meddelelse med anmodning om en udtalelse før registrering af agenten.</p> <p>Lov om betalingstjenester § 39o, stk. 2</p> <p>§ 35 finder tilsvarende anvendelse på e-pengeinstitutter [...].</p> <p>Lov om betalingstjenester § 35, stk. 1</p> <p>Et udenlandsk betalingsinstitut, der er meddelt tilladelse i et andet land [...] kan begynde at udbyde betalingstjenester her i landet gennem en agent, når Finanstilsynet har modtaget meddelelse herom fra tilsynsmyndigheden i hjemlandet og oplysninger om, hvilke</p>	<p>the PSE Act on payment institutions shall apply correspondingly.</p> <p>Pursuant to Section 35 of the PSE Act, electronic money services may be provided in Denmark through an agent when the Danish FSA has received information hereon from the supervisory authorities of the home country with information about the type of payment services the institution wishes to provide through the agent and that these services are covered by the institution's authority in the home country.</p> <p>Reflecting recital 10 of the Directive, electronic money institutions are thus allowed to distribute and redeem electronic money through agents in accordance with Article 3(4) of the Directive.</p> <p>Conformity is therefore concluded.</p>

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					betalingstjenester instituttet ønsker at udbyde gennem agenten, og om, at disse tjenester er omfattet af instituttets tilladelse i hjemlandet.	
Art. 3(5)	5. Notwithstanding paragraph 4, electronic money institutions shall not issue electronic money through agents. Electronic money institutions shall be allowed to provide payment services referred to in Article 6(1)(a) through agents only if the conditions in Article 17 of Directive 2007/64/EC are met.	5. Uagtet stk. 4 udsteder e-pengeinstitutter ikke elektroniske penge via agenter. E-pengeinstitutter kan kun udbyde betalingstjenester omhandlet i artikel 6, stk. 1, litra a), via agenter, såfremt betingelserne i artikel 17 i direktiv 2007/64/EF er opfyldt.	<p>PSE Act Section 39 n(2)</p> <p>PSE Act Section 39 o(2)</p> <p>PSE Act Section 23</p>	<p>PSE Act Section 39 n(2)</p> <p>Section 32 shall apply correspondingly to E-money institutions, however such that Danish E-money institutions may only have agents [...] if the agent is solely a provider of other activities than sale of electronic money, cf. section 39 e(1), points (2) – (4).</p> <p>PSE Act Section 39 o(2)</p> <p>Section 35 shall apply correspondingly to E-money institutions, however such that foreign E-money institutions, which have been granted authorisation in another country [...] may only have agents in Denmark if the agent is solely a provider of other activities than sale of electronic money, cf. section 39e(1), points (2) – (4).</p> <p>PSE Act Section 39 e(1)</p>	<p>Lov om betalingstjenester § 39 n, stk. 2</p> <p>§ 32 finder tilsvarende anvendelse på e-pengeinstitutter, dog således, at danske e-pengeinstitutter alene må have agenter [...] hvis agenten udelukkende er formidler af andre aktiviteter end salg af elektroniske penge, jf. § 39 e, stk. 1, nr. 2 - 4.</p> <p>Lov om betalingstjenester § 39 o, stk. 2</p> <p>§ 35 finder tilsvarende anvendelse på e-pengeinstitutter, dog således, at udenlandske e-pengeinstitutter, der er meddelt tilladelse i et andet land [...] alene må have agenter her i landet, hvis agenten udelukkende er formidler af andre aktiviteter end salg af elektroniske penge, jf. § 39 e, stk. 1, nr. 2 - 4.</p>	<p>CONFORM</p> <p>Section 39 n(2), Section 39 o(2) and Section 23 of the PSE Act transpose the Directive provision.</p> <p>It follows expressly from the wording of Section 39 n(2) (regarding Danish electronic money institutions) and Section 39 o(2) (regarding foreign electronic money institutions) of the PSE Act, that agents may be only be used if the agent is solely a provider of other activities than the sale of electronic money which reflects recital 10 of the Directive.</p> <p>In this regard, both of the above-mentioned NIMs refer to section 39 e(1), points (2) to (4) of the PSE Act, meaning activities consisting in provision of payment services, operation of payment systems and other business activities.</p> <p>Section 39 e(1) of the PSE Act lists these as activities that electronic money institutions may carry out ‘in addition to issuing electronic money’. Thus, from the reference in Section 39 n(2) and Section 39 o(2) of the PSE Act to this provision, the term ‘sale’ of electronic money used in these NIMs shall be understood as ‘issue’ of electronic money and is in terminological accordance with the</p>

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		<p>In addition to issuing electronic money, E-money institutions may carry out the following activities:</p> <p>(i) provision of operational and closely related ancillary services, including payment services when these are linked to issuing electronic money, cf. Annex 1.</p> <p>(ii) provision of payment services, cf. Annex 1.</p> <p>(iii) operation of payment systems.</p> <p>(iv) other business activities than those mentioned in points (1) - (3), although with the limitations consequential upon this Act.</p> <p>PSE Act Section 23</p> <p>If a payment institution intends to provide payment services through one or more agents, the Danish FSA shall be notified of this in advance.</p> <p>(2) The notification shall contain the following:</p> <p>(i) the name and address</p>	<p>Lov om betalingstjenester § 39 e, stk. 1</p> <p>Ud over at udstede elektroniske penge kan e-penge-institutter udøve følgende aktiviteter:</p> <p>1) Udbud af driftsmæssige og nært tilknyttede accessoriske tjenester, herunder betalingstjenester, når de har tilknytning til udstedelse af elektroniske penge, jf. bilag 1.</p> <p>2) Udbud af betalingstjenester, jf. bilag 1.</p> <p>3) Drift af betalingssystemer.</p> <p>4) Andre forretningsaktiviteter end de i nr. 1-3 nævnte, dog med de begrænsninger, der følger af denne lov.</p> <p>Lov om betalingstjenester § 23</p> <p>Hvis et betalingsinstitut har til hensigt at udbyde betalingstjenester gennem en eller flere agenter, skal Finanstilsynet forinden have meddelelse herom.</p>	<p>Directive provision.</p> <p>Concerning the provision of payment services referred to in Article 6(1)(a) of the Directive the following shall be noted:</p> <p>According to Section 32(1) of the PSE Act, national electronic money institutions wishing to provide services abroad through agents shall notify the Danish FSA hereof in advance and include information which equivalents the requirements set out in Article 17(1) of Directive 2007/64/EC (transposed through Section 23(2) of the PSE Act to which Section 32 of the PSE Act refers).</p> <p>Section 35(1) of the PSE Act, which concerns Denmark as the host country, does not contain a similar reference or requirement but refers to information from the authorities of the host country 'about the type of payment services the institution wishes to provide through the agent and that these services are covered by the institution's authority in the home country'. Further clarification in this regard might be enquired from Denmark.</p> <p>Overall, conformity is concluded on the basis of the above findings.</p>

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				<p>of the agent,</p> <p>(ii) a description of how the agent will comply with obligations in relation the Act on Measures to Prevent Money Laundering and Financing of Terrorism, and</p> <p>(iii) information on the identity of persons responsible for the management of the agent and documentation that these fulfil the requirements of section 18.</p>	<p>Stk. 2. Meddelelsen skal indeholde følgende:</p> <p>1) Navn og adresse på agenten,</p> <p>2) en beskrivelse af, hvordan agenten vil opfylde forpligtelserne i henhold til lov om forebyggende foranstaltninger mod hvidvask af udbytte og finansiering af terrorisme, og</p> <p>3) oplysninger om identiteten på ledelsesansvarlige for agenten og dokumentation for, at disse opfylder kravene i § 18.</p>	
Art. 4	<p><i>Article 4</i> Initial capital</p> <p>Member States shall require electronic money institutions to hold, at the time of authorisation, initial capital, comprised of the items set out in Article 57(a) and (b) of Directive 2006/48/EC, of not less than EUR 350000.</p>	<p><i>Artikel 4</i> Startkapital</p> <p>Medlemsstaterne kræver, at e-pengeinstitutter på tidspunktet for opnåelse af tilladelse har en startkapital på mindst 350000 EUR, der omfatter de i artikel 57, litra a) og b), i direktiv 2006/48/EF omhandlede komponenter.</p>	PSE Act Section 39 f	<p>PSE Act Section 39 f</p> <p>On the date of authorisation as an E-money institution, the undertaking shall have an initial capital of no less than EUR 350 000.</p> <p>(2) Initial capital shall include paid up share capital or cooperative capital, share premium, reserves as well as retained earnings or losses.</p>	<p>Lov om betalingstjenester § 39 f</p> <p>Virksomheden skal på tidspunktet for opnåelse af tilladelse som e-pengeinstitut have en startkapital på mindst 350.000 euro.</p> <p>Stk. 2. Startkapitalen omfatter indbetalt aktie-, anparts- eller andelskapital, overkurs ved emission, reserver samt overført overskud eller underskud.</p>	<p>CONFORM</p> <p>Section 39 f of the PSE Act transposes the Directive provision.</p> <p>In accordance with Article 4 of the Directive, detailing the initial capital referred to in recital 11 of the Directive, an initial capital of no less than EUR 350 000 is required at the time of authorisation pursuant to Section 39 f(1) of the PSE Act.</p> <p>According to Section 39 f(2) of the PSE Act, initial capital includes paid up equity capital, share premium, reserves as well as retained earnings or losses, which is in accordance with the requirements set out in the Directive</p>

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						<p>provision through the reference to Article 57(a) and (b) of Directive 2006/48/EC.</p> <p>On the basis of the above findings, conformity is therefore concluded.</p>
Art. 5(1)	<p><i>Article 5</i> Own funds</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>Artikel 5</i> Egenkapital</p> <p>1. Egenkapitalen for et e-pengeinstitut, jf. definitionen i artikel 57-61, 63, 64 og 66 i direktiv 2006/48/EF, må ikke falde under det højeste af de beløb, der kræves i denne artikels stk. 2-5 eller artikel 4 i nærværende direktiv.</p>	<p>PSE Act Section 39 g(1)</p>	<p>PSE Act Section 39 g(1)</p> <p>E-money institutions shall at all times have as a minimum a capital base (own funds) corresponding to the highest of the following amounts:</p> <p>(1) The initial capital, cf. section 39 f.</p> <p>(2) An amount corresponding to 2% of the average outstanding electronic money (called method D).</p>	<p>Lov om betalingstjenester § 39 g, stk. 1</p> <p>E-penge-institutter skal til enhver tid som minimum have en basiskapital, som svarer til det højeste af følgende beløb:</p> <p>1) Startkapitalen, jf. § 39f.</p> <p>2) Et beløb svarende til 2 pct. af de gennemsnitlige udestående elektroniske penge (betegnet metode D).</p>	<p>PARTIALLY CONFORM</p> <p>Section 39 g(1) and (2) of the PSE Act transpose the Directive provision.</p> <p>Section 39 g(1) of the PSE Act sets out that the own funds of an electronic money institution shall, at all times, as a minimum equal the initial capital or an amount corresponding to 2% of the average outstanding electronic money (Method D), whichever the higher.</p> <p>This is supplemented by Section 39 g(2) which prescribes the addition of an amount calculated in accordance with method A, B, or C when an electronic money institution pursues additional activities than the issuing of electronic money.</p> <p>These requirements are in accordance with the Directive provision, detailing the capital requirements referred to in recital 11 of the Directive.</p> <p>However, with the exception of Article 57 of Directive 2006/48/EC, it has not been possible to identify with sufficient clarity the NIMs transposing the definition of own funds as set out in Articles 57 to 61, 63, 64 and 66 of Directive 2006/48/EC. Further clarification might be enquired from Denmark and prove useful in this regard.</p>

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						On the basis of the above findings, partial conformity is therefore concluded.
Art. 5(2) 1st subpara.	2. In regard to the activities referred to in Article 6(1)(a) that are not linked to the issuance of electronic money, the own funds requirements of an electronic money institution shall be calculated in accordance with one of the three methods (A, B or C) set out in Article 8(1) and (2) of Directive 2007/64/EC. The appropriate method shall be determined by the competent authorities in accordance with national legislation.	2. I forhold til de aktiviteter, der er omhandlet i artikel 6, stk. 1, litra a), og som ikke er knyttet til udstedelsen af elektroniske penge, skal den egenkapital, som e-pengeinstitutter skal være i besiddelse af, beregnes i henhold til en af de tre metoder (A, B eller C) i artikel 8, stk. 1 og 2, i direktiv 2007/64/EF. De kompetente myndigheder bestemmer i overensstemmelse med national lovgivning, hvilken metode der er den mest hensigtsmæssige.	PSE Act Section 39 g(2) PSE Act Section 13(2)	PSE Act Section 39 g(2) If the E-money institution provides payment services covered by Annex 1 which are not closely related ancillary services to issuance of electronic money, when calculating the amount pursuant to paragraph (1), point (2), an amount calculated in accordance with section 13(1), point (2) shall be added. Section 13(2) and (3), and the regulations pursuant to this shall apply correspondingly for the calculation. PSE Act Section 13(2) The Danish FSA shall lay down more detailed regulations for application of the methods of calculation described in Annex 2, including which of these methods of calculation the individual payment institution shall apply in calculating the capital requirement pursuant to paragraph (1), point (2). In this respect	Lov om betalingstjenester § 39 g, stk. 2 Hvis e-penge-instituttet udbyder betalingstjenester omfattet af bilag 1, som ikke er nært tilknyttede accessoriske tjenester til udstedelse af elektroniske penge, skal der ved beregningen af beløb i henhold til stk. 1, nr. 2, tillægges et beløb, som beregnes i overensstemmelse med § 13, stk. 1, nr. 2. Ved beregningen finder § 13, stk. 2 og 3, og regler i medfør heraf tilsvarende anvendelse. Lov om betalingstjenester § 13, stk. 2 Finanstilsynet fastsætter nærmere regler for anvendelsen af de beregningsmetoder, der er beskrevet i bilag 2, herunder hvilke af disse beregningsmetoder det enkelte betalingsinstitut skal anvende ved	CONFORM Section 39 g(2) and Section 13(2) of the PSE Act transpose the Directive provision. Section 39 g(2) of the PSE Act, read in conjunction with the references contained therein, sets out that if the electronic money institution provides payment services covered by Annex 1 to the PSE Act which are not closely related ancillary services to issuance of electronic money, then an amount calculated using method A, B or C shall be added to the amount corresponding to 2% of the average outstanding electronic money. The application of method A, B or C as set out in Article 8(1) and (2) of Directive 2007/64/EC is prescribed through the second sentence of Section 39 g(2) of the PSE Act laying down that Section 13(2) of the PSE Act shall apply <i>mutatis mutandis</i> since this latter provision refers to Annex 2 to the PSE Act which transposes Article 8(1) and (2) of Directive 2007/64/EC into Danish law. Annex 1 to the PSE Act, referred to in Section 39 g(2) of the PSE Act, corresponds to the Annex to Directive 2007/64 EC and thus the activities referred to in Article 6(1), point (a) of the Directive. Whereas the Directive provision uses the wording ‘that are not linked to’, the NIM uses the wording ‘not closely related ancillary services to’ the issuance of electronic money.

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			account shall be taken of the type of payment services provided and the scope of these. [...].	opgørelsen af kapitalkravet i henhold til stk. 1, nr. 2. Der skal herved tages hensyn til den type af betalingstjenester, som udbydes, og omfanget heraf. [...].	<p>The explanatory remarks in the Bill to Section 39 g(2) lead to the conclusion that this is an application of the wording used in the transposition of Article 6(1), point (c) of the Directive regarding services ancillary to Article 6(1), point (a) services. It is therefore in full accordance with Article 5(2), first subparagraph in view of the context of this Directive provision.</p> <p>In regard to the second sentence of the Directive provision, Section 39 g(2) lays down that Section 13(2) of the PSE Act and rules issued pursuant hereto shall apply <i>mutatis mutandis</i>. According to Section 13(2) of the PSE Act, it is the Danish FSA who determines which of the methods A, B or C (as transposed in Annex 2 to the PSE Act) that shall be applied by the individual electronic money institution.</p> <p>It should be added that in this regard it is further specified in Executive Order no. 1029 of 3 November 2009, issued pursuant to inter alia Section 13(2) of the PSE Act, that the Danish FSA when determining the calculation method shall take into account inter alia the type of payment services provided and the scope of these, the operational risks, market and credit risks where deemed necessary and the estimated extent of user funds to be held.</p> <p>The capital requirements set out in the Directive provision, and referred to in recital 11 of the Directive, are thus met. Conformity is therefore concluded.</p>

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Art. 5(2) 2nd subpar a.	In regard to the activity of issuing electronic money, the own funds requirements of an electronic money institution shall be calculated in accordance with Method D as set out in paragraph 3.	I forhold til de aktiviteter, der er knyttet til udstedelsen af elektroniske penge, skal den egenkapital, som e-pengeinstitutter skal være i besiddelse af, beregnes i henhold til metode D, som fastsat i stk. 3.	PSE Act Section 39 g(1) and (2)	<p>PSE Act Section 39 g(1)</p> <p>E-money institutions shall at all times have as a minimum a capital base (own funds) corresponding to the highest of the following amounts:</p> <p>[...]</p> <p>2) An amount corresponding to 2% of the average outstanding electronic money (called method D).</p> <p>If the E-money institution provides payment services covered by Annex 1 which are not closely related ancillary services to the issuance of electronic money, when calculating the amount pursuant to paragraph (1), point (2), an amount calculated in accordance with section 13(1), point (2) shall be added. [...].</p>	<p>Lov om betalingstjenester § 39 g, stk. 1</p> <p>E-penge-institutter skal til enhver tid som minimum have en basiskapital, som svarer til det højeste af følgende beløb:</p> <p>[...]</p> <p>2) Et beløb svarende til 2 pct. af de gennemsnitlige udestående elektroniske penge (betegnet metode D).</p> <p>Hvis e-penge-instituttet udbyder betalingstjenester omfattet af bilag 1, som ikke er nært tilknyttede accessoriske tjenester til udstedelse af elektroniske penge, skal der ved beregningen af beløb i henhold til stk. 1, nr. 2, tillægges et beløb, som beregnes i overensstemmelse med § 13, stk. 1, nr. 2. [...].</p>	<p>CONFORM</p> <p>Section 39 g(1), point (2) and 39 g(2) of the PSE Act transpose the Directive provision.</p> <p>There is no provision explicitly stating that Method D shall be applied in regard to the activity of issuing electronic money. However, it may be inferred as follows:</p> <p>As described above under the assessment of Article 5(2), first subparagraph of the Directive, Section 39 g(2) of the PSE Act prescribes, through the reference to Section 13(1), point (2), the addition of an amount calculated using method A, B or C in regard to other payment activities than the issuance of electronic money.</p> <p>Such amount under method A, B or C shall, as explicitly stated in Section 39 g(2), be added to the amount pursuant to Section 39(1), point (2), that is to ‘An amount corresponding to 2% of the average outstanding electronic money (called method D)’. Thus, it can be deduced that method D shall apply to activities of an electronic money institution which are not other activities than the issuance of electronic money, that is which are indeed issuance of electronic money.</p> <p>The method of calculation set out in the Directive provision in regard to the activity of issuing electronic money, detailing recital 11 of the Directive, is thus transposed. On this basis, conformity is concluded.</p>

