

Conformity Assessment of Directive 2009/110/EC FINLAND

Report
Version 2.0 – 08/02/2013

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NATIONAL IMPLEMENTING MEASURES

List of the national implementing measures notified to the European Commission	General observations
<p>Laki maksulaitoslain muuttamisesta (2011/899) Amending Act No 2011/899 on Payment Institutions (hereinafter referred to as the ‘API’)</p>	<p>Amending Act No 2011/899 on Payment Institutions modifies the Act on Payment Institutions (‘API’) in order to adapt it for the purpose of the transposition of this Directive into Finnish national legislation.</p> <p>Whereas the API provides in the first place on Payment Institutions, the scope of the API has been widened to include electronic money institutions. Consequently, whereas the API provides principally on Payment Institutions, its provisions apply, by consequence of Amending Act No 2011/899, <i>mutatis mutandis</i>, on electronic money institutions as well.</p> <p>No translation of the API was available on the website finlex.fi; consequently, a translation was provided for this assessment report. The API can however be found in Finnish on: http://www.finlex.fi/fi/laki/ajantasa/2010/20100297</p> <p>Amending Act No 2011/899 entered into force on 22 July 2011, about 3 months after the deadline provided by the Directive (30 April 2011).</p>
<p>Laki maksupalveulain muuttamisesta (2011/906) Amending Act No 2011/906 on Payment Services (hereinafter referred to as the ‘APS’)</p>	<p>Whereas Amending Act No 2011/906 on Payment Services did not contain any relevant provisions for the compliance assessment of this Directive, it was referred to its basic Act (Act No 2010/290) as regards the transposition of Article 6(1), 1st subparagraph, point (a). Specifically, Section 1(2), points 1 to 6 of the APS have transposed the Annex of Directive 2007/64/EC and thus, also Article 6(1), 1st subparagraph, point (a) of the Directive.</p> <p>No translation of the APS was available on the website finlex.fi; consequently, a translation was provided for this assessment report. The APS can however be found in Finnish on: http://www.finlex.fi/fi/laki/ajantasa/2010/20100290</p> <p>Amending Act No 2011/906 entered into force on 22 July 2011, about 3 months after the deadline provided by the Directive, on 30 April 2011.</p>

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<p>Laki luottolaitostoiminnan muuttamisesta (2011/901) Amending Act No 2011/901 on Credit Institutions (hereinafter referred to as the ‘ACI’)</p>	<p>Whereas Amending Act No 2011/901 on Credit Institutions did not contain any relevant provisions for the compliance assessment of this Directive, it was referred to its basic Act (Act No 2007/121) as regards the transposition of Article 1(1)(a) on the scope of application of this Directive.</p> <p>No translation of the ACI was available on the website finlex.fi; consequently, a translation was provided for this assessment report. The ACI can however be found in Finnish on: http://www.finlex.fi/fi/laki/ajantasa/2007/20070121</p> <p>Amending Act No 2011/901 entered into force on 22 July 2011, about 3 months after the deadline provided by the Directive, on 30 April 2011.</p>
<p>Laki ulkomaisen maksulaitoksen toiminnasta Suomessa annetun lain 12 §:n muuttamisesta (2011/900) Amending Act No 2011/900 of Section 12 on Foreign Payment Institutions in Finland (hereinafter referred to as the ‘AFPIF’)</p>	<p>Amending Act No 2011/900 and notably its Section 12 is relevant with regard to this compliance assessment as concerns Article 8 of the Directive which provides that branches of foreign payment institutions shall not receive more favourable treatment than an electronic money institution which has its head office in the EU.</p> <p>This Act is also relevant as regards the transposition of the scope of application of this Directive and its Article 1(1)(a).</p> <p>No translation of the AFPIF was available on the website finlex.fi; consequently, a translation was provided for this assessment report. The AFPIF can however be found in Finnish on: http://www.finlex.fi/fi/laki/alkup/2010/20100298</p> <p>Amending Act No 2011/900 entered into force on 22 July 2011, about 3 months after the deadline provided by the Directive, on 30 April 2011.</p>
<p>Laki finanssivalvonnasta annetun lain muuttamisesta (2011/902) Amending Act No 2011/902 on the Financial Supervisory Authority (hereinafter referred to as the ‘AFSA’)</p>	<p>Amending Act No 2011/902 on the Financial Supervisory Authority is relevant with regard to this compliance assessment as concerns Article 3(3) of the Directive which provides on the acquisition of shares in an electronic money institution.</p> <p>No translation of the AFSA was available on the website finlex.fi; consequently, a translation was provided for this assessment report. The AFSA can however be found in Finnish on: http://www.finlex.fi/fi/laki/alkup/2010/20100298</p> <p>Amending Act No 2011/902 entered into force on 22 July 2011, about 3 months after the deadline provided by the Directive, on 30 April 2011.</p>