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Art. 5(2) 3rd subpar a.	Electronic money institutions shall at all times hold own funds that are at least equal to the sum of the requirements referred to in the first and second subparagraphs.	E-pengeinstitutter skal til enhver tid være i besiddelse af en egenkapital, der er mindst lig med summen af de krav, der er omhandlet i første og andet afsnit.	PSE Act Section 39 g(1) and (2)	<p>PSE Act Section 39 g(1)</p> <p>E-money institutions shall at all times have as a minimum a capital base (own funds) corresponding to the highest of the following amounts:</p> <p>[...]</p> <p>2) An amount corresponding to 2% of the average outstanding electronic money (called method D).</p> <p>PSE Act Section 39 g(2)</p> <p>If the E-money institution provides payment services covered by Annex 1 which are not closely related ancillary services to issuance of electronic money, when calculating the amount pursuant to paragraph (1), point (2), an amount calculated in accordance with section 13(1), point (2) shall be added. [...].</p>	<p>Lov om betalingstjenester § 39 g, stk. 1</p> <p>E-penge-institutter skal til enhver tid som minimum have en basiskapital, som svarer til det højeste af følgende beløb:</p> <p>[...]</p> <p>2) Et beløb svarende til 2 pct. af de gennemsnitlige udestående elektroniske penge (betegnet metode D).</p> <p>Lov om betalingstjenester § 39 g, stk. 2</p> <p>Hvis e-penge-instituttet udbyder betalingstjenester omfattet af bilag 1, som ikke er nært tilknyttede accessoriske tjenester til udstedelse af elektroniske penge, skal der ved beregningen af beløb i henhold til stk. 1, nr. 2, tillægges et beløb, som beregnes i overensstemmelse med § 13, stk. 1, nr. 2. [...].</p>	<p>CONFORM</p> <p>Section 39 (1), point (2) and 39g (2) of the PSE Act transpose the Directive provision.</p> <p>There is no single provision explicitly stating that electronic money institutions at all times shall hold own funds at least equaling the sum of the amounts after methods A, B or C and method D. However, it may be inferred as follows:</p> <p>According to Section 39 g(1), point (2) of the PSE Act, electronic money institutions shall at all times hold ‘An amount corresponding to 2% of the average outstanding electronic money (called method D)’.</p> <p>In addition, Section 39(2) of the PSE Act prescribes that where further activities are provided than the issue of electronic money, then the own funds calculated using method D (that is, ‘the amount pursuant to paragraph (1), point (2)’) shall be added an amount calculated in accordance with Section 13(1), point (2), that is – as further described above under the assessment of Article 5(2), first subparagraph of the Directive - an amount calculated according to method A, B or C.</p> <p>Thus, electronic money institutions shall at all times hold funds that are at least equal to the sum of the amount following method D added, where appropriate, an amount using method A, B or C. Conformity is therefore concluded.</p>
Art.	3. Method D: The own funds of an electronic	3. Metode D: Egenkapitalen for e-	PSE Act	PSE Act Section 39 g(1)	Lov om betalingstjenester § 39 g,	CONFORM

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5(3)	money institution for the activity of issuing electronic money shall amount to at least 2 % of the average outstanding electronic money.	pengeinstitutter skal for de aktiviteter, der er knyttet til udstedelsen af elektroniske penge, mindst være lig med 2 % af de gennemsnitligt udestående elektroniske penge.	<p>Section 39 g(1)</p> <p>PSE Act Section 39 g(2)</p>	<p>E-money institutions shall at all times have as a minimum a capital base (own funds) corresponding to the highest of the following amounts:</p> <p>1) The initial capital, cf. section 39 f.</p> <p>2) An amount corresponding to 2% of the average outstanding electronic money (called method D).</p> <p>PSE Act Section 39 g(2)</p> <p>If the E-money institution provides payment services covered by Annex 1 which are not closely related ancillary services to issuance of electronic money, when calculating the amount pursuant to paragraph (1), point (2), an amount calculated in accordance with section 13(1), point (2) shall be added. [...].</p>	<p>stk. 1</p> <p>E-penge-institutter skal til enhver tid som minimum have en basiskapital, som svarer til det højeste af følgende beløb:</p> <p>1) Startkapitalen, jf. § 39 f.</p> <p>2) Et beløb svarende til 2 pct. af de gennemsnitlige udestående elektroniske penge (betegnet metode D).</p> <p>Lov om betalingstjenester § 39 g, stk. 2</p> <p>Hvis e-penge-instituttet udbyder betalingstjenester omfattet af bilag 1, som ikke er nært tilknyttede accessoriske tjenester til udstedelse af elektroniske penge, skal der ved beregningen af beløb i henhold til stk. 1, nr. 2, tillægges et beløb, som beregnes i overensstemmelse med § 13, stk. 1, nr. 2. [...].</p>	<p>Section 39 g(1) and (2) of the PSE Act transpose the Directive provision.</p> <p>According to Section 39 g(1), point (2) of the PSE Act, method D is the requirement of an amount corresponding to 2% of the average outstanding electronic money as own funds of an electronic money institution.</p> <p>The fact that this requirement pertains to the activities of issuing electronic money, as set out in the Directive provision, can be deduced from reading Section 39 g(1) and (2) of the PSE Act in conjunction, since Section 39 g(2) prescribes the addition of an amount calculated using method A, B or C in regard to other payment activities not closely related to ancillary services to the issuance of electronic money.</p> <p>As noted above under the assessment of Article 5(2), first subparagraph, the wording ‘payment services which are not closely related ancillary services to’ the issuance of electronic money, which is used in Section 39 g(2) of the PSE Act is not contrary to the delimitation of such activities in the Directive.</p> <p>The method of calculation set out in the Directive provision, detailing recital 11 of the Directive, is thus transposed on which basis conformity is concluded.</p>
Art. 5(4)	4. Where an electronic money institution carries out any of the activities referred to in Article 6(1)(a) that are not linked	4. Når et e-pengeinstitut udøver en af aktiviteterne i artikel 6, stk. 1, litra a), der ikke er knyttet til udstedelsen af	N/A	N/A	N/A	<p>NOT CONFORM</p> <p>No NIM which specifically transposes Article 5(4) of the Directive has been identified. Non conformity is therefore concluded.</p>

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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 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.	elektroniske penge, eller en af aktiviteterne i artikel 6, stk. 1, litra b)-e), og den samlede sum af udestående elektroniske penge ikke er kendt på forhånd, tillader de kompetente myndigheder dette e-pengeinstitut at beregne dets egenkapitalkrav på grundlag af en repræsentativ andel, som forventes anvendt til udstedelse af elektroniske penge, forudsat at det er muligt at foretage et rimeligt skøn over en sådan repræsentativ andel baseret på historiske data, som er tilfredsstillende for de kompetente myndigheder. Såfremt e-pengeinstituttet ikke kan påvise en tilstrækkelig lang aktivitetsperiode, beregnes dets egenkapitalkrav på basis af planlagte udestående elektroniske penge i overensstemmelse med instituttets forretningsplan med de ændringer af planen, de kompetente myndigheder måtte have krævet.				

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Art. 5(5)	5. On the basis of an evaluation of the risk-management processes, of the risk loss databases and internal control mechanisms of the electronic money institution, the competent authorities may require the electronic money institution to hold an amount of own funds which is up to 20 % higher than the amount which would result from the application of the relevant method in accordance with paragraph 2, or permit the electronic money institution to hold an 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.	5. De kompetente myndigheder kan på grundlag af en vurdering af e-pengeinstituttets risikostyringsprocesser, tabsrisikodatabase og interne kontrolmekanismer kræve, at e-pengeinstituttets egenkapital er indtil 20 % større end det beløb, der ville fremkomme ved anvendelsen af den relevante metode i henhold til stk. 2, eller tillade, at e-pengeinstituttets egenkapital er indtil 20 % mindre end det beløb, der ville fremkomme ved anvendelsen af den relevante metode i henhold til stk. 2.	PSE Act Section 39 g(4)	PSE Act Section 39 g(4) For the calculation pursuant to paragraph (1), point (2), on the basis of a risk assessment of the individual E-money institution, the Danish FSA may decide that the capital base of the institution shall be up to 20 percent higher or up to 20 percent lower than the amount resulting from application of the assigned method of calculation.	Lov om betalingstjenester § 39 g, stk. 4 Ved beregning i henhold til stk. 1, nr. 2, kan Finanstilsynet ud fra en risikovurdering af det enkelte e-penge-institut beslutte, at instituttets basiskapital skal være op til 20 pct. højere og indtil 20 pct. lavere end det beløb, der fremkommer ved anvendelse af den anviste beregningsmetode.	CONFORM Article 5(5) of the Directive sets out an option. Denmark has chosen to transpose this option through Section 39 g(4) of the PSE Act. According to the NIM, the Danish FSA may, on the basis of a risk assessment, decide that the capital (own funds) base of an electronic money institution shall be up to 20% higher or up to 20% lower than the amount resulting from application of the assigned method of calculation. The term ‘risk assessment’ used in the NIM covers the criteria of ‘risk-management processes, of the risk loss databases and internal control mechanisms’ set out in the Directive provision. On the basis of the above findings, conformity is thus concluded.
Art. 5(6) intr. wording	6. Member States shall take the necessary measures to prevent the multiple use of elements eligible for own funds:	6. Medlemsstaterne træffer de nødvendige foranstaltninger til at hindre, at elementer, som kan indgå i egenkapitalen, anvendes flere gange:	N/A	N/A	N/A	NOT CONFORM As detailed further below, no NIMs transposing Article 5(6) of the Directive have been identified. On this basis, non-conformity is concluded.

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Art. 5(6)(a)	(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) når e-pengeinstituttet tilhører samme gruppe som et andet e-pengeinstitut, et kreditinstitut, et betalingsinstitut, et investeringsselskab, et porteføljevaltningselskab eller et forsikrings- eller genforsikringsselskab.	N/A	N/A	N/A	<p>NOT CONFORM</p> <p>Pursuant to Section 5 of Executive Order no. 1029 of 3 November 2009, the Danish FSA shall, when determining the individual capital requirements, prevent the multiple use of elements eligible for own funds where a payment institution forms part of a group.</p> <p>However, Executive Order no. 1029 of 3 November 2009 as such pertains to payment institutions only, and no provision which makes it applicable <i>mutatis mutandis</i> to electronic money institutions has been identified.</p> <p>Further clarification may be enquired from Denmark and prove useful in this regard.</p> <p>On the basis of the above findings, non-conformity has been concluded.</p>
Art. 5(6)(b)	(b) where an electronic money institution carries out activities other than the issuance of electronic money.	b) når et e-pengeinstitut udøver andre aktiviteter end udstedelse af elektroniske penge.	N/A	N/A	N/A	<p>NOT CONFORM</p> <p>Pursuant to the second sentence of Section 5 of Executive Order no. 1029 of 3 November 2009, the Danish FSA shall, when determining the individual capital requirements, prevent the multiple use of elements eligible for own funds where a payment institution carries out other activities.</p> <p>However, Executive Order no. 1029 of 3 November 2009 as such pertains to payment institutions only, and no provision which makes it applicable <i>mutatis mutandis</i> to electronic money institutions has been identified.</p>

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						Further clarification may be enquired from Denmark and prove useful in this regard. On the basis of the above findings, non-conformity has been concluded.
Art. 5(7)	7. Where the conditions laid down in Article 69 of Directive 2006/48/EC are met, Member States or their competent authorities may choose not to apply paragraphs 2 and 3 of this Article to electronic money institutions which are included in the consolidated supervision of the parent credit institutions pursuant to Directive 2006/48/EC.	7. Hvis betingelserne i artikel 69 i direktiv 2006/48/EF er opfyldt, kan medlemsstaterne eller deres kompetente myndigheder vælge ikke at anvende denne artikels stk. 2 og 3 på e-pengeinstitutter, der er omfattet af det konsoliderede tilsyn med moderkreditinstituttet i henhold til direktiv 2006/48/EF.	N/A	N/A	N/A	Article 5(7) of the Directive sets out an option. Denmark has not chosen to transpose this option within its national legal system.
Art. 6(1) 1st subpar a.	<i>Article 6 Activities</i> 1. In addition to issuing electronic money, electronic money institutions shall be entitled to engage in any of the following activities:	<i>Artikel 6 Aktiviteter</i> 1. Foruden at udstede elektroniske penge må e-pengeinstitutter udøve følgende aktiviteter:	PSE Act Section 39 e, intr. wording	PSE Act Section 39 e, intr. wording In addition to issuing electronic money, E-money institutions may carry out the following activities:	Lov om betalingstjenester § 39 e, indledning Ud over at udstede elektroniske penge kan e-penge-institutter udøve følgende aktiviteter:	CONFORM Section 39 e, introductory wording of the PSE Act almost literally transposes of the Directive provision, on which basis conformity is concluded.
Art. 6(1) 1st subpar a. (a)	(a) the provision of payment services listed in the Annex to Directive 2007/64/EC;	a) udbyde de betalingstjenester, der er anført i bilaget til direktiv 2007/64/EF	PSE Act Section 39 e(1), pt. (ii)	PSE Act Section 39 e(1), pt. (2) (2) the provision of payment services, cf. Annex 1.	Lov om betalingstjenester § 39 e, stk. 1, nr. 2 2) Udbud af betalingstjenester, jf. bilag	CONFORM Section 39 e(1), point (2) of the PSE Act transposes the Directive provision. Section 39 e(1), point (2) of the PSE Act covers the provision of payment services

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					1.	listed in Annex 1 to the PSE Act. This annex is an almost literal transposition of the Annex to Directive 2007/64/EC. On this basis, conformity is therefore concluded.
Art. 6(1) 1st subpar a. (b)	(b) the granting of credit related to payment services referred to in points 4, 5 or 7 of the Annex to Directive 2007/64/EC, where the conditions laid down in Article 16(3) and (5) of that Directive are met;	b) yde kredit i forbindelse med betalingstjenester som omhandlet i punkt 4, 5 eller 7 i bilaget til direktiv 2007/64/EF, forudsat at betingelserne i samme direktivs artikel 16, stk. 3 og 5, er opfyldt	PSE Act Section 39 k(4)	PSE Act Section 39 k(4) The E-money institution may only provide credit in connection with provision of payment services which are not covered by section 39 e(1), point (1), if the requirements of section 21(2) have been fulfilled.	Lov om betalingstjenester § 39 k, stk. 4 E-penge-instituttet må kun yde kredit i forbindelse med udbud af betalingstjenester, der ikke er omfattet af § 39 e, stk. 1, nr. 1, hvis kravene i § 21, stk. 2, er opfyldt.	CONFORM Section 39 k(4) of the PSE Act transposes the Directive provision. In the explanatory notes to the Bill regarding Section 39 k of the PSE Act, it is stated that it follows from Section 39 k(4) that electronic money institutions shall only be entitled to the granting of credit related to payment services referred to in points 4, 5 or 7 of the Annex to the PSE Act (which corresponds to the Annex to Directive 2007/64/EC) and provided that the conditions set out in Section 21(2) of the PSE Act are met. Section 21(2) of the PSE Act corresponds to Article 16(3) of Directive 2007/64/EC, with the exception of Article 16(3)(c) which, based on the legislation consulted, is not transposed. Further clarification of this aspect might be enquired from Denmark and prove useful in this regard. Overall, conformity is concluded on the basis of the above findings, although a clarification from Denmark regarding Article 16(3)(c) of Directive 2007/64/EC might prove useful.
Art. 6(1) 1st subpar a. (c)	(c) the provision of operational services and closely related ancillary services in respect of the issuing of electronic	c) udbyde driftsmæssige tjenester og accessoriske tjenester med nær tilknytning til udstedelse af elektroniske penge eller	PSE Act Section 39 e(1),	PSE Act Section 39 e(1), pt. (1) (1) the provision of operational and closely	Lov om betalingstjenester § 39 e, stk. 1, nr. 1 1) Udbud af driftsmæssige	PARTIALLY CONFORM Section 39 e(1), point (1) of the PSE Act transposes the Directive provision. Section 39 e(1), point (1) of the PSE Act

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	money or to the provision of payment services referred to in point (a);	udbyde betalingstjenester som omhandlet i litra a)	pt. (i)	related ancillary services, including payment services when these are linked to issuing electronic money, cf. Annex 1.	og nært tilknyttede accessoriske tjenester, herunder betalingstjenester, når de har tilknytning til udstedelse af elektroniske penge, jf. bilag 1.	<p>covers the provision of operational and closely related ancillary services in accordance with the Directive provision.</p> <p>However, from the wording of the NIM, it is a requirement that payment services shall be linked to the issuing of electronic money, whereas the Directive provision concerns operational or ancillary services in respect of the issuing of electronic money or to the provision of payment services referred to in point (a), and thus without a requirement of a link.</p> <p>Further clarification might be enquired from Denmark and prove useful in this regard. In the meantime, partial conformity is concluded.</p>
Art. 6(1) 1st subpar a. (d)	(d) the operation of payment systems as defined in point 6 of Article 4 of Directive 2007/64/EC and without prejudice to Article 28 of that Directive;	d) drive betalingssystemer som defineret i artikel 4, nr. 6, i direktiv 2007/64/EF og med forbehold af artikel 28 i samme direktiv	PSE Act Section 39 e(1), pt. (iii)	PSE Act Section 39 e(1), pt. (iii) (3) operation of payment systems.	Lov om betalingstjenester § 39 e, stk. 1, nr. 3 3) Drift af betalingssystemer.	<p>PARTIALLY CONFORM</p> <p>Section 39 e(1), point (3) of the PSE Act transposes the Directive provision.</p> <p>Pursuant to Section 39 e(1), point (3) of the PSE Act, electronic money institutions shall be entitled to operate payment systems in accordance with the Directive provision.</p> <p>Section 6, point (3) of the PSE Act contains an almost literal transposition of the definition of ‘payment systems’ as set out in Article 4 of Directive 2007/64/EC. Furthermore, Article 28 of that Directive has been duly transposed by Denmark through Section 40 of the PSE Act.</p> <p>However, in the explanatory notes of the Bill to Section 39e of the PSE Act it is stated that the term ‘payment system’ shall be</p>

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						<p>understood in accordance with Directive 98/26/EC as amended, and the definition contained in Article 2(a) of that Directive is then reproduced in the explanatory notes.</p> <p>As both this definition and the definition contained in Article 4, point (6) of Directive 2007/64/EC could be said to concern an arrangement with common rules and standardised arrangements for the execution of transfer orders between the participants, no major discrepancies hampering the effectiveness of the Directive provision follows from the use of different definitions.</p> <p>Still, in view of the direct reference in Article 6(1), first subparagraph of the Directive to the definition contained in Article 4, point (6) of Directive 2007/64/EC, further clarification might be enquired from Denmark and prove useful in this regard.</p> <p>In the meantime, partial conformity is concluded.</p>
Art. 6(1) 1st subpar a. (e)	(e) business activities other than issuance of electronic money, having regard to the applicable Community and national law.	e) andre forretningsaktiviteter end udstedelse af elektroniske penge, under hensyn til gældende fællesskabslovgivning og national lovgivning.	PSE Act Section 39 e(1), pt. (iv)	PSE Act Section 39 e(1), pt. (iv) (4) other business activities than those mentioned in points (1) – (3), although with the limitations consequential upon this Act.	Lov om betalingstjenester § 39 e, stk. 1, nr. 4 4) Andre forretningsaktiviteter end de i nr. 1-3 nævnte, dog med de begrænsninger, der følger af denne lov.	CONFORM Section 39 e(1), point (4) of the PSE Act transposes the Directive provision. Pursuant to Section 39 e(1), point (4) of the PSE Act, electronic money institutions shall be entitled to engage in other business activities, although with the limitations consequential upon the PSE Act. In the explanatory notes of the Bill to Section 39 e of the PSE Act it is further stated that such other business activities may be dependent upon the authorisation from the

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						<p>FSA or other authorities and be regulated in other national legislation. Thereby, the reference to ‘the applicable Community and national law’ in the Directive provision is duly provided for in the NIM as further interpreted in the Bill.</p> <p>On the basis of the above findings, conformity is concluded.</p>
Art. 6(1) 2nd subpar a.	Credit referred to in point (b) of the first subparagraph shall not be granted from the funds received in exchange of electronic money and held in accordance with Article 7(1).	Kredit som omhandlet i første afsnit, litra b), må ikke ydes af midler, der modtages som vederlag for elektroniske penge, og besiddes i overensstemmelse med artikel 7, stk. 1, i dette direktiv.	PSE Act Section 39 k(1)	PSE Act Section 39 k(1) E-money institutions may not provide credit from funds received from holders of electronic money.	Lov om betalingstjenester § 39 k, stk. 1 E-penge-institutter må ikke yde kredit af midler, der er modtaget fra indehavere af elektroniske penge.	<p>CONFORM</p> <p>Section 39 k(1) of the PSE Act transposes the Directive provision.</p> <p>Pursuant to Section 39 k(1) of the PSE Act, electronic money institutions may not provide credit from funds received from holders of electronic money.</p> <p>The NIM does not as such specify that the funds received are in exchange of electronic money and held in accordance with the safeguarding requirements in Article 7, as the Directive provision does. However, since Section 39 k(2) of the PSE Act further specifies that electronic money institutions shall not take deposits or other repayable funds, this supports the assumption that Section 39 k(1) of the PSE Act concerns funds received in exchange of electronic money which, under Section 39 l of the PSE Act, shall be safeguarded in accordance with rules transposing Article 7(1) of the Directive.</p> <p>Thus, similar to recital 13 of the Directive Section 39 k(1) of the PSE Act does not allow credit to be granted from funds received or held for the purpose of issuing electronic</p>

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						money. Based on the above findings, conformity is therefore concluded.
Art. 6(2)	2. Electronic money institutions shall not take deposits or other repayable funds from the public within the meaning of Article 5 of Directive 2006/48/EC.	2. E-pengeinstitutter må ikke tage imod indskud eller andre tilbagebetalingspligtige midler fra offentligheden i henhold til artikel 5 i direktiv 2006/48/EF.	PSE Act Section 39 k(2), 1st sentence	PSE Act Section 39 k(2), 1st sentence E-money institutions shall not take deposits or other repayable funds.	Lov om betalingstjenester § 39 k, stk. 2, 1. pkt E-penge-institutter må ikke tage imod indlån eller andre tilbagebetalingspligtige midler.	CONFORM Section 39 k(2), first sentence of the PSE Act transposes the Directive provision. Pursuant to Section 39 k(2) of the PSE Act, electronic money institutions shall not take deposits or other repayable funds. No direct reference is made to Article 5 of Directive 2006/48/EC in this regard, but the terms used in recital 13 and Article 6(2) of the Directive are replicated in the NIM, and there are no indications that a different meaning hereof should be intended. Based on the above findings, conformity is concluded.
Art. 6(3)	3. Any funds received by electronic money institutions from the electronic money holder shall be exchanged for electronic money without delay. Such funds shall not constitute either a deposit or other repayable funds received from the public within the meaning of Article 5 of Directive 2006/48/EC.	3. Midler, som e-pengeinstitutter modtager fra indehavere af elektroniske penge, skal uden forsinkelse veksles til elektroniske penge. Sådanne midler må ikke betragtes som indskud eller andre tilbagebetalingspligtige midler fra offentligheden i henhold til artikel 5 i direktiv 2006/48/EF.	PSE Act Section 39 k(2), 2nd sentence	PSE Act Section 39 k(2), second sentence The funds received by the E-money institution from a holder shall, without undue delay, be converted to electronic money and made available to the holder.	Lov om betalingstjenester § 39 k, stk. 2, 2. pkt De midler, som e-penge-instituttet modtager fra en indehaver, skal uden ugrundet ophold veksles til elektroniske penge og stilles til rådighed for denne.	CONFORM Section 39 k(2), second sentence of the PSE Act transposes the Directive provision. Pursuant to Section 39 k(2), second sentence of the PSE Act, the funds received from electronic money holders shall be exchanged for electronic money and made available to the holders without undue delay. This is not in contravention of the Directive provision to add to the text of the NIM that the funds, apart from being exchanged, shall be 'made available' to the holder without delay.

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						<p>The term ‘without undue delay’ shall according to the explanatory notes in the Bill be seen in the context of the safeguarding requirements.</p> <p>It should finally be noted that no provisions contravene the prohibition contained in the second sentence of the Directive provision against such funds constituting either a deposit or other repayable funds received from the public.</p> <p>Based on the above findings, conformity is therefore concluded.</p>
Art. 6(4)	4. Article 16(2) and (4) of Directive 2007/64/EC shall apply to funds received for the activities referred to in paragraph 1(a) of this Article that are not linked to the activity of issuing electronic money.	4. Artikel 16, stk. 2 og 4, i direktiv 2007/64/EF finder anvendelse på midler, der modtages for aktiviteter, der er omhandlet i stk. 1, litra a), i denne artikel, og som ikke er knyttet til udstedelsen af elektroniske penge.	<p>PSE Act Section 39 e(2)</p> <p>PSE Act Section 21(1) and (3)</p>	<p>PSE Act Section 39 e(2)</p> <p>The provisions of this Act which apply for the provision of payment services shall also apply for E-money institutions, if they provide payment services which are not linked to the issuance of electronic money.</p> <p>PSE Act Section 21(1) and (3)</p> <p>Payment institutions may only hold payment accounts used exclusively for payment transactions.</p> <p>(3) Payment institutions shall not conduct the business of taking deposits or other repayable funds.</p>	<p>Lov om betalingstjenester § 39 e, stk. 2</p> <p>De bestemmelser i denne lov, der gælder for udbud af betalingstjenester, finder tillige anvendelse for e-penge-institutter, når de udbyder betalingstjenester, som ikke er knyttet til udstedelsen af elektroniske penge.</p> <p>Lov om betalingstjenester § 21, stk. 1 og 3</p> <p>Betalingsinstitutter må kun føre betalingskonti, der udelukkende anvendes til betalingstransaktioner.</p> <p>Stk. 3. Betalingsinstitutter</p>	<p>CONFORM</p> <p>Section 39 e(2) of the PSE Act transposes the Directive provision.</p> <p>Section 39 e(2) of the PSE Act sets out that the provisions of the PSE Act applying to the provision of payment services shall also apply to electronic money institutions, if they provide payment services which are not linked to the issuance of electronic money.</p> <p>In this connection, Section 21(1) of the PSE Act transposes Article 16(2) of Directive 2007/64/EC by prescribing that payment institutions may only hold payment accounts used exclusively for payment transactions.</p> <p>Furthermore, Section 21(3) of the PSE Act transposes Article 16(4) of Directive 2007/64/EC by prohibiting payment institutions from conducting the business of taking deposits or other repayable funds.</p> <p>On the basis of the above findings,</p>

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					må ikke erhvervsmæssigt tage imod indlån eller andre tilbagebetalingspligtige midler.	conformity is therefore concluded.
Art. 7(1)	<p>Article 7 Safeguarding requirements</p> <p>1. Member States shall require an electronic money institution to safeguard funds that have been received in exchange for electronic money that has been issued, in accordance with Article 9(1) and (2) of Directive 2007/64/EC. Funds received in the form of payment by payment instrument need not be safeguarded until they are credited to the electronic money institution's payment account or are otherwise made available to the electronic money institution in accordance with the execution time requirements laid down in the Directive 2007/64/EC, where applicable. In any event, such funds shall be safeguarded by no later than five business days, as</p>	<p>Artikel 7 Beskyttelseskrav</p> <p>1. Medlemsstaterne kræver af e-pengeinstitutter, at de i overensstemmelse med artikel 9, stk. 1 og 2, i direktiv 2007/64/EF beskytter de midler, der er modtaget som vederlag for de elektroniske penge, der er blevet udstedt. Midler, der modtages i form af betalinger ved brug af et betalingsinstrument, skal først beskyttes fra det øjeblik, hvor de krediteres betalingsregnskabet for e-pengeinstituttet eller på anden måde stilles til rådighed for e-pengeinstituttet, eventuelt i overensstemmelse med de gennemførelsesfrister, der er fastsat i direktiv 2007/64/EF. Sådanne midler skal under alle omstændigheder senest beskyttes fem arbejdsdage, som defineret i artikel 4,</p>	PSE Act Section 39 I	<p>PSE Act Section 39 I</p> <p>E-money institutions, which exercise the activities mentioned in section 39e(1), points (2) – (4), shall safeguard the funds received from users for exchange to electronic money. If, by the end of the business day following the day when the funds have been received, the funds have not yet been exchanged to electronic money and made available for the holder, said funds shall, no later than at this time, be deposited in a separate account in a credit institution or invested in secure, liquid, low-risk assets. The funds may not thus be made subject to legal proceedings from the E-money institution's other creditors.</p> <p>(2) Section 22(2) on the possibility to provide guarantees shall apply</p>	<p>Lov om betalingstjenester § 39 I</p> <p>E-penge-institutter, der udøver aktiviteter som nævnt i § 39 e, stk. 1, nr. 2-4, skal sikre de midler, der er modtaget fra brugere med henblik på veksling til elektroniske penge. Hvis midlerne ved afslutningen af den arbejdsdag, der følger efter den dag, hvor midlerne er modtaget, endnu ikke er vekslet til elektroniske penge og stillet til disposition for indehaveren, skal midlerne senest på dette tidspunkt indsættes på en særskilt konto i et kreditinstitut eller investeres i sikre, likvide aktiver med lav risiko. Midlerne må ikke herved kunne gøres til genstand for retsforfølgning fra e-penge-instituttets øvrige kreditorer.</p> <p>Stk. 2. § 22, stk. 2, om</p>	<p>PARTIALLY CONFORM</p> <p>Section 39 I of the PSE Act transposes the Directive provision.</p> <p>Section 39 I of the PSE Act requires safeguarding of funds by electronic money institutions which exercise the activities mentioned in Section 39e(1), points (2) to (4) of the PSE Act, that is the provision of payment services, the operation of payment systems and other business activities.</p> <p>In accordance with the Directive, there is no expiration or limitation period for such safeguarding of funds in the Danish legislation consulted.</p> <p>As regards the reference to Article 9(1) of Directive 2007/64/EC, the second sentence of Section 39 I(1) of the PSE Act sets out that funds shall be deposited in a separate account in a credit institution or invested in secure, liquid, low-risk assets if, by the end of the business day following the day when the funds have been received, the funds have not yet been exchanged to electronic money and made available to the holder.</p> <p>In accordance with Article 9(1)(b) of Directive 2007/64/EC, the third sentence of Section 39 I(1) of the PSE Act furthermore sets out that the funds may not thus be made</p>

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	defined in point 27 of Article 4 of that Directive, after the issuance of electronic money.	nr. 27, i samme direktiv, efter udstedelsen af elektroniske penge.	correspondingly. [...].	mulighed for garantistillelse finder tilsvarende anvendelse. [...].	<p>subject to legal proceedings from the electronic money institution's other creditors.</p> <p>The guarantee coverage described in Article 9(1)(c) of Directive 2007/64/EC is provided for in Section 39 1(2) of the PSE Act. This NIM refers to Section 22(2) of the PSE Act which fully transposes the requirements of Article 9(1)(c) of Directive 2007/64/EC.</p> <p>No express transposition of the first sentence of Article 9(2) of Directive 2007/64/EC has been identified. Further clarification might be enquired from Denmark and prove useful in this regard.</p> <p>Article 9(2), second sentence of Directive 2007/64/EC sets out an option. Concerning this option, Denmark has not chosen to implement it within its national legal system.</p> <p>In regard to the second and third sentences of Article 7(1) of the Directive concerning payments received by payment instruments, the following shall be noted:</p> <p>No specific NIMs transposing these parts of the Directive provision have been identified. However, Executive Order no. 722 of 24 June 2011 contains provisions detailing the requirements regarding the safeguarding of funds by electronic money institutions, including requirements pursuant to Article 9(1) of Directive 2007/64/EC.</p> <p>According to Section 1(2) of this executive order, its provisions apply to funds which electronic money institutions have received from users, 'including funds received in the form of payment by payment instrument' and</p>

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						<p>which have not yet been exchanged to electronic money and made available for the holder by the end of the business day following the day when the funds have been received.</p> <p>Although not specifically regulated, it is inferable that funds shall not be deemed to be 'received' from a user before they are credited or otherwise made available to the electronic money institution as set out in the Directive provision.</p> <p>However, it is not quite clear how the maximum time limit of five business days for safeguarding of such funds, as set out in the third sentence of Article 7(1) of the Directive, shall be enforced. Further clarification hereof might be enquired from Denmark and prove useful in this regard.</p> <p>On the basis of the above findings in regard to the implementation of the first sentence of Article 9(2) of Directive 2007/64/EC and the third sentence of Article 7(1) of the Directive, partial conformity is concluded.</p>
Art. 7(2) 1st subpara.	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	2. I stk. 1 forstås ved sikre aktiver med lav risiko aktiver, der er omfattet af en af kategorierne i tabel 1 i punkt 14 i bilag I til Europa-Parlamentets og Rådets direktiv 2006/49/EF af 14. juni 2006 om kravene til investeringsselskabers og kreditinstitutters	Executive Order On the safeguarding of Funds by EMIs Section	Executive Order On the safeguarding of Funds by Electronic Money Institutions Section 4(2) The securities which are placed in the safety deposit shall be secure, liquid securities, whereby is meant bonds or debt instruments issued or guaranteed by	Bkg. om e-pengeinstitutters sikring af midler § 4, stk. 2 De værdipapirer, som placeres i sikkerhedsdepotet, skal være sikre, likvide værdipapirer, hvorved forstås obligationer eller gældsbreve udstedt af eller garanteret af regeringer	CONFORM Section 4(2) of the Executive Order on the Safeguarding of Funds by Electronic Money Institutions transposes the Directive provision. According to Section 4(2) of the Executive Order on the Safeguarding of Funds by Electronic Money Institutions, funds shall be placed in bonds or debt instruments issued or guaranteed by governments or regional

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	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.	kapitalgrundlag, for hvilke det specifikke risikokapitalkrav højst er 1,6 %, dog under udelukkelse af andre poster bestående af fordringer på kvalificerede udstedere som defineret i punkt 15 i samme bilag.	n 4(2)	governments or regional authorities in zone A countries as defined in section 5(1), point (18) in the Financial Business Act.	eller regionale myndigheder i zone A-lande, jf. § 5, stk. 1, nr. 18, i lov om finansiel virksomhed.	<p>authorities in zone A countries.</p> <p>Zone A is defined in the FB Act, to which the NIM refers, corresponding to the definition set out in Directive 95/15/EC and thus comprises all the Member States and all other countries which are full members of the OECD as well as those countries having concluded special lending arrangements with the IMF associated with the Fund's General Arrangements to Borrow (GAB), however so that any country which reschedules its external sovereign debt - resulting from an inability to make payments - is precluded from Zone A for a period of 5 years.</p> <p>Prima facie, such assets appear to fall within the requirements of the Directive provision, although further clarification might be enquired from Denmark in regard to the exclusion of other qualifying items as defined in point 15 of Annex I to Directive 2006/49/EC.</p> <p>Still, overall, conformity is concluded.</p>
Art. 7(2) 2nd subpar a.	For the purposes of paragraph 1, secure, low-risk assets are also units in an undertaking for collective investment in transferable securities (UCITS) which invests solely in assets as specified in the first subparagraph.	I stk. 1 forstås ved sikre aktiver med lav risiko også andele i et institut for kollektiv investering i værdipapirer (investeringsinstitut), der udelukkende investerer i aktiver som beskrevet i første afsnit.	N/A	N/A	N/A	<p>NOT CONFORM</p> <p>No NIMs which transpose the Directive provision have been identified, on which basis non-conformity is concluded.</p> <p>Further clarification might be enquired from Denmark and prove useful in this regard.</p>