NATIONAL IMPLEMENTING MEASURES

<p>Laki rahanpesun ja terrorismin rahoittamisen estämisestä ja selvittämisestä annetun lain 2 ja 16 §:n muuttamisesta (2011/907)</p> <p>Amending Act No 2011/907 of Section 2 and 16 of the Prevention and Clearing of Money Laundering and Terrorism Financing</p> <p>(hereinafter referred to as the ‘APCMLTF’)</p>	<p>Amending Act No 2011/907 on the Prevention and Clearing of Money Laundering and Terrorism Financing extends its scope of application to include payment institutions and electronic money institutions; it was relevant as regards the transposition of Article 9(8) of the Directive.</p> <p>Amending Act No 2011/907 entered into force on 22 July 2011, about 3 months after the deadline provided by the Directive, on 30 April 2011.</p> <p>No translation of the APCMLTF was available on the website finlex.fi; consequently, a translation was provided for this assessment report. The APCMLTF can however be found in Finnish on: http://www.finlex.fi/fi/laki/ajantasa/2008/20080503</p>
<p style="text-align: center;">List of additional national implementing measures referred to in the conformity assessment</p>	<p style="text-align: center;">General observations</p>
<p>Maksulaitoslaki (2010/297)</p> <p>Act No 2010/297 on Payment Institutions</p> <p>(hereinafter referred to as the ‘API’)</p>	<p>The Act on Payment Institutions is the basic Act of Amending Act No 2011/899 on Payment Institutions. As Amending Act No 2011/899 on Payment Institutions only modifies as necessary the API for the purpose of the transposition of this Directive, it is referred to this Act as regards the provisions in Amending Act No 2011/899.</p>
<p>Kirjanpitolaki (1997/1336)</p> <p>Act No 1997/1336 on Accounting</p> <p>(hereinafter referred to as the ‘AA’)</p>	<p>Act No 1997/1336 on Accounting was relevant as regards this compliance assessment with regard to the transposition of Article 5(6) of the Directive which purpose is to prevent the multiple use of elements eligible for own funds.</p> <p>As to the multiple use of elements eligible for own funds, it is also referred to Standard 4.3a of the Financial Supervisory Authority.</p> <p>No translation of the AA was available on the website finlex.fi; consequently, a translation was provided for this assessment report. The AA can however be found in Finnish on: http://www.finlex.fi/fi/laki/ajantasa/1997/19971336?search[type]=pika&search[pika]=kirjanpitolaki</p>

SUMMARY

1. Executive summary

From a general point of view, Finland has transposed the Directive article in a conform manner. The transposition was mainly carried out through existing legislation in the API and therefore it was only completed by Amending Act No 2011/899 on Payment Institutions. However, it was also completed through other specific national implementing measures which transposed specific parts of the Directive, such as the Act on Accounting and the Act on the Financial Supervisory Authority. As the API also transposed the Payment Services Directive (2007/64/EC) the same provisions also transpose part of this Directive on Electronic Money Institutions; these provisions apply unless specifically otherwise provided.

Consequently, as the main amendment to the API was the widening of its scope, as regards the terminology, the API only refers to ‘payment institutions’ and not to specifically to ‘electronic money institutions’. However, this terminological difference does not hamper the proper transposition of this Directive. In general, the API widely follows the structure and the terminology of Directive 2009/110/EC as a result of which it could be concluded that the transposition was done in a conform way, although some issues of partial and non-conformity were retrieved. In some provisions, an almost literal approach can be found whereas the Finnish law also uses occasionally a rather general wording.

The Financial Supervisory Authority (‘FSA’) is the supervisory authority as regards electronic money institutions. The AFSA provides for extensive powers for the purpose of its supervision tasks.

The issuance of electronic money is not considered as a deposit activity which credit institutions are only entitled to pursue. Funds of clients received by electronic money institutions for the issuance of electronic money shall be safeguarded in accordance with the API which follows the Directive provisions where these funds are not forwarded immediately.

2. The implementation of Directive 2009/110/EC

2.1. Scope

The Act on Payment Institutions is the main Act which transposes this Directive. Its scope of application has mainly just been widened in order to include electronic money institutions. Therefore, the API applies *mutatis mutandis* to electronic money institutions, unless otherwise provided.

2.2. Terminology

As the Act on Payment Institutions is the main Act which transposes this Directive, the national implementing measures (hereinafter referred to as ‘NIM’s’) refer often to ‘payment institutions’. However, this shall be read as ‘electronic money institutions’ as the API applies as well to electronic money institutions. It should also be observed, that where the Finnish law refers to “osake” or “osuus”, these two words are translated as ‘shares’

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, the transposition of Title I in the national legal order has been realised in a conform manner despite the different wording employed. Whereas the transposition of provisions relating to definitions has been unproblematic, a case of non-conformity has arisen with regard to the scope of application.

2.4.1.1. Article 1 – Subject matter and scope

Finland has in a general manner correctly transposed the scope of application of the Directive. Consequently, credit institutions, electronic money institutions and the Finnish Central Bank are recognised as electronic money issuers. However, it should be noted that post office giro institutions do not operate in Finland anymore. Moreover, public authorities are not considered as electronic money issuers and thus Article 1(1)(e) of the Directive has not been transposed in a conforming manner.