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Art. 7(2) 3rd subpar a.	In exceptional circumstances and with adequate justification, the competent authorities may, based on an evaluation of security, maturity, value or other risk element of the assets as specified in the first and second subparagraphs, determine which of those assets do not constitute secure, low-risk assets for the purposes of paragraph 1.	De kompetente myndigheder kan undtagelsesvis i behørigt begrundede tilfælde på grundlag af en evaluering af sikkerhed, modenhed, værdi eller andre risikofaktorer ved de aktiver, der er beskrevet i første og andet afsnit, fastlægge, hvilke af disse aktiver der ikke udgør sikre aktiver med lav risiko, for så vidt angår stk. 1.	N/A	N/A	N/A	Article 7(2), third subparagraph of the Directive sets out an option. Concerning this option, Denmark has not chosen to implement it within its national legal system.
Art. 7(3)	3. Article 9 of Directive 2007/64/EC shall apply to electronic money institutions for the activities referred to in Article 6(1)(a) of this Directive that are not linked to the activity of issuing electronic money.	3. Artikel 9 i direktiv 2007/64/EF finder anvendelse på e-pengeinstitutter for aktiviteter, der er omhandlet i artikel 6, stk. 1, litra a) i dette direktiv, og som ikke er knyttet til udstedelsen af elektroniske penge.	Executive Order on the Safeguarding of Funds by EMIs Section 1(1)	Executive Order on the safeguarding of Funds by Electronic Money Institutions Section 1(1) This executive order shall apply to undertakings which have been authorised as electronic money institutions pursuant to section 39 a of the Act on Payment Services and Electronic Money and that, at the same time, exercise business activities other than the issuing of electronic money, see section 39 e(1), points (2)	Bkg. om e-pengeinstitutters sikring af midler § 1, stk. 1 Denne bekendtgørelse finder anvendelse på virksomheder, der er meddelt tilladelse som e-pengeinstitut i henhold til § 39 a i lov om betalingstjenester og elektroniske penge, og som samtidig udøver andre forretningsaktiviteter udover udstedelse af elektroniske penge, jf. lovens § 39 e, stk. 1, nr. 2-4.	CONFORM Sections 1(1) and 2 of the Executive Order on the Safeguarding of Funds by Electronic Money Institutions transpose the Directive provision. Pursuant to Section 1(1) of the Executive Order on the Safeguarding of Funds by Electronic Money Institutions, the executive order applies to electronic money institutions which at the same time carry out other activities, namely the provision of payment services, the operation of payment systems and other business activities not linked to the issuing of electronic money. Such electronic money institutions are under Section 2 of the executive order subject to rules corresponding to Article 9(1) of

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				– (4) of the act.		<p>Directive 2007/64/EC.</p> <p>As regards Article 9 of Directive 2007/64/EC, no NIM transposing the first sentence of Article 9(2) of Directive 2007/64/EC has been identified, as described further above under the assessment of Article 7(1) of the Directive. Furthermore, based on the legislation consulted, the option set out in the second sentence of Article 9(2) of Directive 2007/64/EC has not been implemented by Denmark.</p> <p>Likewise, the options set out in Articles 9(3) and (4) of Directive 2007/64/EC have not been implemented by Denmark in regard to electronic money institutions.</p> <p>Further clarification might be enquired from Denmark in regard to the transposition of the first sentence of Article 9(2) of Directive 2007/64/EC.</p> <p>Overall, conformity is however concluded on the basis of the above findings.</p>
Art. 7(4)	4. For the purposes of paragraphs 1 and 3, Member States or their competent authorities may determine, in accordance with national legislation, which method shall be used by the electronic money institutions to safeguard funds.	4. Med henblik på stk. 1 og 3 kan medlemsstaterne eller deres kompetente myndigheder i overensstemmelse med national lovgivning fastlægge, hvilken metode e-pengeinstituttet skal anvende for at beskytte midler.	N/A	N/A	N/A	Article 7(4) of the Directive sets out an option. Denmark has not chosen to implement this option within its legal system.
Art.	<i>Article 8</i> Relations with third	<i>Artikel 8</i>	PSE Act	PSE Act Section 34	Lov om	CONFORM

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8(1)	<p>countries</p> <p>1. Member States shall not apply to a branch of an electronic money institution having its head office outside the Community, when taking up or pursuing its business, provisions which result in more favourable treatment than that accorded to an electronic money institution having its head office within the Community.</p>	<p>Forbindelser med tredjelande</p> <p>1. Over for en filial af et e-pengeinstitut med hjemsted uden for Fællesskabet anvender medlemsstaterne, i forbindelse med dennes adgang til at optage virksomhed og til at udøve denne, ikke bestemmelser, der medfører en gunstigere behandling end den, som et e-pengeinstitut med hjemsted i Fællesskabet er undergivet.</p>	<p>Section 34</p> <p>A foreign payment institution which has been granted authorisation in another country within the European Union or in a country with which the Union has entered into an agreement for the financial area, may begin providing payment services in Denmark through a branch when the Danish FSA has received information hereon from the supervisory authorities of the home country with information about the name and address of the branch, the names of the persons responsible for management of the branch, its organisational structure and the type of payment services the institution wishes to provide through the branch and that these services are covered by the institution's authorisation in the home country.</p>	<p>betalingstjenester § 34</p> <p>Et udenlandsk betalingsinstitut, der er meddelt tilladelse i et andet land inden for Den Europæiske Union eller i et land, som Unionen har indgået aftale med på det finansielle område, kan begynde at udbyde betalingstjenester her i landet gennem en filial, når Finanstilsynet har modtaget meddelelse herom fra tilsynsmyndigheden i hjemlandet med oplysning om filialens navn og adresse, navnene på de personer, der er ansvarlige for filialens ledelse, dens organisationsstruktur, hvilke betalingstjenester instituttet ønsker at udbyde gennem filialen, og om, at disse tjenester er omfattet af instituttets tilladelse i hjemlandet.</p>	<p>Sections 34 and 39 o of the PSE Act transpose the Directive provision.</p> <p>According to Section 39 o of the PSE Act, Section 34 of the PSE Act regarding foreign payment institutions shall apply accordingly to foreign electronic money institutions.</p> <p>Pursuant to Section 34 of the PSE Act, institutions which have been granted authorisation in another Member State or in a third country with which the EU has concluded an agreement in the financial area, may take up business in Denmark through a branch when the Danish FSA has received notification from the FSA in the home country specifying certain information, including that the authorisation covers the relevant activities.</p> <p>In this connection, Section 34 does not distinguish between branches of electronic money institutions having their head office inside or outside the Union or – in the wording of the NIM – a country with which the Union has entered into an agreement for the financial area. By making no distinction in this regard, branches of electronic money institutions having their head offices outside the Union or a country with which the Union has entered into an agreement for the financial area do not receive more favourable treatment than EU electronic money institutions which reflects recital 15 of the Directive.</p> <p>On the basis of the above findings, conformity is therefore concluded.</p>

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Art. 8(2)	2. The competent authorities shall notify the Commission of all authorisations for branches of electronic money institutions having their head office outside the Community.	2. De kompetente myndigheder giver Kommissionen meddelelse om alle tilladelser til filialer af e-pengeinstitutter med hjemsted uden for Fællesskabet.	N/A	N/A	N/A	Article 8(2) of the Directive does not require transposition into national law.
Art. 8(3)	3. Without prejudice to paragraph 1, the Community may, through agreements concluded with one or more third countries, agree to apply provisions that ensure that branches of an electronic money institution having its head office outside the Community are treated identically throughout the Community.	3. Med forbehold af stk. 1 kan Fællesskabet ved aftaler med et eller flere tredjelande indgå aftale om anvendelse af bestemmelser, som sikrer, at filialer af e-pengeinstitutter med hjemsted uden for Fællesskabet, behandles på samme måde i hele Fællesskabet.	N/A	N/A	N/A	CONFORM Article 8(3) of the Directive does not require transposition into Danish law. This provision applies to the Community as it states that the Community may conclude agreements with third countries with effect for the whole community.
Art. 9(1) 1st subparagraph a. introductory wording	<i>Article 9</i> Optional Exemptions 1. Member States may waive or allow their competent authorities to waive the application of all or part of the procedures and conditions set out in Articles 3, 4, 5 and 7 of this Directive, with the exception of Articles 20, 22, 23 and 24	<i>Artikel 9</i> Fakultative undtagelser 1. Medlemsstaterne kan undtage eller tillade deres kompetente myndigheder at undtage helt eller delvis fra anvendelsen af procedurerne og betingelserne i artikel 3, 4, 5 og 7 i dette direktiv, med undtagelse af artikel 20, 22, 23 og 24 i direktiv	PSE Act Section 39 p(2)	PSE Act Section 39 p(2) The Danish FSA may grant an undertaking restricted authorisation to issue electronic money for use in Denmark when (1) the undertaking has its head office and registered office in Denmark or in another country within the European Union or in a country with which the	Lov om betalingstjenester § 39p, stk. 2 Finanstilsynet kan give en virksomhed en begrænset tilladelse til udstedelse af elektroniske penge til anvendelse her i landet, når 1) virksomheden har hovedkontor og hjemsted i Danmark eller i et andet	CONFORM Article 9(1), first subparagraph, introductory wording of the Directive sets out an option. Denmark has transposed this option by allowing for a so-called restricted authorisation in Sections 39 p, 39 q and 39 r of the PSE Act which allows an undertaking to issue a limited amount of electronic money in Denmark as described in recital 16 of the Directive. Such restricted authorisation can, pursuant to Section 39 p(1) of the PSE Act, include (1)

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	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:	2007/64/EF, og tillade, at juridiske personer optages i registret over e-pengeinstitutter, hvis begge følgende betingelser er opfyldt:	<p>Union has entered into an agreement for the financial area, cf. however, paragraph (4)</p> <p>(2) the conditions of section 37(1), points (2) and (3) have been met, and</p> <p>(3) one of the conditions of paragraph (1) has been met.</p>	<p>land inden for Den Europæiske Union eller i et land, som Unionen har indgået aftale med på det finansielle område, jf. dog stk. 4,</p> <p>2) betingelserne i § 37, stk. 1, nr. 2 og 3, er opfyldt og</p> <p>3) en af betingelserne i stk. 1 er opfyldt.</p> <p>electronic money stored in instruments with limited application for the purpose of acquiring goods or services, or (2) electronic money where the issuer's total liabilities in respect of outstanding electronic amounts never exceeds an amount corresponding to the value of EUR 5 000 000. Further activities fall outside the scope of a restricted authorisation and require separate authorisation.</p> <p>Qualifying holdings in electronic money institutions with a restricted authorisation are not subject to the NIMs which transpose Article 3 of the Directive and these requirements are thus waived in full.</p> <p>Moreover, a restricted authorisation is granted with a full waiver of the capital requirements contained in Articles 4 and 5 of the Directive.</p> <p>In regard to the safeguarding requirements contained in Article 7 of the Directive, Section 39 q(2) sets out that the Danish FSA may lay down more detailed regulations in this regard for issuers with a restricted authorisation. Based on the legislation consulted, no such rules have been laid down by the Danish FSA and thus the waiver for the time being is applied in full in regard to Article 7 of the Directive.</p> <p>In accordance with the Directive provision, there are no indications in the PSE Act that Articles 20, 22, 23 and 24 of Directive 2007/64/EC are waived or may be waived by the Danish FSA in regard to undertakings with a restricted authorisation.</p>

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						On the basis of the above findings, conformity is therefore concluded.
Art. 9(1) 1st subparagraph . (a)	(a) the total business activities generate an average outstanding electronic money that does not exceed a limit set by the Member State but that, in any event, amounts to no more than EUR 5000000; and	a) de samlede forretningsaktiviteter medfører gennemsnitligt udestående elektroniske penge, der ikke overstiger en af medlemsstaterne fastsat grænse, men som under ingen omstændigheder overstiger 5000000 EUR, og	PSE Act Section 39 p(1)	PSE Act Section 39 p(1) Restricted authorisation to issue electronic money in Denmark may include [...] (2) electronic money where the issuer's total liabilities in respect of outstanding electronic amounts never exceeds an amount corresponding to the value of EUR 5 000 000.	Lov om betalingstjenester § 39 p(1) En begrænset tilladelse til udstedelse af elektroniske penge her i landet kan omfatte [...] 2) elektroniske penge, hvor udstederens samlede forpligtelser i forbindelse med uindfriede elektroniske beløb på intet tidspunkt overstiger et beløb, der modsvarer værdien af 5 mio. euro.	CONFORM Section 39 p(1) of the PSE Act transposes the Directive provision. Pursuant to Section 39 p(1) of the PSE Act, restricted authorisation to issue electronic money in Denmark may include electronic money where the issuer's total liabilities in respect of outstanding electronic amounts never exceeds an amount corresponding to the value of EUR 5 000 000. The limit of EUR 5 000 000 applied in the NIM corresponds to the maximum limit set by the Directive provision. The NIM uses the term 'outstanding electronic amounts' whereas the Directive provision uses the term 'average outstanding electronic money', as defined in Article 2 point (4) of the Directive. According to the explanatory notes in the Bill to Section 39 p(1), 'outstanding electronic amounts' means electronic money issued but not used by the electronic money holders. For undertakings in operation at the time of the coming into force of the PSE Act, the amount shall be calculated on the basis of the latest audited accounts and a budget prognosis for the first financial year. For new undertakings, the calculation shall be based on a budget prognosis for the first financial year. Further clarification might be enquired from Denmark and prove useful in regard to

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						whether this method of calculation corresponds to the average outstanding electronic money as required by the Directive provision. However, overall, conformity is concluded.
Art. 9(1) 1st subpara. (b)	(b) none of the natural persons responsible for the management or operation of the business has been convicted of offences relating to money laundering or terrorist financing or other financial crimes.	b) ingen af de fysiske personer, der har ansvaret for forvaltningen eller driften af virksomheden, har været dømt for overtrædelser vedrørende hvidvaskning af penge eller finansiering af terrorisme eller anden økonomisk kriminalitet.	PSE Act Section 39 p(2) PSE Act Section 18	PSE Act Section 39 p(2) The Danish FSA may grant an undertaking restricted authorisation to issue electronic money for use in Denmark when [...] (2) the conditions of section 37(1), points (2) and (3) have been met, and [...]. PSE Act Section 18 A member of the board of directors or member of the board of management of a payment institution and, where relevant, persons responsible for the management of the payment services activities of the undertaking shall have adequate experience in carrying out the duties and responsibilities of such a position in the relevant undertaking. (2) A member of the board	Lov om betalingstjenester § 39 p, stk. 2 Finanstilsynet kan give en virksomhed en begrænset tilladelse til udstedelse af elektroniske penge til anvendelse her i landet, når [...] 2) betingelserne i § 37, stk. 1, nr. 2 og 3, er opfyldt og [...]. Lov om betalingstjenester § 18 Et medlem af bestyrelsen eller direktionen i et betalingsinstitut og, hvor det er relevant, ledelsesansvarlige for virksomhedens betalingstjenestevirksomhed skal have fyldestgørende erfaring til at udøve sit hverv eller varetage sin stilling i den	CONFORM Sections 39 p(2) and 37(1), point (2) and (3) of the PSE Act transpose the Directive provision. Section 39 p(2) of the PSE Act refers to Section 37(1), points (2) and (3) of the PSE Act, which apply to the granting of restricted authorisations to carry out payment services in Denmark and which shall thus apply <i>mutatis mutandis</i> to the granting of a restricted authorisation to electronic money issuers. As will be further described in the following, the NIMs hereby contain further requirements than those which are set out directly in Article 9(1), first subparagraph, point (b). Section 37(1), point (2) of the PSE Act requires that the undertaking shall have procedures for all significant areas of activity. This requirement pertains to the transposition of Article 10(4) of Directive 2007/64/EC which shall apply <i>mutatis mutandis</i> to electronic money issuers pursuant to Article 3(1) of Directive 2009/110/EC. Section 37(1), point (3) of the PSE Act requires that the management and the members of the board of directors fulfil Section 18 of the PSE Act laying down fit

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		<p>of directors or board of management and, where relevant, persons responsible for the management of the payment services activities of the undertaking shall meet the following requirements:</p> <p>(1) Shall not, at present or in the future, be held criminally liable for violation of the Criminal Code, financial legislation, or other relevant legislation, if such violation entails a risk that the person in question may fail to carry out his duties and responsibilities adequately.</p> <p>(2) Shall not have filed for suspension of payments, have filed for bankruptcy or debt restructuring, or be under suspension of payments, bankruptcy proceedings or debt restructuring.</p> <p>(3) Shall not, because of his financial situation or via a company which the person in question owns, participates in the operation of, or has a</p>	<p>pågældende virksomhed.</p> <p>Stk. 2. Et medlem af bestyrelsen eller direktionen og, hvor det er relevant, ledelsesansvarlige for virksomhedens betalingstjenestevirksomhed skal opfylde følgende:</p> <p>1) Må ikke være pålagt eller blive pålagt strafansvar for overtrædelse af straffeloven, den finansielle lovgivning eller anden relevant lovgivning, hvis overtrædelsen indebærer risiko for, at vedkommende ikke kan varetage sit hverv eller sin stilling på betryggende måde.</p> <p>2) Må ikke have indgivet begæring om rekonstruktionsbehandling, konkurs eller gældssanering eller være under rekonstruktionsbehandling, konkursbehandling eller gældssanering.</p> <p>3) Må ikke på grund af sin økonomiske situation eller via et selskab, som vedkommende ejer,</p>	<p>and proper standards as follows:</p> <p>Section 18(1) of the PSE Act requires adequate experience in carrying out the duties and responsibilities of such a position in the relevant undertaking. This requirement pertains to the transposition of Article 5, first subparagraph, point (i) of Directive 2007/64/EC which shall apply <i>mutatis mutandis</i> to electronic money issuers pursuant to Article 3(1) of Directive 2009/110/EC.</p> <p>Section 18(2) of the PSE Act requires that the relevant persons shall not have been or be held criminally liable for violation of the Criminal Code, financial legislation, or other relevant legislation, if such violation entails a risk that the person in question may fail to carry out his duties and responsibilities adequately.</p> <p>This requirement might be considered as fairly similar to the requirements of the Directive provision, although money laundering or terrorist financing are not explicitly mentioned. The NIM, though, contains an additional reservation by requiring that the violation shall entail a risk that the person in question may fail to carry out his duties and responsibilities adequately.</p> <p>In points (2) to (4), Section 18(2) of the PSE Act further adds the following circumstances which are not contained directly in the Directive provision:</p> <p>That the persons in question shall not have filed for or be under suspension of payments,</p>