As regards Article 1(1)(c) and post office giro institutions, such institutions do not operate in Finland anymore.

As regards Article 1(3), Finland has waived the application the provisions of Title II of this Directive to the institutions referred to in Article 2 of Directive 2006/48/EC; Finland has transposed the option through Section 2(1), point 6 of the API and thus excluded the institutions referred to in Article 2 of Directive 2006/48/EC, 18th indent ('Teollisen yhteistyön rahasto Oy/Fonden för industriellt samarbete AB', and 'Finnvera Oyj/Finnvera Abp') from the scope of application of the API.

2.4.1.2. Article 2 – Definitions

Finland has transposed all the Directive definitions. However, the Finnish law includes 'natural persons' in the definition of 'electronic money institutions'. The definitions of 'electronic money' and '- issuer' have been directly transposed in a conforming manner. However, the definition on 'average outstanding money has been indirectly transposed in the API.

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

In principle, the provisions of Title II have been properly transposed. A certain number of issues of conformity have been encountered regarding the provisions on general prudential rules, safeguarding requirements, relations with third countries and optional exemptions. In terms of the wording employed, the transposition has been at most times almost literal or of an equivalent vocabulary.

2.4.2.1. Article 3 – General prudential rules

Finland has transposed the Directive provisions as regards the 'General prudential rules' from a general point of view in a conform manner. Moreover, as regards the requirements as

the change of activity or the acquisition or disposal of shares in an electronic money institution (Article 3(3) and (4)), these have been transposed almost literally or without any material discrepancies. However, article 3(3), second paragraph is considered to partially comply with the Directive article as the content of the acquirer's notification obligation is not established. It may be noted that the FSA is the competent supervisory authority to which the notification shall be made.

Article 3(4) of the Directive has been transposed in a conforming manner although the wording differs; thus a Finnish electronic money institution is allowed to 'redeem and distribute' electronic through a natural- or legal person who acts on its behalf.

As regards Article 3(5), it appears that an agent would be allowed to issue partially electronic money; thus partial conformity is observed.

2.4.2.2. Article 4 – Initial capital

Finland has transposed the capital requirements with regard to electronic money institutions in a conform manner; the initial own funds shall be at least 350 000 EUR.

2.4.2.3. Article 5 – Own funds

Finland has transposed the requirements on the electronic money institutions own funds in a conform manner. However, as regards Article 5(5), it provides that the own funds requirement may be lowered or increased for a maximum length of 3 years whereas the Directive does not contain such a limitation. Conformity has still been observed.

As regards Article 5(4), where the Directive provides that electronic money institutions shall be allowed to calculate its own funds requirements on the basis of a representative portion, the Finnish law provides for a justification different from the Directive: unreasonable costs.

2.4.2.4. Article 6 – Activities

Finland has transposed the Directive provisions as regards the activities of an electronic money institution in a conforming manner. An electronic money institution may provide all the payment services listed in Article 6(1). It may not take deposits (Article 6(2)) and the funds received shall be exchange to electronic money without delay (Article 6(3)) whereas they may not be used for the provision of credit (Article 6(1), second subparagraph).

2.4.2.5. Article 7 – Safeguarding requirements

Finland has transposed the Directive provisions on the safeguarding requirements generally in a conform manner. However, with regard to Article 7(2), 1st subparagraph, as the FSA shall provide on when securities or other investment items may be considered as low-risk or liquid and whereas it appears that it has not, the transposition of this Directive provision is incomplete; consequently, the Finnish law does not contain either a reference to an undertaking for collective investment in transferable securities (UCITS), referred to in the second subparagraph of the said Directive article and which units shall be considered low-risk assets.

2.4.2.6. Article 8 – Relations with third countries

Finland has transposed the Directive article on the relations with third countries generally in a conform manner. Electronic money institutions having their head office outside the Community do not enjoy more favourable treatment than electronic money institutions having their head office within the Community; no provision which would be more favourable for foreign electronic money institutions were retrieved in the Finnish legislation (Article 8(1)). However, as regards the notification obligation of the competent authority (Article 8(2)), the Finnish law does not contain such explicit provisions. Finally, as regards the possibility of the EU to conclude agreements with third countries (Article. 8(3)), it appears that this part of the Directive article did not require any transposing measure from the Member States.

2.4.2.7. Article 9 – Optional exemptions

As regards Article 9(1) of the Directive, Finland has transposed the option and waived the application of certain procedures and conditions as regards the issuance of electronic money for certain natural- and legal persons. It may also be noted that Finland has transposed the other requirements under Article 9 of the Directive as regards an electronic money institution which is allowed to issue electronic money without applying all the conditions and procedures in this Directive. An electronic money institution pursuant to this Directive article shall also have its head office in the Member State in which it actually pursues its business, be treated as an 'electronic money institution' and may not establish a secondary establishment or issue electronic money in another Member State of the EEA (Article 9(2) and (3)). Finland has not limited the activities of an electronic money institution pursuant to this Directive article (Article 9(4)). However, the notification and reporting obligations under Article 9(5) of the Directive have been correctly transposed. As regards Article 9(7), the FSA has large supervisory powers for the purpose of its supervision of electronic money institutions. Concerning Article 9(8), the APCMLTF applies on electronic money

institutions. However, as regards the notification obligation to the European Commission, the Finnish law does not contain such an explicit provision and thus partial conformity is observed.

2.4.3. Title III – Issuance and redeemability of electronic money

Only one case of partial conformity has been observed within Title III relating to the out-of-court complaint and redress procedures for the settlement of disputes. For the rest of the provisions, transposition has been realised in a conform manner and the wording employed has been either literal or, in the majority of cases, of an equivalent content.

2.4.3.1. Article 10 – Prohibition from issuing electronic money

Finland has correctly transposed Article 10 on the ‘Prohibition from issuing electronic money’; only electronic money institutions may issue electronic money;

2.4.3.2. Article 11 – Issuance and redeemability

Finland has correctly transposed Article 11 on ‘Issuance and redeemability’ of the electronic money; electronic money shall be issued at par value and it shall also be possible to redeem the money at any moment (Article 11(1) and (2)). The terms and conditions for redemption shall also be communicated to the electronic money holder as required by Article 11(3) whereas Article 11(4) on the applicable fees has been transposed almost literally. Redemption may also be asked in whole or in part (Article 11(5)). Finland has also correctly transposed Article 11(6) of the Directive and the conditions linked to the redemption up to one year after the termination of the contract. Freedom of contract applies for non-consumers (Article 11(7)).

2.4.3.3. Article 12 – Prohibition of interests

Finland has correctly transposed Article 12 on the ‘Prohibition of interest’; it is prohibited to provide interest for the funds received.

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

Finland has not provided explicitly for ‘Out-of-court complaint and redress procedures for the settlement of disputes’ in the API. Whereas the Finnish law has in general correctly transposed the provisions on the ‘out-of-court and redress procedures’ provided for under Chapter 5 of TITLE IV of Directive 2007/64/EC, Article 80 of the said Directive has not been transposed.

2.4.4. Title IV – Final provisions and implementing measures

In this Title, conformity is challenged with regard to the transitional provisions whereas the wording employed is of an equivalent content.

2.4.4.1. Article 16 – Full harmonization

It appears that Article 16 did not require an explicit transposition into national legislation.

2.4.4.2. Article 18 – Transitional provisions

Finland has provided for similar transitional provisions as the Directive; however, as regards Article 18(1), 2nd subparagraph, it has provided for a transitional period which is 12 months longer than in the Directive article. As regards Article 18(3), the corresponding transitional period is 18 months longer.

3. Conclusions on conformity

3.1. Cases of partial conformity

Article 2(1) – This Directive article regarding the definition of ‘electronic money institutions’ is partially transposed as the Finnish law includes natural persons in the definition of

‘electronic money institutions’ whereas the Directive only refers to ‘legal persons’;

Article 3(3), second subparagraph – This Directive article regarding the ‘general prudential rules’ is partially transposed; a Government Decree should provide for the information that shall be provided in relation to an acquisition of a holding in an electronic money institution; however, no Decree has been enacted;

Article 3(5) – This Directive article regarding the ‘general prudential rules’ is partially transposed as an agent would be allowed to issue electronic money contrary to the Directive provision;

Article 7(2), first subparagraph – This Directive article regarding the ‘safeguarding requirements’ is partially transposed as the Finnish law has not provided for a list of ‘low-risk’ and ‘liquid’ assets;

Article 9(1), first subparagraph: This Directive article regarding the ‘optional exemptions’ is partially transposed as the Finnish law also considers ‘natural persons’ as electronic money institutions as the Directive only considers ‘legal persons’ as electronic money institutions;

Article 9(9) – This Directive article regarding the ‘optional exemptions’ is partially transposed; The Finnish law does not contain provisions according to which Finland or the FSA shall notify the Commission whereas Finland has availed itself of the waiver provided for in Article 9(1) of the Directive;

Article 13 – This Directive article regarding the ‘out-of-court redress and complaint procedures’ is partially transposed; no corresponding provisions to Article 80 under Chapter 5 of Title IV of Directive 2007/64/EC were retrieved;

Article 18(1), second subparagraph – This Directive article regarding the ‘transitional provisions’ is partially transposed as the Finnish law has provided for a transitional period which is 12 months longer than provided for in the Directive article;

Article 18(3) – This Directive article regarding the ‘transitional provisions’ is partially transposed as the Finnish law has provided for a transitional period which is 18 months longer than provided for in the Directive article;

3.2. Cases of non-conformity

Article 1(1)(e) – This Directive article regarding the ‘subject matter and scope’ is not transposed as the Finnish law does not recognise public authorities as issuers of electronic money, when acting in their capacity as public authorities;