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				<p>significant influence on, have caused or cause losses or risks of losses for the financial undertaking.</p> <p>(4) Shall not have behaved or behave such that there is reason to assume that the person in question will not perform the duties and responsibilities of such position adequately. In the assessment of whether a member of the board of directors or board of management behaves or has behaved inappropriately, emphasis will be on maintaining confidence in the financial sector.</p>	<p>deltager i driften af eller har en væsentlig indflydelse på, have påført eller påføre den finansielle virksomhed tab eller risiko for tab.</p> <p>4) Må ikke have udvist eller udvise en adfærd, hvor der er grund til at antage, at vedkommende ikke vil varetage hvervet eller stillingen på forsvarlig måde. Ved vurderingen af, om et medlem af bestyrelsen eller direktionen udviser eller har udvist en uforsvarlig adfærd, skal der lægges vægt på hensynet til at opretholde tilliden til den finansielle sektor.</p>	<p>bankruptcy or debt restructuring (point 2), have caused or cause losses or risks of losses for a financial undertaking in which the person in question is involved (point 3), have behaved or behave inappropriately with emphasis on maintaining confidence in the financial sector (point 4).</p> <p>These fit and proper requirements might be seen as a detailing of the standard of good repute contained in Article 5, first paragraph, point (i) of Directive 2007/64/EC, applicable <i>mutatis mutandis</i> to electronic money issuers through Article 3(1) of Directive 2009/110/EC.</p> <p>On the basis of the above findings, conformity is therefore concluded. However, in view of the maximum harmonisation purpose of the Directive as expressed in Article 15 hereof, further clarification might be required from Denmark and prove useful in this regard.</p>
Art. 9(1) 2nd subpar a,	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	Når et e-pengeinstitut udøver en af aktiviteterne i artikel 6, stk. 1, litra a), der ikke er knyttet til udstedelsen af elektroniske penge, eller en af aktiviteterne i artikel 6, stk. 1, litra b)-e), og den samlede sum af udestående elektroniske penge ikke er kendt på forhånd, tillader de kompetente myndigheder, at e-pengeinstituttet	N/A	N/A	N/A	<p>NOT CONFORM</p> <p>No NIM transposing Article 9(1), second subparagraph of the Directive has been identified. Non-conformity is therefore concluded.</p>

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	<p>allow that electronic money institution to apply point (a) of the first subparagraph on the basis of a representative portion assumed to be used for the issuance of electronic money, provided that such a representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the competent authorities. Where an electronic money institution has not completed a sufficiently long period of business, that requirement shall be assessed on the basis of projected outstanding electronic money evidenced by its business plan subject to any adjustment to that plan having been required by the competent authorities.</p>	<p>anvender første afsnit, litra a), på grundlag af en repræsentativ andel, som forventes anvendt til udstedelse af elektroniske penge, forudsat at det er muligt at foretage et rimeligt skøn over en sådan repræsentativ andel baseret på historiske data, som er tilfredsstillende for de kompetente myndigheder. Såfremt et e-pengeinstitut ikke kan påvise en tilstrækkelig lang aktivitetsperiode, skal kravet vurderes på basis af planlagte udestående elektroniske penge i overensstemmelse med instituttets forretningsplan med de ændringer af planen, de kompetente myndigheder måtte have krævet.</p>				
Art. 9(1) 3rd subpar a.	<p>Member States may also provide for the granting of the optional exemptions under this Article to be subject to an additional requirement of a maximum storage amount on the payment instrument or payment account of the</p>	<p>Medlemsstaterne kan endvidere kræve, at de fakultative undtagelser i denne artikel er omfattet af et supplerende krav om maksimumbeløb på forbrugerens betalingsinstrument eller betalingskonto, hvor de</p>	N/A	N/A	N/A	<p>Article 9(1), third subparagraph of the Directive sets out an option. Concerning this option, Denmark has not chosen to implement it within its legal system.</p>

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	consumer where the electronic money is stored.	elektroniske penge lagres.				
Art. 9(1) 4th subpara.	A legal person registered in accordance with this paragraph may provide payment services not related to electronic money issued in accordance with this Article only if conditions set out in Article 26 of Directive 2007/64/EC are met.	En juridisk person, der er registreret i overensstemmelse med dette stykke, kan kun udbyde betalingstjenester, der ikke er knyttet til elektroniske penge, der er udstedt i overensstemmelse med denne artikel, såfremt betingelserne i artikel 26 i direktiv 2007/64/EF er opfyldt.	N/A	N/A	N/A	NOT CONFORM No NIM which transposes the Directive provision has been identified, on which basis non-conformity is concluded.
Art. 9(2)	2. A legal person registered in accordance with paragraph 1 shall be required to have its head office in the Member State in which it actually pursues its business.	2. En juridisk person, der er registreret i overensstemmelse med stk. 1, skal have hjemsted i den medlemsstat, hvor den faktisk driver sin virksomhed.	PSE Act Section 39 p(2), point (i) PSE Act Section 39 p(4)	PSE Act Section 39 p(2), point (i) The Danish FSA may grant an undertaking restricted authorisation to issue electronic money for use in Denmark when (i) the undertaking has its head office and registered office in Denmark or in another country within the European Union or in a country with which the Union has entered into an agreement for the financial area, cf. however paragraph (4), PSE Act Section 39 p(4)	Lov om betalingstjenester § 39 p, stk. 2, nr. 1 Finanstilsynet kan give en virksomhed en begrænset tilladelse til udstedelse af elektroniske penge til anvendelse her i landet, når 1) virksomheden har hovedkontor og hjemsted i Danmark eller i et andet land inden for Den Europæiske Union eller i et land, som Unionen har indgået aftale med på det finansielle område, jf. dog stk. 4.	PARTIALLY CONFORM Sections 39 p(2), point (i) and 39 p(4) of the PSE Act transpose the Directive provision. Pursuant to Section 39 p(2), point (i) of the PSE Act, it is a condition for the granting of a restricted authorisation that the undertaking has its head office and registered office in Denmark or in another Member State or in a country with which the Union has entered into an agreement for the financial area. It should furthermore be noted that Section 39 p(4) of the PSE Act, to which Section 39 p(2), point (i) refers, allows for an exemption from the requirement for restricted authorisation to undertakings with a similar authorisation within the European Union or in a country with which the Union has entered into an agreement for the financial area. Such

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				<p>The Danish FSA may grant exemption from the requirement for restricted authorisation to provide electronic money covered by paragraph 1, point (i) to undertakings with a similar authorisation within the European Union or in a country with which the Union has entered into an agreement for the financial area. These undertakings shall, however, be notified to the Danish FSA and registered before the undertaking may commence issuing electronic money.</p>	<p>Lov om betalingstjenester § 39 p, stk. 4</p> <p>Finanstilsynet kan dispensere fra kravet om begrænset tilladelse til udstedelse af elektroniske penge omfattet af stk. 1, nr. 1, for så vidt angår virksomheder, der har en lignende tilladelse inden for Den Europæiske Union eller i et land, som Unionen har indgået aftale med på det finansielle område. Disse virksomheder skal dog anmeldes til Finanstilsynet og registreres, inden virksomheden må påbegynde udstedelse af elektroniske penge.</p>	<p>undertakings shall, however, register with the Danish FSA before commencing their activities.</p> <p>An electronic money issuer benefiting from a waiver shall according to Article 9(2) of the Directive be required to have its head office in the Member State in which it actually pursues its business.</p> <p>Since it will not benefit from the European passport, it would therefore not be in full accordance with the Directive provision to allow undertakings in another Member State or in a country with which the Union has entered into an agreement for the financial area, to benefit from a waiver in Denmark. This applies both to the granting of a restricted authorisation pursuant to Section 39 p(2), point (i) and the waiver of a restricted authorisation altogether pursuant to Section 39 p(4) of the PSE Act. Further clarification might be enquired from Denmark and prove useful in this regard.</p> <p>On the basis of the above findings, partial conformity is therefore concluded.</p>
Art. 9(3)	3. A legal person registered in accordance with paragraph 1 shall be treated as an electronic money institution. However, Article 10(9) and Article 25 of Directive 2007/64/EC shall not apply to it.	3. En juridisk person, der er registreret i overensstemmelse med stk. 1, behandles som et e-pengeinstitut. Artikel 10, stk. 9, og artikel 25 i direktiv 2007/64/EF finder dog ikke anvendelse på den juridiske person.	PSE Act Section 39 p(2), point (1)	<p>PSE Act Section 39 p(2), point (1)</p> <p>The Danish FSA may grant an undertaking restricted authorisation to issue electronic money for use in Denmark when (1) the undertaking has its head office and registered</p>	<p>Lov om betalingstjenester § 39 p, stk. 2, nr. 1</p> <p>Finanstilsynet kan give en virksomhed en begrænset tilladelse til udstedelse af elektroniske penge til anvendelse her i landet, når</p>	NOT CONFORM

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			<p>Act Section 39 p(4)</p> <p>office in Denmark or in another country within the European Union or in a country with which the Union has entered into an agreement for the financial area, cf. however, paragraph (4),</p> <p>PSE Act Section 39 p(4)</p> <p>The Danish FSA may grant exemption from the requirement for restricted authorisation to provide electronic money covered by paragraph 1, point (1) to undertakings with a similar authorisation within the European Union or in a country with which the Union has entered into an agreement for the financial area. These undertakings shall, however, be notified to the Danish FSA and registered before the undertaking may commence issuing electronic money.</p>	<p>1) virksomheden har hovedkontor og hjemsted i Danmark eller i et andet land inden for Den Europæiske Union eller i et land, som Unionen har indgået aftale med på det finansielle område, jf. dog stk. 4.</p> <p>Lov om betalingstjenester § 39 p, stk. 4</p> <p>Finanstilsynet kan dispensere fra kravet om begrænset tilladelse til udstedelse af elektroniske penge omfattet af stk. 1, nr. 1, for så vidt angår virksomheder, der har en lignende tilladelse inden for Den Europæiske Union eller i et land, som Unionen har indgået aftale med på det finansielle område. Disse virksomheder skal dog anmeldes til Finanstilsynet og registreres, inden virksomheden må påbegynde udstedelse af elektroniske penge.</p>	<p>identified, and further clarification might be enquired from Denmark and prove useful in this regard.</p> <p>Furthermore, based on Section 39 p(2), point (1) and Section 39 p(4) of the PSE Act, Denmark allows for the freedom to provide services and the freedom of establishment for undertakings with a restricted authorisation. This is not in accordance with the second sentence of Article 9(3) of the Directive. Further clarification might be enquired from Denmark and prove useful in this regard.</p> <p>On the basis of the above findings, non-conformity is therefore concluded.</p>	
Art. 9(4)	4. Member States may provide for a legal person registered in accordance with paragraph 1 to	4. Medlemsstaterne kan bestemme, at juridiske personer, der er registreret i overensstemmelse med	N/A	N/A	N/A	Article 9(4) of the Directive sets out an option. Denmark has not chosen to transpose this option within its national legal system.

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	engage only in some of the activities listed in Article 6(1).	stk. 1, kun må udøve nogle af de aktiviteter, der er anført i artikel 6, stk. 1.				
Art. 9(5) intr. wording	5. A legal person referred to in paragraph 1 shall:	5. Den i stk. 1 nævnte juridiske person:	N/A	N/A	N/A	CONFORM The structure of the Danish transposition differs from the structure of Article 9(5) of the Directive, and there is thus no introductory wording. However, since the Danish transposition of Article 9(5) of the Directive is mainly conform, conformity is concluded.
Art. 9(5)(a)	(a) notify the competent authorities of any change in its situation which is relevant to the conditions specified in paragraph 1; and	a) underretter de kompetente myndigheder om enhver ændring i dens situation, der har betydning for betingelserne i stk. 1, og	PSE Act Section 39 r(1) – (2)	PSE Act Section 39 r(1) - (2) An undertaking with restricted authorisation, cf. section 39p(1), shall notify the Danish FSA as soon as possible, if there are changes in relation to the information received by the Danish FSA and forming the basis of granting the authorisation. (2) An undertaking with restricted authorisation, cf. section 39 p(1), point (2) shall notify the Danish FSA, if the undertaking's total liabilities in respect of outstanding electronic amounts exceed an amount corresponding to the value of EUR 5 000	Lov om betalingstjenester § 39 r, stk. 1 - 2 En virksomhed med begrænset tilladelse, jf. § 39 p, stk. 1, er forpligtet til snarest muligt at underrette Finanstilsynet, hvis der indtræder ændringer i forhold til de oplysninger, som Finanstilsynet har modtaget og lagt til grund ved meddelelse af tilladelse. Stk. 2. En virksomhed med begrænset tilladelse, jf. § 39 p, stk. 1, nr. 2, skal underrette Finanstilsynet, når virksomhedens samlede forpligtelser i forbindelse med uindfriede	CONFORM Section 39 r(1) and (2) of the PSE Act transpose the Directive provision. Pursuant to Section 39 r(1) of the PSE Act, the Danish FSA shall be notified as soon as possible of changes in relation to the information received by the Danish FSA and forming the basis of the granting of the authorisation. Furthermore, a specific obligation to notify the Danish FSA if the limit of EUR 5 000 000 in total liabilities is exceeded is set out in Section 39 r(2) of the PSE Act. It should further be noted that pursuant to Section 39 r(4) of the PSE Act, the Danish FSA may lay down more detailed rules regarding which changes should be notified. As the NIMs described above thus ensure notification of relevant changes in accordance with the Directive provision, conformity is

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				000.	elektroniske beløb overstiger et beløb, der modsvarer værdien af 5 mio. euro.	concluded.
Art. 9(5)(b)	(b) at least annually, on date specified by the competent authorities, report on the average outstanding electronic money.	b) aflægger rapport om gennemsnitligt udestående elektroniske penge mindst en gang om året på en dato, der fastlægges af de kompetente myndigheder.	PSE Act Section 39 r(3)	PSE Act Section 39 r(3) An undertaking with restricted authorisation shall, once a year, submit a declaration to the Danish FSA that the undertaking fulfils the conditions for authorisation according to section 39p, and information on the average outstanding electronic money. The declaration shall be signed by the board of directors and board of management of the undertaking. If the undertaking is not operated in the form of a company, the declaration shall be signed by the day-to-day management. The declaration shall be received by the Danish FSA no later than 1 April each year.	Lov om betalingstjenester § 39 r, stk. 3 En virksomhed med begrænset tilladelse skal en gang om året indsende en erklæring til Finanstilsynet om, at virksomheden opfylder betingelserne for at få tilladelse efter § 39 p, og oplysning om de gennemsnitlige udestående elektroniske penge. Erklæringen skal være underskrevet af virksomhedens bestyrelse og direktion. Hvis virksomheden ikke drives i selskabsform, skal erklæringen underskrives af den daglige ledelse. Erklæringen skal være Finanstilsynet i hænde senest den 1. april hvert år.	CONFORM Section 39 r(3) of the PSE Act transposes the Directive provision. Pursuant to Section 39 r(3) of the PSE Act, an undertaking with restricted authorisation shall submit a declaration to the Danish FSA no later than 1 April each year. This declaration shall be signed by the board of directors and board of management of the undertaking, or the day-to-day management in undertakings not operated in company form. The undertaking shall thus declare that it fulfils the conditions for authorisation according to Section 39 p of the PSE Act and include information on the average outstanding electronic money. The conditions for authorisation according to Section 39 p of the PSE Act, as referred to in Section 39 r(3) of the PSE Act, include the location of the head office and registered office, procedures for all significant areas of activity, fit and proper requirements in regard to the management of the undertaking, and finally that the activities relate to prepaid instruments with limited use or to electronic money activities not exceeding the amount of EUR 5 000 000 in outstanding electronic amounts.

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						<p>In this regard, Section 39 r(3) of the PSE Act is a reflection of Section 39p (1) of the PSE Act which requires notification to the Danish FSA of changes in information forming the basis of granting the authorisation.</p> <p>Article 9(5), point (b) of the Directive requires an annual report on the average outstanding electronic money only. However, since the additional reporting requirements in Section 39 r(3) of the PSE Act could be seen as forming part of the monitoring and verification of continued compliance with the conditions for the application of Article 9 of the Directive, as detailed in Article 9(5), point (a) and Article 9(7) of the Directive, these reporting requirements do not appear contrary to the Directive.</p> <p>It should finally be noted, for the sake of completeness, that the annual date is laid down in the PSE Act as such and thus not 'specified by the competent authorities'.</p> <p>On the basis of the above findings, conformity is thus concluded.</p>
Art. 9(6)	6. Member States shall take the necessary steps to ensure that where the conditions set out in paragraphs 1, 2 and 4 are no longer met, the legal person concerned shall seek authorisation within 30 calendar days in accordance with Article 3. Any such person that has	6. Medlemsstaterne tager de nødvendige skridt til at sikre, at den pågældende juridiske person, når betingelserne i stk. 1, 2 og 4 ikke længere opfyldes, søger om tilladelse inden for en frist på 30 kalenderdage i overensstemmelse med artikel 3. Enhver person, der ikke har søgt om	PSE Act Section 39 q(1)	PSE Act Section 39 q(1) A restricted authorisation to issue electronic money pursuant to section 39 p(1), point (2) shall lapse, if the issuer's total liabilities in respect of outstanding electronic amounts exceed an amount corresponding to the value of EUR 5 000	Lov om betalingstjenester § 39 q, stk. 1 En begrænset tilladelse til udstedelse af elektroniske penge i henhold til § 39 p, stk. 1, nr. 2, bortfalder, hvis udstederens samlede forpligtelser i forbindelse med uindfriede elektroniske beløb	PARTIALLY CONFORM Section 39 q(1) of the PSE Act transposes the Directive provision. Pursuant to Section 39 q(1) of the PSE Act, a restricted authorisation shall lapse if the issuer's total liability limit exceeds the equivalent of EUR 5 000 000 and the electronic money issuer shall as a consequence cease its activities, unless it applies for a 'full' authorisation within 30