Article 7(2), second subparagraph: This Directive article regarding the ‘safeguarding requirements’ is not transposed as the Finnish law does not contain a provision according to which units in UCITS which invests solely in assets as specified in the first subparagraph of Article 7(2) shall also be considered as ‘secure, low-risk assets’;

Article 8(2) – This Directive article regarding the ‘relations with third countries’ is not transposed as the Finnish law does not contain a provision according to which the Commission shall be notified of all authorisations for branches of electronic money institutions having their head office outside the Community;

3.3. Option (‘May’ clause)

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

Article 1(3) of the Directive – Finland has applied the option and thus excluded ‘Teollisen yhteistyön rahasto Oy/Fonden för industriellt samarbete AB’, and ‘Finnvera Oyj/Finnvera Abp’ from the scope of application of the API.

Article 5(5): Finland has applied the option and thus the FSA may require that a higher amount of own funds be held or allow that a lower amount of own funds be held;

Article 5(7): Finland has applied the option as regards the application of the consolidated supervision with regard to the own funds requirement;

Article 7(1): Finland has transposed the Directive option under Article 9(2) of the PSD Directive which provides that ‘where a portion is variable or unknown in advance, Member States may allow payment institutions to apply this paragraph on the basis of a representative portion [...] reasonably estimated on the basis of historical data to the satisfaction of the competent authorities’;

Article 7(3): Finland has applied this option and consequently provided for alternative ways to safeguard the funds received for activities not linked to the issuance of electronic money;

Article 7(4): Finland has applied this option and provided for specific methods which shall safeguard the funds;

Article 9(1) 1st subparagraph: Finland has applied the option and thus, both natural- and legal persons may issue electronic money without applying all procedures and conditions set out in the Directive article. However, as the Directive does not refer to ‘natural persons’, partial conformity is observed;

Article 18(2): Finland has applied this option and thus allows electronic money institutions which already comply with the regulatory requirements to be automatically entered into the register of electronic money institutions

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

Article 3(3) sixth subparagraph – Finland does not seem to have applied this option and waived the application of all or part of the obligations with respect to electronic money institutions which carry out several activities;

Article 7(2), third subparagraph: Finland has not transposed the option with regard to own funds in ‘exceptional circumstances’. However, it seems that it would be up to the FSA to provide for measures in this situation; however, no measures could be retrieved;

Article 9(1) third subparagraph: Finland has not applied this option and thus not provided for a limitation on the amount of electronic money that may be stored on a payment instrument or a payment account;

Article 9(4): Finland has not applied this option and limited the activities that could be operated by an electronic money institution.

4. List of acronyms

AA – Act No 1997/336 on Accounting;

AFPIF – Act No 2010/298 on Foreign Payment Institutions in Finland;

AFSA – Act No. 2008/878 on the Financial Supervisory Authority;

APCMLTF – Act No 2008/503 on the Prevention and Clearance of Money Laundering and Terrorist Financing;

API – Act No. 2010/297 on Payment Institutions;

APS – Act No 2010/290 on Payment Services;

EEA – European Economic Area;

FSA – Financial Supervisory Authority.

Directive 2009/110/EC			National Implementing Measures			Conformity Assessment
Article No.	EN	FI	Act, Article No.	EN	FI	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>I OSASTO SOVELTAMISALA JA MÄÄRITELMÄT</p> <p>1 artikla Kohde ja soveltamisala</p> <p>1. Tässä direktiivissä säädetään sähköisen rahan liikkeeseen laskemisesta, jota varten jäsenvaltioiden on tunnustettava seuraavat sähköisen rahan liikkeeseenlaskijoiden luokat:</p>	N/A	N/A	N/A	<p>CONFORM</p> <p>The Finnish law does not contain an equivalent introductory wording; however, it complies with the underlying points of the Directive article.</p> <p>In general, Finland has transposed the Directive articles in a conform manner whereas there are some minor issues causing especially situations of partial conformity.</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 Directive, where such a branch is located within the Community and its head office is located outside the Community, in accordance with Article 38	a) luottolaitokset, sellaisina kuin ne ovat määritelyinä direktiivin 2006/48/EY 4 artiklan 1 kohdassa, mukaan lukien kansallisen lainsäädännön mukaisesti niiden saman direktiivin 4 artiklan 3 kohdassa tarkoitettujen sivukonttorit, jos tällainen sivukonttori sijaitsee yhteisössä, ja luottolaitoksen kotipaikka on yhteisön ulkopuolella	ACI, S. 30(1), point 6	ACI, S. 30(1), point 6 Authorized activities for deposit banks (1) Deposit banks may: 6) issue electronic money, deal with ancillary data processing and information storage on an electronic device for the account of another company;	ACI, 30 §, 1 mom. 6 kohta Talletuspankille sallittu liiketoiminta Talletuspankille sallittua liiketoimintaa on: 6) sähköisen rahan liikkeeseenlasku, siihen liittyvä tietojenkäsittely ja tietojen tallentaminen sähköiselle tietovälineelle muun yrityksen lukuun;	<p>CONFORM</p> <p>Section 30(1), point 6 of the ACI transposes Article 1(1)(a) of the Directive.</p> <p>Where the Directive recognises credit institutions as a category of electronic money issuers the ACI provides in its Section 30(1) that a deposit bank (credit institution) may issue electronic money.</p> <p>Section 9 of the ACI defines a deposit bank as a credit institution which is allowed to take deposits and other refundable assets.</p> <p>Following the second part of the Directive</p>

Directive 2009/110/EC		National Implementing Measures			Conformity Assessment	
	of that Directive;	saman direktiivin 38 artiklan mukaisesti;		<p>AFPIF, S. 12</p> <p>Marketing, contractual conditions and other methods</p> <p>Section 32 to 36 and Section 36a of the Act on Payment Institutions shall be applied unless otherwise provided in another Act to a branch of a foreign payment institution or a foreign payment institution which provides payment services in Finland.</p>	<p>AFPIF, 12 §</p> <p>Markkinointi ja sopimusehdot sekä muut menettelytavat</p> <p>Ulkomaisen maksulaitoksen sivukonttoriin ja ulkomaiseen maksulaitokseen, joka muuten tarjoaa Suomessa maksupalvelua, sovelletaan, mitä maksulaitoslain 32—36 ja 36 a §:ssä säädetään, jollei muualla laissa toisin säädetä.</p>	<p>article, the Finnish law provides that a foreign electronic money institution (Section 12 of the AFPIAF), in accordance with Article 38 of Directive 2006/48/EC, that Sections 32 to 36 and Section 36a of the API apply to foreign payment institutions and their branches unless otherwise provided in any other law; the said Sections provide for the conditions that an electronic money institution must comply with and notably as regards interest, contractual conditions and redemption.</p> <p>Therefore, foreign electronic money institutions or their branches shall not receive more favourable treatment than Finnish electronic money institutions.</p> <p>It shall however be noted that the AFPIF defines ‘foreign payment institutions’ as having received its authorisation in another Member State of the EEA; this seems however to comply with the Directive definition, as the Directive has EEA relevance.</p> <p>Consequently, whereas conformity is observed, some further information on this point could be required from Finland.</p>
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	b) sähköisen rahan liikkeeseenlaskijalaitokset, sellaisina kuin ne ovat määriteltynä tämän direktiivin 2 artiklan 1 kohdassa, mukaan lukien kansallisen lainsäädännön ja tämän direktiivin 8	API, 1 §, 1 mom	<p>API, S. 1(1)</p> <p>(1) This Act shall apply to business activities where payment services are provided. The provisions in this Act on payment services and payment institutions shall also be</p>	<p>API, 1 §, 1 mom.</p> <p>Tätä lakia sovelletaan liiketoimintaan, jossa tarjotaan maksupalvelua. Mitä tässä laissa säädetään maksupalvelusta ja maksulaitoksesta, sovelletaan myös</p>	<p>CONFORM</p> <p>Section 1(1) of the API transposes Article 1(1)(b) of the Directive.</p> <p>Where the Directive recognises electronic money institutions as a category which is allowed to issue electronic money, the Finnish law refers directly to electronic</p>

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	branch is located within the Community and its head office is located outside the Community;	artiklan mukaisesti niiden sivukonttorit, jos tällainen sivukonttori sijaitsee yhteisössä, ja sähköisen rahan liikkeeseenlaskijalaitoksen kotipaikka on yhteisön ulkopuolella;		applied on the issuance of electronic money and electronic money institutions, unless otherwise provided. (22.7.2011/899)	sähköisen rahan liikkeeseenlaskuun ja sähkörahayhteisöön, jollei jäljempänä toisin säädetä. (22.7.2011/899)	money institutions in its scope of application. Whereas it does not explicitly refer to foreign electronic institutions the Finnish law shall be considered to be implicitly referring to these. In addition, the AFPIF provides directly on the activity of foreign electronic institutions in Finland. Therefore, the Finnish law is considered to comply with the Directive article.
Art. 1(1)(c)	(c) post office giro institutions which are entitled under national law to issue electronic money;	c) postisiirtoa hoitavat laitokset, joilla on kansallisen lainsäädännön nojalla oikeus laskea liikkeeseen sähköistä rahaa;	API, S. 2(4)	API, S. 2(4) The Act on Postal Services 313/2001 has been repealed by Act No 29.4.2011/415 .	API, 2 §, 4 mom. PostipalveluL 313/2001 on kumottu L:lla 29.4.2011/415 .	CONFORM Post office giros are not considered as a means of payment in Finland anymore. As a matter of fact, the relevant legislation on this matter has been repealed: <ul style="list-style-type: none">– The Act on the Postal Bank has been repealed by Act No 2000/383;– The Act on Postal Services was repealed by Act No 2011/415. Moreover, according the relevant Government Bill (HE 6/2000), there was only one bank (Leonia) which was authorised to perform post office giros, but which did not at the time operate any such transactions anymore. Therefore, no post office giro institutions issue electronic money in Finland.
Art. 1(1)(d)	(d) the European Central Bank and national central banks when not acting in their capacity as monetary	d) Euroopan keskuspankki ja kansalliset keskuspankit, silloin kun ne eivät toimi raha- tai	API, S. 2(1) point 4	API, S. 2(1), point 4 (1) This act shall not apply to services provided by:	API, 2 §, 1 mom., 4 kohta Tätä lakia ei sovelleta palveluihin, joita tarjoaa:	CONFORM Section 2(1) point 4 of the API transposes Article 1(1)(d) of the Directive.