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	not sought authorisation within that period shall be prohibited, in accordance with Article 10, from issuing electronic money.	tilladelse inden for denne frist, forbydes at udstede elektroniske penge, jf. artikel 10.		000. If the undertaking, no later than 30 days later, applies for authorisation pursuant to section 39 a, the undertaking may, notwithstanding the first sentence, continue its activities pursuant to section 39 p(1).	overstiger et beløb, der modsvarer værdien af 5 mio. euro. Hvis virksomheden senest 30 dage senere søger om tilladelse efter § 39a, kan virksomheden uanset 1. pkt. fortsætte sin aktivitet i henhold til § 39p, stk. 1.	<p>days.</p> <p>This is in accordance with the Directive provision as regards the conditions set out in Article 9(1)(a) of the Directive.</p> <p>No similar NIM has been identified in regard to the conditions set out in Article 9(1)(b) or 9(2) of the Directive which are also contained in the reference in Article 9(6) of the Directive to the conditions set out in paragraphs (1) and (2) hereof. Further clarification might be enquired from Denmark and prove useful in this regard.</p> <p>It should be noted that the option set out in Article 9(4) of the Directive, to which Article 9(6) also refers, has not been transposed by Denmark and is thus not taken into account.</p> <p>On the basis of the above findings, partial conformity is concluded.</p>
Art. 9(7)	7. Member States shall ensure that their competent authorities are sufficiently empowered to verify continued compliance with the requirements laid down in this Article.	7. Medlemsstaterne sikrer, at de kompetente myndigheder har de nødvendige beføjelser til at kontrollere en konsekvent overholdelse af de krav, der er fastlagt i denne artikel.	PSE Act Section 87	<p>PSE Act Section 87</p> <p>As part of its supervision, the Danish FSA may require that the undertaking submit all the information necessary for the Danish FSA's activities, including information to determine whether a matter falls under the provisions of this Act.</p> <p>(2) The Danish FSA may carry out on-site inspections at</p>	<p>Lov om betalingstjenester § 87</p> <p>Finanstilsynet kan som led i sit tilsyn kræve, at virksomheden fremlægger alle de oplysninger, der er nødvendige for Finanstilsynets virksomhed, herunder til afgørelse af, om et forhold falder ind under denne lovs bestemmelser.</p> <p>Stk. 2. Finanstilsynet kan udføre inspektioner på stedet hos virksomheder</p>	<p>CONFORM</p> <p>Section 87 of the PSE Act transposes the Directive provision.</p> <p>As part of its supervision, the Danish FSA is empowered under Section 87 of the PSE Act to request all the information necessary for the Danish FSA's activities from an undertaking subject to the PSE Act, and to carry out on-site inspections. In this regard, the Danish FSA may at all times gain access to an undertaking subject to the PSE Act without a court order.</p> <p>These powers are in accordance with the requirement of sufficient powers to verify</p>

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				<p>undertakings subject to this Act [...].</p> <p>[...]</p> <p>(4) The Danish FSA may at all times, on proof of identity and without a court order, gain access to undertakings subject to this Act with a view to obtaining information, including during inspections.</p>	<p>omfattet af denne lov [...].</p> <p>[...]</p> <p>Stk. 4. Finanstilsynet kan til enhver tid mod behørig legitimation uden retskendelse få adgang til virksomheder omfattet af denne lov med henblik på indhentelse af oplysninger, herunder ved inspektioner.</p>	<p>continued compliance with the requirements laid down in Article 9 of the Directive.</p> <p>On the basis of the above findings, conformity is therefore concluded.</p>
Art. 9(8)	8. This Article shall not apply in respect of the provisions of Directive 2005/60/EC or national anti-money-laundering provisions.	8. Denne artikel finder ikke anvendelse i forbindelse med bestemmelserne i direktiv 2005/60/EF eller nationale bestemmelser om bekæmpelse af hvidvaskning af penge.	N/A	N/A	N/A	<p>CONFORM</p> <p>No national provisions indicate that the waiver contained in Article 9 of the Directive applies in respect of the provisions of Directive 2005/60/EC or national anti-money-laundering provisions. Therefore, conformity has been concluded.</p>
Art. 9(9)	9. Where a Member State avails itself of the waiver provided for in paragraph 1, it shall notify the Commission accordingly by 30 April 2011. The Member State shall notify the Commission forthwith of any subsequent change. In addition, the Member State shall inform the Commission of the number of legal persons	9. Benytter en medlemsstat sig af undtagelsesadgangen i stk. 1, underretter den Kommissionen herom senest den 30. april 2011. Medlemsstaten underretter Kommissionen om enhver senere ændring snarest muligt. Endvidere underretter medlemsstaten Kommissionen om det antal fysiske og juridiske personer, der er berørt, og	N/A	N/A	N/A	<p>CONFORM</p> <p>No provision of Danish legislation transposing Article 9(9) of the Directive has been identified. Although this does not prevent Denmark from being bound by Article 9(9) to provide such information.</p>

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	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.	hvert år om den samlede sum af udestående elektroniske penge, der er udstedt pr. 31. december hvert kalenderår, som omhandlet i stk. 1.				
Art. 10	<p>TITLE III ISSUANCE AND REDEEMABILITY OF ELECTRONIC MONEY</p> <p><i>Article 10</i> Prohibition from issuing electronic money</p> <p>Without prejudice to Article 18, Member States shall prohibit natural or legal persons who are not electronic money issuers from issuing electronic money.</p>	<p>AFSNIT III UDSTEDELSE OG GENINDLØSNING AF ELEKTRONISKE PENGE</p> <p><i>Artikel 10</i> Forbud mod udstedelse af elektroniske penge</p> <p>Med forbehold af artikel 18 forbyder medlemsstaterne fysiske og juridiske personer, der ikke er udstedere af elektroniske penge, at udstede elektroniske penge.</p>	PSE Act Section 39 a(1)	PSE Act Section 39 a(1) Undertakings shall have authorisation as an e-money institution in order to issue electronic money. This shall not apply for banks, Danmarks Nationalbank and public authorities.	Lov om betalingstjenester § 39 a, stk. 1 Virksomheder skal have tilladelse som e-pengeinstitut for at kunne udstede elektroniske penge. Dette gælder ikke for pengeinstitutter, Danmarks Nationalbank og offentlige myndigheder.	CONFORM Section 39 a(1) of the PSE Act transposes the Directive provision. It can be inferred from Section 39 a(1) of the PSE Act, that unless automatically recognised as an electronic money issuer such as banks, undertakings shall be authorised as electronic money issuers in order to issue electronic money. Thus, natural or legal persons who are not electronic money issuers are prohibited from issuing electronic money in accordance with the Directive provision. On the basis of the above findings, conformity is therefore concluded.
Art. 11(1)	<p><i>Article 11</i> Issuance and redeemability</p> <p>1. Member States shall ensure that electronic money issuers issue electronic money at par value on the receipt of funds.</p>	<p><i>Artikel 11</i> Udstedelse og genindløsning</p> <p>1. Medlemsstaterne sikrer, at udstedere af elektroniske penge udsteder elektroniske penge til pariværdi ved modtagelse af midler.</p>	PSE Act Section 39 s(1)	PSE Act Section 39 s(1) Issuers of electronic money may not issue electronic money at a premium.	Lov om betalingstjenester § 39 s, stk. 1 Udstedere af elektroniske penge må ikke udstede elektroniske penge til overkurs.	CONFORM Section 39 s(1) of the PSE Act transposes the Directive provision. Pursuant to Section 39 s(1) of the PSE Act, electronic money may not be issued at a premium. According to the explanatory notes in the Bill to Section 39 s, this means that the amount paid up may not exceed the claim which the electronic money holder has

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						<p>against the electronic money issuer. This would correspond to issuing electronic money at (at least) par value, as required by the Directive provision.</p> <p>The NIM does not explicitly include the wording ‘on the receipt of funds’ or a corresponding wording. However, this requirement can probably be inferred.</p> <p>On the basis of the above findings, conformity is concluded.</p>
Art. 11(2)	2. Member States shall ensure that, upon request by the electronic money holder, electronic money issuers redeem, at any moment and at par value, the monetary value of the electronic money held.	2. Medlemsstaterne sikrer, at udstedere af elektroniske penge når som helst og til pariværdi indløser pengeværdien af elektroniske penge efter anmodning fra indehaveren af elektroniske penge.	PSE Act Section 39 s(2), 1st sentence	PSE Act Section 39 s(2), first sentence Holders of electronic money may, prior to the expiry of the electronic money and up to one year after the expiry, request that the residual value be redeemed at nominal value.	Lov om betalingstjenester § 39 s, stk. 2, 1. pkt Indehavere af elektroniske penge kan inden udløbet af de elektroniske penge og i op til 1 år efter udløbet anmode om, at restværdien indløses til pålydende værdi.	<p>CONFORM</p> <p>Section 39 s(2), first sentence of the PSE Act transposes the Directive provision.</p> <p>Section 39 s(2), first sentence of the PSE Act sets out a right for electronic money holders to request redemption at nominal value reflecting recital 18 of the Directive.</p> <p>Redemption at nominal value may be required prior to the expiry of the electronic money and up to one year after the expiry hereof.</p> <p>If no period of validity has been agreed upon, the right of redemption is interminable according to the explanatory notes in the Bill to Section 39 s.</p> <p>The NIM does not expressly use the term ‘at any moment’ or a corresponding term. However, such right for the electronic money holder to request redemption could probably be inferred from the NIM.</p> <p>On the basis of the above findings,</p>

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						conformity is therefore concluded.
Art. 11(3)	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. Kontrakten mellem udstederen af elektroniske penge og indehaveren af elektroniske penge skal klart og på en fremtrædende plads præcisere betingelserne for genindløsning, herunder eventuelle gebyrer forbundet hermed, og indehaveren af elektroniske penge skal oplyses om disse betingelser, før vedkommende bliver bundet af en kontrakt eller et tilbud.	PSE Act Section 39 s(5)	PSE Act Section 39 s(5) Redemption terms and charges shall be clearly specified in the agreement between the issuer and the holder. The holder of the electronic money shall be informed of these terms before he is bound by an agreement.	Lov om betalingstjenester § 39 s, stk 5 Indløsningsbetingelser og gebyrer skal klart fremgå af aftalen mellem udstederen og indehaveren. Indehaveren af de elektroniske penge skal oplyses om disse betingelser, før vedkommende bliver bundet af en aftale.	CONFORM Section 39 s(5) of the PSE Act transposes the Directive provision. Pursuant to Section 39 s(5) of the PSE Act, redemption terms and charges shall be clearly specified in the agreement between the issuer and the electronic money holder, and the holder shall be informed of these terms before being bound by an agreement. These requirements are in accordance with the Directive provision. It should be noted that the NIM does not explicitly require that the contract ‘prominently’ states the conditions of redemption. However, the general principles of Danish contract law would require, for a contract condition to be agreed to, that it is featured in a sufficiently clear, including prominent, manner, especially where the condition favours the author of a contract (presumably the electronic money issuer). On the basis of the above findings, conformity is therefore concluded.
Art. 11(4) 1st subpara. intr. wording	4. Redemption may be subject to a fee only if stated in the contract in accordance with paragraph 3 and only in any of the following cases:	4. Der kan kun opkræves et gebyr i forbindelse med genindløsning, såfremt dette er anført i kontrakten i overensstemmelse med stk. 3 og kun i følgende tilfælde:	PSE Act Section 39 s(3)	PSE Act Section 39 s(3) Charges may only be demanded in connection with redemption if this is stated in the agreement and only if	Lov om betalingstjenester § 39 s, stk. 3 Der kan kun opkræves gebyr i forbindelse med indløsning, hvis dette fremgår af aftalen, og kun	CONFORM Section 39 s(3) of the PSE Act transposes the Directive provision. Pursuant to Section 39 s(3) of the PSE Act, charges may only be demanded in connection with redemption if this is stated in the

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					hvis	<p>agreement and in any of the following cases.</p> <p>It should be added that there is no express reference in the NIM corresponding to the reference in the Directive provision to Article 11(3) of the Directive. However, this reference could be said to be inherent in the NIM, since the requirement that redemption fees shall be stated in the contract shall be read in the context of Section 39 s(5) transposing the requirements set out in Article 11(3) of the Directive as assessed above.</p> <p>On the basis of the above findings, conformity is therefore concluded.</p>
Art. 11(4) 1st subpar a. (a)	(a) where redemption is requested before the termination of the contract;	a) såfremt der kræves genindløsning inden kontraktens udløb	PSE Act Section 39 s(3), point (1)	PSE Act Section 39 s(3), point (1) redemption is demanded before expiry of the electronic money,	Lov om betalingstjenester § 39 s, stk. 3, nr. 1 der kræves indløsning inden de elektroniske penges udløb,	<p>CONFORM</p> <p>Section 39 s(3), point (1) of the PSE Act is an almost literal transposition of the Directive provision.</p> <p>The NIM uses the term ‘before expiry of the electronic money’ instead of ‘before the termination of the contract’ as applied in the Directive provision.</p> <p>Based on the explanatory notes in the Bill to Section 39 s, the terms ‘expiry of the electronic money’ and ‘termination of the contract’ seem to be used interchangeably. However, further clarification might be enquired from Denmark and prove useful in this regard.</p> <p>Still, overall, conformity is concluded on the basis of the above findings.</p>
Art. 11(4)	(b) where the contract provides for a termination	b) såfremt kontrakten indeholder en udløbsdato,	PSE Act	PSE Act Section 39 s(3),	Lov om betalingstjenester § 39 s,	CONFORM

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1st subpar a. (b)	date and the electronic money holder terminates the contract before that date; or	men indehaveren af elektroniske penge opsiger kontrakten inden denne dato eller	Section 39 s(3), point (2)	point (2) the agreement between the issuer and holder contains an expiry date and the holder of the electronic money terminates the agreement before this date, or	stk. 3, nr. 2 aftalen mellem udsteder og indehaver indeholder en udløbsdato og indehaveren af de elektroniske penge opsiger aftalen inden denne dato eller	Section 39 s(3), point (2) of the PSE Act almost literally transposes the Directive provision. There are mere terminology differences between Section 39 s(3), point (2) of the PSE Act and the Directive provision.
Art. 11(4) 1st subpar a. (c)	(c) where redemption is requested more than one year after the date of termination of the contract.	c) såfremt der ønskes genindløsning mere end et år efter kontraktens udløb.	PSE Act Section 39 s(3), point (3)	PSE Act Section 39 s(3), point (3) redemption is demanded more than one year after expiry of the agreement between the issuer and holder.	Lov om betalingstjenester § 39 s, stk. 3, nr. 3 der kræves indløsning mere end 1 år efter udløbet af aftalen mellem udsteder og indehaver.	CONFORM Section 39 s(3), point (3) of the PSE Act almost literally transposes the the Directive provision. There are mere terminology differences between Section 39 s(3), point (3) of the PSE Act and the Directive provision.
Art. 11(4) 2nd subpar a.	Any such fee shall be proportionate and commensurate with the actual costs incurred by the electronic money issuer.	Et eventuelt gebyr skal stå i et rimeligt forhold til og svare til de faktiske omkostninger for udstederen af elektroniske penge	PSE Act Section 39 s(4)	PSE Act Section 39 s(4) Any charges as mentioned in paragraph (3) shall correspond to the actual costs for the issuer of electronic money, unless the costs are disproportionately high.	Lov om betalingstjenester § 39 s, stk. 4 Et eventuelt gebyr som nævnt i stk. 3 skal svare til de faktiske omkostninger for udstederen af elektroniske penge, medmindre omkostningerne er uforholdsmæssigt høje.	CONFORM Section 39 s(4) of the PSE Act transposes the Directive provision. Section 39 s(4) of the PSE Act sets out that any charges shall correspond to the actual costs for the issuer of electronic money, unless those costs are disproportionately high. This paraphrasing of the proportionality requirement, referred to in recital 15 of the Directive, is in accordance with the Directive provision. On the basis of the above findings, conformity is therefore concluded.
Art.	5. Where redemption is requested before the	5. Ønskes der genindløsning inden	PSE Act	PSE Act Section 39 s(2),	Lov om betalingstjenester § 39 s,	CONFORM

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11(5)	termination of the contract, the electronic money holder may request redemption of the electronic money in whole or in part.	kontraktens udløb, kan indehaveren af elektroniske penge kræve pengeværdien af elektroniske penge helt eller delvis indløst.	Section 39 s(2), 1st sentence	first sentence Holders of electronic money may, prior to the expiry of the electronic money and up to one year after the expiry, request that the residual value be redeemed at nominal value.	stk. 2, 1. pkt Indehavere af elektroniske penge kan inden udløbet af de elektroniske penge og i op til 1 år efter udløbet anmode om, at restværdien indløses til pålydende værdi.	Section 39 s(2), first sentence of the PSE Act transposes the Directive provision. According to Section 39 s(2), first sentence of the PSE Act, electronic money holders may, prior to the expiry of the electronic money and up to one year after the expiry, request that the residual value be redeemed at nominal value. The NIM thus covers a period starting before the termination of the contract and ending one year after the termination hereof. Thus, it also includes the period regulated by Article 11(5) of the Directive, namely redemption requested before the termination of the contract. On the basis of the above findings, conformity is concluded.
Art. 11(6) intr. wording	6. Where redemption is requested by the electronic money holder on or up to one year after the date of the termination of the contract:	6. Anmoder indehaveren af elektroniske penge ved kontraktens udløb eller op til et år efter kontraktens udløb om genindløsning:	PSE Act Section 39 s(2), 1st sentence	PSE Act Section 39 s(2), first sentence Holders of electronic money may, prior to the expiry of the electronic money and up to one year after the expiry, request that the residual value be redeemed at nominal value.	Lov om betalingstjenester § 39 s, stk. 2, 1. pkt Indehavere af elektroniske penge kan inden udløbet af de elektroniske penge og i op til 1 år efter udløbet anmode om, at restværdien indløses til pålydende værdi.	CONFORM Section 39 s(2), first sentence of the PSE Act transposes the Directive provision. Section 39 s(2), first sentence of the PSE Act transposes both Article 11(6), introductory wording and Article 11(6)(a) of the Directive. As stated above under the assessment of Article 11(5) of the Directive, the NIM thus covers a period starting before the termination of the contract and ending one year after the termination hereof. Thus, it also includes the period regulated by Article 11(6), introductory wording of the Directive, namely redemption requested on or up to one year after the date of termination of the contract.