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	authority or other public authorities;	muina viranomaisina;		4) the European Central Bank, the Bank of Finland or another national central bank.	4) Euroopan keskuspankki, Suomen Pankki tai muu kansallinen keskuspankki;	<p>Whereas the Directive recognises the ECB and the national central banks as a category of electronic money issuers ‘when <i>not</i> acting in their capacity as monetary authority or other public authorities’ the API provides that it shall not apply to the ECB or to the Bank of Finland.</p> <p>However, the API shall be interpreted as referring to the said institutions precisely when these act in their capacity as monetary authority or other public authorities.</p> <p>This is also confirmed by Government Bill 179/2009 which introduced the API to the Finnish Parliament.</p> <p>Consequently, the Finnish law may be interpreted as considering the ECB and the Bank of Finland as electronic money issuers ‘when <i>not</i> acting in their capacity as monetary authority or other public authorities’ and that thus, the API shall apply to these when these issue electronic money.</p> <p>Therefore, the Finnish law is considered complying with the Directive article.</p>
Art. 1(1)(e)	(e) Member States or their regional or local authorities when acting in their capacity as public authorities.	e) jäsenvaltiot tai niiden alueelliset tai paikalliset viranomaiset, silloin kun ne toimivat viranomaisina.	API, S. 2(1) point 2	API, S. 2(1), point 2 (1) This act shall not apply to services provided by: 2) the government or another state official, the region of Åland, a municipality, association of municipalities or other local authority;	API, 2 §, 1 mom., 2 kohta Tätä lakia ei sovelleta palveluihin, joita tarjoaa: 2) Valtiokonttori tai muu valtion viranomainen, Ahvenanmaan maakunta, kunta, kuntayhtymä, muu alueellinen tai paikallisviranomainen;	NOT CONFORM Whereas the Directive recognises the Member States or their regional or local authorities as a category of electronic money issuers ‘when acting in their capacity as public authorities’ Section 2(1) point 2 of the API provides that it shall not apply to the mentioned public authorities (extensive list). Therefore, the Finnish law appears to be in contradiction with the Directive article as it

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						does not recognise 'regional or local authorities when acting in their capacity as public authorities' as electronic money institutions. Consequently, the Finnish law is considered not conformed with the Directive article.
Art. 1(2)	2. Title II of this Directive lays down the rules for the taking up, the pursuit and the prudential supervision of the business of electronic money institutions.	2. Tämän direktiivin II osastossa säädetään myös sähköisen rahan liikkeeseenlaskijalaitosten liiketoiminnan aloittamista, harjoittamista ja toiminnan vakauden valvontaa koskevista säännöksistä.	N/A	N/A	N/A	CONFORM Article 1(2) of the Directive does not require specific transposing measures; the conformity of the Articles under Title II of the Directive has been verified under the relevant articles.
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. Jäsenvaltiot voivat olla soveltamatta kaikkia tai osaa tämän direktiivin II osaston säännöksistä direktiivin 2006/48/EY 2 artiklassa tarkoitettuihin laitoksiin, lukuun ottamatta mainitun artiklan ensimmäisessä ja toisessa luetelmakohdassa tarkoitettuja laitoksia.	API, S. 2(1), point 6	API, S. 2(1), point 6 (1) This act shall not apply to services provided by: 6) companies defined in the Act on State-Owned Specialised Financing Companies (443/1998) or to companies defined in the Act on the Finnish Fund for Industrial Cooperation (291/1979).	API, 2 §, 1 mom., 6 kohta Tätä lakia ei sovelleta palveluihin, joita tarjoaa: 6) valtion erityisrahoitusyhtiöstä annetussa laissa (443/1998) tarkoitettu yhtiö tai Teollisen yhteistyön rahasto Oy -nimisestä osakeyhtiöstä annetussa laissa (291/1979) tarkoitettu yhtiö.	CONFORM Article 1(3) of the Directive provides for an option; Finland has transposed the option through Section 2(1), point 6 of the API. Following the Directive provision, Finland has excluded the institutions referred to in Article 2 of Directive 2006/48/EC, 18 th indent ('Teollisen yhteistyön rahasto Oy/Fonden för industriellt samarbete AB', and 'Finnvera Oyj/Finnvera Abp') from the scope of application of the API. Therefore, the Finnish law is considered to comply with the Directive article.
Art. 1(4)	4. This Directive does not apply to monetary value stored on instruments	4. Tätä direktiiviä ei sovelleta rahalliseen arvoon, joka on tallennettu	API, S. 2(2), point 3	API, S. 2(2), point 3 (2) This Act shall neither	API, 2 §, 2 mom. 3 kohta Tätä lakia ei sovelleta myöskään seuraaviin	CONFORM Section 2(2), point 3 of the API transposes