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						On the basis of the above findings, conformity is therefore concluded.
Art. 11(6)(a)	a) the total monetary value of the electronic money held shall be redeemed; or	a) genindløses den samlede pengeværdi af elektroniske penge	PSE Act Section 39 s(2), 1st sentence	PSE Act Section 39 s(2), 1st sentence Holders of electronic money may, prior to the expiry of the electronic money and up to one year after the expiry, request that the residual value be redeemed at nominal value.	Lov om betalingstjenester § 39 s, stk. 2, 1. pkt Indehavere af elektroniske penge kan inden udløbet af de elektroniske penge og i op til 1 år efter udløbet anmode om, at restværdien indløses til pålydende værdi.	CONFORM Section 39 s(2), first sentence of the PSE Act transposes the Directive provision. Pursuant to Section 39 s(2), first sentence of the PSE Act, holders of electronic money may request that the residual value be redeemed at nominal value. The addition of ‘at nominal value’ in the NIM is not contrary to the Directive provision, although not stated therein. The NIM covers a period ‘prior to the expiry of the electronic money and up to one year after the expiry’. As mentioned above in the assessment, the expression ‘expiry of electronic money’ appears to be used interchangeably in the PSE Act with ‘expiry of contract’, in which case the scope of the NIM is in conformity with the Directive provision. On the basis of the above findings, conformity is therefore concluded.
Art. 11(6)(b)	(b) where the electronic money institution carries out one or more of the activities listed in Article 6(1)(e) and it is unknown in advance what proportion of funds is to be used as electronic money, all funds requested by the electronic money	b) såfremt e-pengeinstituttet udøver en eller flere af de aktiviteter, der er anført i artikel 6, stk. 1, litra e), og det ikke på forhånd er kendt, hvilken andel af midlerne, der skal anvendes til elektroniske penge, genindløser e-	PSE Act Section 39 s(2), 2nd sentence	PSE Act Section 39 s(2), second sentence If holders of electronic money request redemption after expiry of the electronic money, and if the issuer of electronic money carries out activities mentioned in	Lov om betalingstjenester § 39 s, stk. 2, 2. pkt Hvis indehavere af elektroniske penge anmoder om indløsning efter udløbet af de elektroniske penge, og hvis udstederen af	PARTIALLY CONFORM Section 39 s(2), second sentence of the PSE Act transposes the Directive provision. Pursuant to Section 39 s(2), second sentence of the PSE Act, all funds requested by the electronic money holder shall be redeemed on conditions corresponding to those which are set out in the Directive provision, however with an exception in relation to the scope of

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	holder shall be redeemed.	pengeinstituttet alle de midler, indehaveren af elektroniske penge har anmodet om.		section 39e(1), points (2) – (4), and it is not known in advance which proportion of the funds is to be used for electronic money, the issuer of electronic money shall redeem all the funds which the holder of electronic money has requested.	elektroniske penge udøver aktiviteter som nævnt i § 39 e, stk. 1, nr. 2-4, og det ikke på forhånd er kendt, hvilken andel af midlerne der skal anvendes til elektroniske penge, skal udstederen af elektroniske penge indløse alle de midler, som indehaveren af elektroniske penge har anmodet om.	<p>activities of the electronic money institutions:</p> <p>Whereas the Directive provision refers to one or more of the activities listed in Article 6(1), point (e), that is business activities other than the issuance of electronic money, the NIM refers to Section 39e(1), points (2) to (4) and thus, in addition to such business activities as above, also payment services, ancillary services and the operation of payment services.</p> <p>In view of the full harmonisation purpose of the Directive as expressed in Article 16 hereof, further clarification might be enquired from Denmark and prove useful in this regard.</p> <p>On the basis of the above findings, partial conformity is therefore concluded.</p>
Art. 11(7)	7. Notwithstanding paragraphs 4, 5 and 6, redemption rights of a person, other than a consumer, who accepts electronic money shall be subject to the contractual agreement between the electronic money issuer and that person.	7. Uanset stk. 4, 5 og 6 er genindløsningsretten for en person, bortset fra en forbruger, der accepterer elektroniske penge, afhængig af kontraktaftalen mellem udstederen af elektroniske penge og denne person.	PSE Act Section 5 a(2)	PSE Act Section 5 a(2) The provision of section 39 s may be derogated from by agreement between the issuer and holders of electronic money, if the holder is not a consumer.	Lov om betalingstjenester § 5 a, stk. 2 Bestemmelsen i § 39s kan fraviges ved aftale mellem udstederen og indehavere af elektroniske penge, hvis indehaveren ikke er forbruger.	PARTIALLY CONFORM Section 5 a(2) of the PSE Act transposes the Directive provision. According to Section 5 a(2) of the PSE Act, Section 39 s of the PSE Act may be derogated from by agreement between the issuer and holders of electronic money, if the holder is not a consumer. As described above in the assessment of Article 11(1) to (6) of the Directive, Section 39 s of the PSE Act transposes the redemption rights set out in Article 11(4) to (6) of the Directive. Section 39 s of the PSE Act, however, also transposes paragraphs (1), (2) and (3) of

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						<p>Article 11 of the Directive.</p> <p>Based on the explanatory notes in the Bill to Section 5 a(2) of the PSE Act, Section 5 a(2) does apparently not intend to allow for a derogation from the rules transposing Article 11(1) to (3) of the Directive, since explicit reference is made in the explanatory notes to Article 11(7) of the Directive.</p> <p>In view of the high legislative value attached under Danish law to the explanatory notes in bills, which would be taken into account by the national courts in case any doubts were raised, a conform application of the derogation would thus probably be ensured. However, in view of the reference in Section 5 a(2) of the PSE Act to Section 39 s as such, with no further specifications, further clarification might be enquired from Denmark and prove useful in this regard.</p> <p>On the basis of the above findings, partial conformity is therefore concluded.</p>
Art. 12	<p><i>Article 12</i></p> <p>Prohibition of interest</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>Artikel 12</i></p> <p>Forbud mod renter</p> <p>Medlemsstaterne forbyder tilskrivning af renter eller andre former for begunstivelse i tilknytning til den periode, indehaveren af elektroniske penge besidder elektroniske penge.</p>	<p>PSE Act Section 39 k(3)</p>	<p>PSE Act Section 39 k(3)</p> <p>Issuers of electronic money may not granted interest or similar to an amount which has been converted to electronic money.</p>	<p>Lov om betalingstjenester § 39 k, stk. 3</p> <p>Udstedere af elektroniske penge må ikke tilskrive renter el.lign. af beløb, som er vekslet til elektroniske penge.</p>	<p>CONFORM</p> <p>Section 39 k(3) of the PSE Act transposes the Directive provision.</p> <p>In accordance with the prohibition set out in the Directive provision, issuers of electronic money may not, pursuant to Section 39 k(3) of the PSE Act, grant interest or similar to an amount which has been converted to electronic money.</p> <p>It is further stated in the explanatory notes in the Bill to Section 39 k that benefits may be granted on other conditions which are not</p>

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						related to the length of time during which an electronic money issuer holds the electronic money. Thus, the prohibition on interest set out in the NIM relates to the length of time, thereby reflecting recital 13 of the Directive. On the basis of the above findings, conformity is therefore concluded.
Art. 13	<p><i>Article 13</i> Out-of-court complaint and redress procedures for the settlement of disputes</p> <p>Without prejudice to this Directive, Chapter 5 of Title IV of Directive 2007/64/EC shall apply mutatis mutandis to electronic money issuers in respect of their duties arising from this Title.</p>	<p><i>Artikel 13</i> Udenretslige klage- og erstatningsprocedurer i forbindelse med bilægelse af tvister</p> <p>Uden at det berører dette direktiv, finder kapitel 5 i afsnit IV i direktiv 2007/64/EF tilsvarende anvendelse på udstedere af elektroniske penge, for så vidt angår deres forpligtelser i henhold til dette afsnit.</p>	<p>PSE Act Section 107</p> <p>PSE Act Section 108</p>	<p>PSE Act Section 107</p> <p>Violation of sections 2 and 2a, [...] sections 39b and 39d, section 39k(2), section 39l and section 39r(1) and (2) shall be liable to fines or imprisonment of no more than four months, unless more severe punishment is incurred under other legislation.</p> <p>(2) Violation of section [...] section 39h, section 39k(1), (3) and (4), section 39m, [...] shall be liable to a fine.</p> <p>(3) An issuer of electronic money which omits to comply with an order issued pursuant to section 89, or to notify information pursuant to section 87(1) shall be liable to a fine.</p> <p>[...]</p>	<p>Lov om betalingstjenester § 107</p> <p>Overtrædelse af §§ 2 og 2 a, [...] §§ 39 b og 39 d, § 39 k, stk. 2, § 39 l og § 39 r, stk. 1 og 2, straffes med bøde eller fængsel indtil 4 måneder, medmindre højere straf er forskyldt efter den øvrige lovgivning.</p> <p>stk. 2 Overtrædelse af [...] § 39 h, § 39 k, stk. 1, 3 og 4, § 39 m, [...] straffes med bøde.</p> <p>Stk. 3. Undlader en udsteder af elektroniske penge at efterkomme påbud givet efter § 89 eller at meddele oplysninger efter § 87, stk. 1, straffes vedkommende med bøde.</p> <p>[...]</p> <p>Lov om betalingstjenester § 108</p>	<p>PARTIALLY CONFORM</p> <p>Sections 107 and 108 of the PSE Act transpose the Directive provision.</p> <p>In regard to Article 80 of Directive 2007/64/EC, no NIM directly transposing Article 80(1) regarding complaint procedures has been identified, neither in regard to Directive 2007/64/EC, nor concerning this Directive 2009/110/EC. As expressed in recital 19 of the Directive, such procedures shall be at the disposal of electronic money holders.</p> <p>It might be inferred indirectly from the Danish FSA's obligation to supervise compliance with the PSE Act pursuant to Section 86(1) of the PSE Act, read in combination with principles of administrative law that such procedures are in place.</p> <p>Still, further clarification might be enquired from Denmark and prove useful, also in regard to the submittal of complaints from consumers and consumer associations concerning electronic money issuers.</p> <p>In regard to Article 80(2) of Directive 2007/64/EC, no NIM directly transposing Article 80(2) regarding information from the</p>

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			<p>PSE Act Section 108</p> <p>Anyone who carries out business covered by this Act, or assists in this, may, in a judgment for a criminal offence be disqualified from carrying out the business in question or from carrying it out in specific forms or from assisting in this, if the offence gives reason to believe that there is an immediate danger of fraudulent use from carrying out the business. Section 79(3) and (4) of the Danish Penal Code shall apply correspondingly.</p>	<p>Den, der driver virksomhed omfattet af denne lov eller medvirker hertil, kan ved dom for strafbart forhold frakendes retten til fortsat at drive den pågældende virksomhed eller til at drive den under visse former eller til at medvirke hertil, såfremt det udviste forhold begrunder nærliggende fare for misbrug ved udøvelse af virksomheden. Straffelovens § 79, stk. 3 og 4, finder tilsvarende anvendelse.</p>	<p>competent authority to the complainant about out-of-court complaint and redress procedures, has been identified. A general obligation to provide complaint guidelines where a decision by an administrative authority is not wholly in favour of the complainant follows from Section 25 of the Public Administration Act which applies generally under Danish law to all administrative authorities. Still, further clarification might be enquired from Denmark and prove useful in this regard.</p> <p>In regard to Article 81 of Directive 2007/64/EC concerning penalties, Section 107 of the PSE Act provides for penalties.</p> <p>Thus, pursuant to Section 107(1) of the PSE Act infringements related to the authorisation, meaning both the formal requirements and the issuing of electronic money without an authorisation where required, may result in a fine or imprisonment up to 4 months. The same applies to an infringement of safeguarding requirements.</p> <p>Pursuant to Section 107(2) of the PSE Act, infringements of provisions regulating the activities of authorised electronic money issuers may result in a fine. This would include, for instance, infringement of the prohibition of interest transposed in Section 39 k(3) of the PSE Act and requirements regarding management set out in Section 39 h of the PSE Act.</p> <p>Finally, pursuant to Section 107(3) of the PSE Act, the non-compliance of an electronic money issuer with orders issued by the</p>

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						<p>Danish FSA to correct conditions which conflict with the PSE Act or the failure, upon request, to submit all the information necessary for the Danish FSA's activities as part of its supervision, may result in a fine.</p> <p>Furthermore, pursuant to Section 108 of the PSE Act, in certain qualified cases, anyone who carries out business covered by the PSE Act, or assists in this, may in a judgment for a criminal offence be disqualified from carrying out the business in question if the offence gives reason to believe that there is an immediate danger of fraudulent use</p> <p>These penalties are in line with the level of penalties applying to payment institutions under the PSE Act, and are in accordance with the requirements of Article 81 of Directive 2007/64/EC and thus Article 13 of the Directive.</p> <p>In regard to Article 82 of Directive 2007/64/EC concerning competent authorities, no NIM directly transposing the Directive provision has been identified.</p> <p>The complaints procedures, if any, and penalties provided for are indeed administered by the authorities empowered to ensure compliance hereof. However, further clarification might be enquired from Denmark and prove useful in this regard.</p> <p>In regard to Article 83 of Directive 2007/64/EC concerning out-of-court redress procedures, no NIM directly transposing the Directive provision has been identified.</p> <p>It should be noted in this connection that</p>

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					<p>Section 48(1), point (7) of the PSE Act imposes an obligation on payment services providers to inform about out-of-court redress and access to appeal procedures in framework contracts. This provision, however, does not apply to electronic money activities.</p> <p>Further clarification might therefore be enquired from Denmark and prove useful in this regard.</p> <p>On the basis of the above findings regarding the somewhat unresolved applicability of Articles 80, 82 and 83 of Directive 2007/64/EC to electronic money issuers in respect of their duties arising from Title III of the Directive, partial conformity is concluded.</p>	
Art. 16(1)	<p>TITLE IV FINAL PROVISIONS AND IMPLEMENTING MEASURES</p> <p><i>Article 16</i> Full harmonization</p> <p>1. Without prejudice to Article 1(3), the sixth subparagraph of Article 3(3), Article 5(7), Article 7(4), Article 9 and Article 18(2) and in so far as this Directive provides for harmonisation, Member States shall not maintain or introduce provisions other than those laid down</p>	<p>AFSNIT IV AFSLUTTENDE BESTEMMELSER OG GENNEMFØRELSESFORANSTALTNINGER</p> <p><i>Artikel 16</i> Fuldstændig harmonisering</p> <p>1. Med forbehold af artikel 1, stk. 3, artikel 3, stk. 3, sjette afsnit, artikel 5, stk. 7, artikel 7, stk. 4, artikel 9 og artikel 18, stk. 2, og i det omfang dette direktiv indeholder bestemmelser om harmonisering, fastholder eller indfører medlemsstaterne ikke</p>	<p>PSE Act Section 39 t</p> <p>PSE Act Section 84(1)</p>	<p>PSE Act Section 39 t</p> <p>Section 84 on good business practice shall apply correspondingly to E-money institutions and undertakings with restricted authorisation to issue electronic money.</p> <p>PSE Act Section 84(1)</p> <p>Undertakings which provide payment services shall be operated in accordance with good business practice and good practice within the field of activity.</p>	<p>Lov om betalingstjenester § 39 t</p> <p>§ 84 om god skik finder tilsvarende anvendelse på e- pengeinstitutter og virksomheder med begrænset tilladelse til udstedelse af elektroniske penge.</p> <p>Lov om betalingstjenester § 84, stk. 1</p> <p>Virksomheder, der udbyder betalingstjenester, skal drives i overensstemmelse med redelig forretningsskik og god praksis inden for</p>	<p>PARTIALLY CONFORM</p> <p>Overall, the transposition of the Directive satisfies all the main requirements and principles of the Directive which are provided for in the national legislation and, in general, with due respect for the full harmonisation purpose of the Directive.</p> <p>Nevertheless, partial conformity and non-conformity has been observed regarding some of the provisions of the Directive, as further detailed below in the following.</p> <p>It should be noted that all but one case of non-conformity pertain to the fact that no NIM has been identified in regard to the Directive provision in question.</p> <p>It should furthermore be noted that pursuant to Section 39 t of the PSE Act, the requirement of good business practice which</p>

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	in this Directive.	andre bestemmelser end dem, der er fastsat i dette direktiv.		<p>virksomhedsområdet.</p> <p>applies to payment institutions under Section 84, shall apply <i>mutatis mutandis</i> to electronic money issuers. Further clarification might be enquired from Denmark as to the basis of this provision.</p> <p>Cases of partial conformity:</p> <p>Article 1(1), point (c) of the Directive as no NIM transposing this Directive provision has been identified, probably due to the fact that there would be no such post giro office institutions entitled to issue electronic money under Danish law.</p> <p>Article 1(1), point (d) of the Directive is not fully transposed due to uncertainties in regard to the Danish Central Bank when not acting in its capacity as monetary authority and the role of the European Central Bank.</p> <p>Article 1(4) of the Directive as no NIMs have been identified concerning the exemption in the second part of Article 3(k) of Directive 2007/64/EC of instruments that can be used to acquire goods or services under a commercial agreement with the issuer either within a limited network of service providers or for a limited range of goods or services.</p> <p>Article 5(1) of the Directive as no NIMs transposing the definition of own funds as set out in Articles 57 to 61, 63, 64 and 66 of Directive 2006/48/EC have been identified.</p> <p>Article 6(1), first subparagraph, point (c) due to a requirement of a link in the NIMs between payment services listed in the Annex to Directive 2007/64/EC and the issuing of</p>

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						<p>electronic money.</p> <p>Article 6(1), first subparagraph, point (d) due to a reference differing from the reference contained in the Directive provision to Article 4, point (6) of Directive 2007/64/EC.</p> <p>Article 7(1) of the Directive as no NIMs have been identified in regard to the first sentence of Article 9(2) of Directive 2007/64/EC, as referred to in the first sentence of Article 7(1) of the Directive, nor in regard to the deadline of five business days set out in the third sentence of Article 7(1) of the Directive.</p> <p>Article 9(2) of the Directive since undertakings in another Member State or in a country with which the Union has entered into an agreement for the financial area, are allowed to benefit from a waiver in Denmark.</p> <p>Article 9(6) of the Directive is transposed in regard to Article 9(1)(a), whereas no NIM has been identified in regard to Article 9(1)(b) and 9(2) of the Directive.</p> <p>No provision of Danish legislation transposing Article 9(9) of the Directive concerning notification to the Commission of the application of the waiver contained in Article 9 has been identified.</p> <p>Article 11(6), point (b) of the Directive as the requirement of a full refund applies to further activities than those activities referred to in Article 6(1)(e) of the Directive.</p> <p>Article 11(7) of the Directive as Section 5 a of the PSE Act might provide for a derogation from the requirements of Article 11 of the</p>

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						<p>Directive as a whole in the case of non consumers, and thus not only from the requirements of Article 11(4) to (6) of the Directive.</p> <p>Article 13 of the Directive on the basis of a finding of a somewhat unresolved applicability of Articles 80, 82 and 83 of Directive 2007/64/EC to electronic money issuers in respect of their duties arising from Title III of the Directive.</p> <p>Article 18(1), second subparagraph of the Directive as no NIM requiring electronic money institutions to submit all relevant information in order to assess compliance with the requirements of the Directive has been identified,</p> <p>Article 18(3), first sentence of the Directive, since this Directive provision refers to national law transposing Article 8 of Directive 2000/46/EC, whereas the NIM refers to national law transposing Article 9 of Directive 2009/110/EC and the waiver contained in each of these two directives differs in some regards.</p> <p>Cases of non-conformity:</p> <p>Article 5(4) of the Directive as no NIMs transposing this provision have been identified.</p> <p>Article 5(6) of the Directive as no NIMs transposing this provision have been identified.</p> <p>Article 7(2), second subparagraph of the Directive as no NIMs transposing this</p>

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						<p>provision have been identified.</p> <p>Article 9(1), second subparagraph of the Directive as no NIMs transposing this provision have been identified.</p> <p>Article 9(1), fourth subparagraph of the Directive as no NIMs transposing this provision have been identified.</p> <p>Article 9(3) of the Directive as Denmark allows for the freedom to provide services and the freedom of establishment for undertakings benefiting from an Article 9 waiver.</p>
Art. 16(2)	2. Member States shall ensure that an electronic money issuer does not derogate, to the detriment of an electronic money holder, from the provisions of national law implementing or corresponding to provisions of this Directive except where explicitly provided for therein.	2. Medlemsstaterne sikrer, at en udsteder af elektroniske penge ikke til skade for en indehaver af elektroniske penge fraviger de bestemmelser i national lov, der gennemfører eller svarer til bestemmelserne i dette direktiv, medmindre det udtrykkeligt er foreskrevet i disse.	<p>PSE Act Section 5 a</p> <p>PSE Act Section 87</p>	<p>PSE Act Section 5 a</p> <p>This Act may not be derogated from to the detriment of holders of electronic money, cf. however, paragraph (2).</p> <p>(2) The provision of section 39 s may be derogated from by agreement between the issuer and holders of electronic money, if the holder is not a consumer.</p> <p>PSE Act Section 87</p> <p>As part of its supervision, the Danish FSA may require that the undertaking submit all the information necessary for the Danish FSA's</p>	<p>Lov om betalingstjenester § 5 a</p> <p>Loven kan ikke fraviges til skade for indehavere af elektroniske penge, jf. dog stk. 2.</p> <p>Stk. 2. Bestemmelsen i § 39 s kan fraviges ved aftale mellem udstederen og indehavere af elektroniske penge, hvis indehaveren ikke er forbruger.</p> <p>Lov om betalingstjenester § 87</p> <p>Finanstilsynet kan som led i sit tilsyn kræve, at virksomheden fremlægger alle de oplysninger, der er nødvendige for</p>	<p>CONFORM</p> <p>Section 5 a and 87 of the PSE Act transpose the Directive provision.</p> <p>Section 5 a of the PSE Act lays down a prohibition on derogation to the detriment of electronic money holders, with the express exception of Section 39 s of the PSE Act concerning issuance and redeemability. This is thus a reference to the transposition of Article 11(7) of the Directive allowing for derogation in regard to redemption rights of electronic money holders, other than consumers.</p> <p>Moreover, Chapter 9 of the PSE Act contains provisions on the supervision by the Danish FSA of compliance with the rules set out in the PSE Act, including the provisions on electronic money contained in Chapter 3a of the PSE Act.</p> <p>In this regard, Section 87 of the PSE Act</p>

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				<p>activities, including information to determine whether a matter falls under the provisions of this Act.</p> <p>(2) The Danish FSA may carry out on-site inspections at undertakings subject to this Act, [...].</p> <p>(4) The Danish FSA may at all times, on proof of identity and without a court order, gain access to undertakings subject to this Act with a view to obtaining information, including during inspections.</p>	<p>Finanstilsynets virksomhed, herunder til afgørelse af, om et forhold falder ind under denne lovs bestemmelser.</p> <p>Stk. 2. Finanstilsynet kan udføre inspektioner på stedet hos virksomheder omfattet af denne lov [...].</p> <p>Stk. 4. Finanstilsynet kan til enhver tid mod behørig legitimation uden retskendelse få adgang til virksomheder omfattet af denne lov med henblik på indhentelse af oplysninger, herunder ved inspektioner.</p>	<p>grants the Danish FSA the right to require all the information necessary for its supervision activities and to carry out on-site inspections. To this end, the Danish FSA may, at all times and without a court order, gain access to undertakings subject to the PSE Act with a view to obtaining information, including during inspections.</p> <p>On the basis of the above findings, conformity is therefore concluded.</p>
Art. 18(1) 1st subpara.	<p><i>Article 18</i> Transitional provisions</p> <p>1. Member States shall allow electronic money institutions that have taken up, before 30 April 2011, activities in accordance with national law transposing Directive 2000/46/EC in the Member State in which their head office is located, to continue those activities in that Member State or in another</p>	<p><i>Artikel 18</i> Overgangsbestemmelser</p> <p>1. Medlemsstaterne tillader, at e-pengeinstitutter, der inden den 30. april 2011 har optaget deres virksomhed i henhold til national lovgivning om gennemførelse af direktiv 2000/46/EF i den medlemsstat, hvor de har hjemsted, fortsætter denne virksomhed i den medlemsstat eller i enhver</p>	E-money Act Section 6(1)	E-money Act Section 6(1)	Lov om elektroniske penge § 6, stk. 1	CONFORM
			<p>Legal persons who on 30 April 2011 carry out activities which, after entry into force of this Act, will require authorisation pursuant to section 39 a of the Payment Services and Electronic Money Act [...] may continue these activities in Denmark or in another country within the European Union without</p>	<p>Juridiske personer, der den 30. april 2011 udøver virksomhed, som efter lovens ikrafttræden vil kræve tilladelse efter § 39 a i lov om betalingstjenester og elektroniske penge [...] kan fortsætte denne virksomhed her i landet eller i et andet land inden for Den Europæiske Union uden tilladelse indtil den</p>	<p>Section 6(1) of the E-money Act transposes the Directive provision.</p> <p>Section 6(1) of the E-money Act sets out transitional provisions reflecting the requirements expressed in recital 23 of the Directive.</p> <p>Thus, in accordance with the Directive provision legal persons who on 30 April 2011 were carrying out activities which, after entry into force of the PSE Act, require authorisation as an electronic money institution pursuant to Section 39a of the PSE Act could continue these activities in</p>	

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	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.	anden medlemsstat i overensstemmelse med den gensidige anerkendelsesordning i direktiv 2000/46/EF, uden at de skal søge om tilladelse efter dette direktivs artikel 3 eller uden krav om overholdelse af de øvrige bestemmelser, der er fastlagt eller omhandlet i afsnit II i dette direktiv.		authorisation until 30 October 2011. The previous regulations applicable in the intervening period shall apply for these legal persons.	30. oktober 2011. For disse juridiske personer gælder de hidtil gældende regler i den mellemliggende periode.	Denmark or in another country within the European Union without authorisation until 30 October 2011. The second sentence, which lays down that the previous rules shall apply in the intervening period, would imply ex contrario that Title II of the Directive shall not apply in that period, in accordance with Article 18(1), first subparagraph of the Directive. On the basis of the above findings, conformity is therefore concluded.
Art. 18(1) 2nd subpar a.	Member States shall require such electronic money institutions to submit all relevant information to the competent authorities in order to allow the latter to assess, by 30 October 2011, whether the electronic money institutions comply with the requirements laid down in this Directive and, if not, which measures need to be taken in order to ensure compliance or whether a withdrawal of authorisation is appropriate.	Medlemsstaterne kræver, at disse e-pengeinstitutter fremsender alle relevante oplysninger til de kompetente myndigheder, således at disse senest den 30. oktober 2011 kan vurdere, om e-pengeinstitutterne overholder kravene i dette direktiv, og, hvis det ikke er tilfældet, hvilke foranstaltninger der skal træffes for at sikre, at kravene overholdes, eller om tilladelsen skal inddrages.	N/A	N/A	N/A	PARTIALLY CONFORM No NIM which directly transposes the Directive provision has been identified. An obligation for electronic money institutions to submit all relevant information in order to assess compliance with the requirements of the Directive might, however, be inferred by Section 6(1) of the E-money Act allowing the continuation of activities until 30 October 2011, but thus not further than this date. By this date, undertakings would therefore have to obtain an authorisation and thus submit relevant information in this regard. However, further clarification might be enquired from Denmark and prove useful in this regard. On the basis of the above findings, partial conformity is therefore concluded.

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Art. 18(1) 3rd subpar a.	Compliant electronic money institutions shall be granted authorisation, shall be entered in the register, and shall be required to comply with the requirements in Title II. Where electronic money institutions do not comply with the requirements laid down in this Directive by 30 October 2011, they shall be prohibited from issuing electronic money.	E-pengeinstitutter, der overholder kravene, meddeles tilladelse og optages i registret med krav om i øvrigt at overholde kravene i afsnit II. E-pengeinstitutter, der ikke overholder kravene i dette direktiv senest den 30. oktober 2011, forbydes at udstede elektroniske penge.	PSE Act Section 39 a PSE Act Section 88(1) E-money Act Section 6(1)	PSE Act Section 39 a Undertakings shall have authorisation as an e-money institution in order to issue electronic money. This shall not apply for banks, Danmarks Nationalbank and public authorities. (2) The Danish FSA shall grant authorisation when (1) the undertaking meets the requirements of section 7(2), points (1)-(3), (5)-(7) and (8), cf. section 19, (2) the undertaking meets the requirement for initial capital in section 39 f, and (3) if, in addition to issuing electronic money, the undertaking carries out other business activities, cf. section 39 e(1), points (2)-(4), appropriate measures have been taken to protect the funds belonging to holders of electronic money, cf. section 39 l. PSE Act Section 88(1) The Danish FSA shall set	Lov om betalingstjenester § 39 a Virksomheder skal have tilladelse som e-pengeinstitut for at kunne udstede elektroniske penge. Dette gælder ikke for pengeinstitutter, Danmarks Nationalbank og offentlige myndigheder. Stk. 2. Finanstilsynet giver tilladelse, når 1) virksomheden opfylder kravene i § 7, stk. 2, nr. 1-3, 5-7 og 8, jf. § 19, 2) virksomheden opfylder kravet til startkapital i § 39 f og 3) der, hvis virksomheden ud over udstedelse af elektroniske penge udfører andre forretningsaktiviteter, jf. § 39 e, stk. 1, nr. 2-4, er truffet passende foranstaltninger for at beskytte de midler, der tilhører indehavere af elektroniske penge, jf. § 39 l. Lov om betalingstjenester § 88,	CONFORM No NIM which directly transposes the Directive provision as such has been identified. However, Section 39 a of the PSE Act subjects the issuing of electronic money to a prior authorisation which shall be granted when requirements pertaining to Title II of the Directive are complied with. Such authorised electronic money institutions shall, in accordance with the Directive provision, be contained in a public register set up pursuant to Section 88(1), points (3) and (4) of the PSE Act. Finally, as further described above, Section 6(1) of the E-money Act transposes the transitional provisions contained in Article 18(1), first subparagraph of the Directive, thus allowing for the continuation of existing electronic money issuing activities until 30 October 2011. Ex contrario, these activities are thus not allowed after 30 October 2011 which de facto corresponds to a prohibition as laid down in the second sentence of Article 18(1), third subparagraph of the Directive. On the basis of the above findings, conformity is therefore concluded.

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			<p>up a public register of [...]</p> <p>(3) undertakings with authorisation as E-money institutions in Denmark, cf. section 39 a, and branches of these institutions, and</p> <p>(4) undertakings with restricted authorisation to issue electronic money, cf. section 39 p.</p> <p>E-money Act Section 6(1)</p> <p>Legal persons who on 30 April 2011 carry out activities which, after entry into force of this Act, will require authorisation pursuant to section 39 a of the Payment Services and Electronic Money Act [...] may continue these activities in Denmark or in another country within the European Union without authorisation until 30 October 2011. The previous regulations applicable in the intervening period shall apply for these legal persons.</p>	<p>stk. 1</p> <p>Finanstilsynet opretter et offentligt register over [...]</p> <p>3) virksomheder, der har fået tilladelse som e-penge-institut her i landet, jf. § 39 a, og disses filialer og</p> <p>4) virksomheder, der har fået begrænset tilladelse til udstedelse af elektroniske penge, jf. § 39 p.</p> <p>Lov om elektroniske penge § 6, stk. 1</p> <p>Juridiske personer, der den 30. april 2011 udøver virksomhed, som efter lovens ikrafttræden vil kræve tilladelse efter § 39 a i lov om betalingstjenester og elektroniske penge [...] kan fortsætte denne virksomhed her i landet eller i et andet land inden for Den Europæiske Union uden tilladelse indtil den 30. oktober 2011. For disse juridiske personer gælder de hidtil gældende regler i den mellemliggende periode.</p>	

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Art. 18(2)	2. Member States may provide for an electronic money institution to be automatically granted authorisation and entered in the register provided for in Article 3 if the competent authorities already have evidence that the electronic money institution concerned complies with the requirements laid down in Articles 3, 4 and 5. The competent authorities shall inform the electronic money institutions concerned before the authorisation is granted.	2. Medlemsstaterne kan bestemme, at et e-pengeinstitut automatisk meddeles tilladelse og optages i det i artikel 3 omhandlede register, hvis de kompetente myndigheder allerede har dokumentation for, at e-pengeinstituttet overholder kravene i artikel 3, 4 og 5. De kompetente myndigheder underretter de berørte e-pengeinstitutter, inden de meddeles tilladelse.	N/A	N/A	N/A	Article 18(2) of the Directive sets out an option. Concerning this option, Denmark has not chosen to implement it within its national legal system.
Art. 18(3)	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	3. Medlemsstaterne tillader, at e-pengeinstitutter, der inden den 30. april 2011 har optaget deres virksomhed i henhold til den nationale lovgivning om gennemførelse af artikel 8 i direktiv 2000/46/EF, fortsætter deres virksomhed i den pågældende medlemsstat i overensstemmelse med direktiv 2000/46/EF indtil den 30. april 2012, uden at de skal søge om tilladelse efter dette direktivs artikel	E-money Act Section 6(2) PSE Act Section 39 p(1)	E-money Act Section 6(2) Legal persons who on 30 April 2011 carry out activities covered by section 39p of the Payment Services and Electronic Money Act, as worded in section 1, point (12) of this Act, may continue these activities without authorisation until 30 April 2012. PSE Act Section 39 p(1) Restricted authorisation to	Lov om elektroniske penge § 6, stk. 2 Juridiske personer, der den 30. april 2011 udøver virksomhed omfattet af § 39 p i lov om betalingstjenester og elektroniske penge som affattet ved denne lovs § 1, nr. 12, kan fortsætte denne virksomhed uden tilladelse indtil den 30. april 2012. Lov om betalingstjenester § 39 p, stk. 1	PARTIALLY CONFORM Section 6(2) of the E-money Act transposes the Directive provision. Pursuant to Section 6(2) of the E-money Act, legal persons who on 30 April 2011 carried out activities covered by Section 39 p of the PSE Act could continue these activities without authorisation until 30 April 2012. Section 39 p of the PSE Act is the provision transposing the waiver contained in Article 9 of Directive 2009/110/EC, providing for a so-called restricted authorisation. Such a restricted authorisation may include electronic money stored in instruments with

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	<p>or to comply with the other provisions laid down or referred to in Title II of this Directive. Electronic money institutions which, during that period, have been neither authorised nor waived within the meaning of Article 9 of this Directive, shall be prohibited from issuing electronic money.</p>	<p>3 eller uden krav om overholdelse af de øvrige bestemmelser, der er fastlagt eller omhandlet i afsnit II i dette direktiv. E-pengeinstitutter, der i samme periode ikke er blevet meddelt en tilladelse eller en undtagelse i henhold til dette direktivs artikel 9, forbydes at udstede elektroniske penge.</p>	<p>issue electronic money in Denmark may include</p> <p>(1) electronic money stored in instruments with limited application for the purpose of acquiring goods or services, or</p> <p>(2) electronic money where the issuer's total liabilities in respect of outstanding electronic amounts never exceeds an amount corresponding to the value of EUR 5 000 000.</p> <p>[...].</p>	<p>En begrænset tilladelse til udstedelse af elektroniske penge her i landet kan omfatte</p> <p>1) elektroniske penge lagret på instrumenter med begrænset anvendelse til brug for erhvervelse af varer eller tjenesteydelser eller</p> <p>2) elektroniske penge, hvor udstederens samlede forpligtelser i forbindelse med uindfriele elektroniske beløb på intet tidspunkt overstiger et beløb, der modsvarer værdien af 5 mio. euro.</p> <p>[...].</p>	<p>limited application for the purpose of acquiring goods or services (Section 39 p(1), point (1)), or electronic money where the issuer's total liabilities in respect of outstanding electronic amounts never exceeds an amount corresponding to the value of EUR 5 000 000 (Section 39 p(1), point (2)).</p> <p>According to the explanatory notes in the Bill to Section 39 p of the PSE Act, instruments with limited application (Section 39 p(1), point (1)), shall be understood in the sense of Article 1(4) of the Directive. These instruments thus fall outside the scope of the Directive and the following comments shall therefore concern electronic money authorisations covered by Section 39 p(1), point (2) of the PSE Act, that is electronic money with outstanding issuer liabilities up to EUR 5 000 000.</p> <p>In regard to these, whereas Article 18(3) of the Directive refers to national law transposing Article 8 of Directive 2000/46/EC, the NIM rather refers to national law transposing Article 9 of Directive 2009/110/EC.</p> <p>The waiver contained in each of these two directives is not quite identical. Thus, for instance, the limit of the outstanding electronic money liabilities is EUR 6 000 000 pursuant to Article 8(1), point (a) of Directive 2000/46/EC, but EUR 5 000 000 pursuant to the national provision transposing the corresponding limit set out in in Article 9(1), point (a) of Directive 2009/110/EC.</p> <p>Another example is the obligation in Article</p>

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						<p>8(1), second subparagraph of Directive 2000/46/EC to set a maximum storage amount of not more than EUR 150. This former obligation to set a maximum storage amount is an option for Member States under Article 9(1), third subparagraph of Directive 2009/110/EC; an option which has not been transposed by Denmark.</p> <p>Thus, although the Danish implementation ensures that activities falling within the scope of a waiver, and which were pursued at the time of the transposition date of Directive 2009/110/EC, could continue until 30 April 2012, there are certain discrepancies in the transposition of the first sentence of Article 18(3) of the Directive.</p> <p>In regard to the second sentence of Article 18(3) of the Directive, no NIM which explicitly transposes this Directive provision has been identified. However, it could be inferred from the wording of Section 6(2) of the E-money Act that activities may be continued without authorisation until 30 April 2012 and thus, ex contrario, not later than that date. After 30 April 2012, authorisation is thus required, either a full authorisation pursuant to Section 39 a of the PSE Act or a so-called restricted authorisation pursuant to Section 39 p of the PSE Act. This would correspond to a prohibition on the continuation of activities without authorisation in the sense of the Directive provision.</p> <p>On the basis of the above findings in regard to the transposition of the first sentence of</p>

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						Article 18(3) of the Directive, partial conformity is concluded.