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	exempted as specified in Article 3(k) of Directive 2007/64/EC.	välineisiin, joille on myönnetty poikkeus direktiivin 2007/64/EY 3 artiklan k alakohdassa.		be applied on: 3) services based on instruments that can be used to acquire goods, services or other commodities only in the premises used by the issuer or under an agreement with the issuer either within a limited network of service providers or for defined goods or services;	palveluihin: 3) sellaisiin välineisiin perustuva palvelu, joita voidaan käyttää tavaran, palvelun tai muun hyödykkeen hankkimiseksi ainoastaan välineen liikkeeseenlaskijan käyttämissä tiloissa taikka liikkeeseenlaskijan kanssa solmitun sopimuksen nojalla joko hyödykkeen tarjoajien rajatussa verkossa tai määrättyjen hyödykkeiden hankkimiseksi.	Article 1(4) of the Directive. As a matter of fact, the Finnish law has almost literally transposed Article 3(k) of Directive 2007/64/EC. Consequently, the API does not apply to ‘monetary value stored on instruments exempted as specified in Article 3(k) of Directive 2007/64/EC’. Therefore, the Finnish law is considered to comply with the Directive article.
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(l) of Directive 2007/64/EC.	5. Tätä direktiiviä ei sovelleta rahalliseen arvoon, jota käytetään maksutapahtumissa, joille on myönnetty poikkeus direktiivin 2007/64/EY 3 artiklan l alakohdassa.	N/A	N/A	N/A	CONFORM Article 1(5) of the Directive has been implicitly transposed by the Finnish law. As a matter of fact, following Article 3(l) of Directive 2007/64/EC which provides that ‘where there is no intermediary between the buyer and the seller’ and ‘where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device’ Directive 2007/64/EC shall not apply, it may be implied negatively from the scope of the API, which does not provide that it shall apply in the situation provided for in the mentioned Directive article, that it shall not be applicable to the described situation. Therefore, the Finnish law is considered to

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						comply with the Directive provision.
Art. 2 intr. wording	<i>Article 2</i> Definitions For the purposes of this Directive, the following definitions shall apply:	<i>2 artikla</i> Määritelmät Tässä direktiivissä tarkoitetaan:	API, S. 5	API, S. 5 Definitions For the purpose of this Act:	API, 5 § Määritelmät Tässä laissa tarkoitetaan:	CONFORM Section 5 of the API transposes the introductory wording of Article 2 of the Directive.
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) "sähköisen rahan liikkeeseenlaskijalaitoksella" oikeushenkilöä, jolle on myönnetty II osaston nojalla sähköisen rahan liikkeeseen laskemiseen oikeuttava toimilupa;	API, S. 5, point 2(b) API, S. 6(1)	API, S. 5, point 2(b) 2b) 'electronic money issuer' means an electronic money institution or other natural or legal person which issues electronic money; (22.7.2011/899) API, S. 6(1) Authorisation requirement to provide payment services Payment services may only be provided where an authorisation has been issued according to this Act. The authorisation of an electronic money institution shall specifically show the right to issue electronic money. (22.7.2011/899)	API, 5 §, 2 b) kohta 2 b) sähköisen rahan liikkeeseenlaskijalla sähkörahayhteisöä ja muuta luonnollista tai oikeushenkilöä, joka laskee liikkeeseen sähköistä rahaa; (22.7.2011/899) API, 6 § 1 mom. Maksupalvelun tarjoamisen luvanvaraisuus Maksupalvelua saa tarjota vain, jos toimintaan on saatu tässä laissa tarkoitettu toimilupa. Sähkörahayhteisön toimiluvasta on erikseen käytävä ilmi oikeus laskea rahaa. (22.7.2011/899)	PARTIALLY CONFORM Section 5, point 2(b) of the API transposes Article 2, point 1 of the Directive. Whereas the Directive provision only refers to 'legal persons that have been granted authorisation [...] to issue electronic money', the Finnish law also refers to 'natural persons'. According to Section 6(1) of the API, an electronic money institution receives a specific authorisation before it may issue electronic money. Therefore, an electronic money institution shall comply with all authorisation requirements, which follows the second part of the Directive article. According to the provisions in Recital 25 of this Directive, it may be noted that electronic money institutions shall no longer be considered as credit institutions. Act No 2011/901 Amending the Act Credit Institutions deleted the reference to 'issuance of electronic money' in Section 4 of Act No 2007/121 on Credit Institutions which

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						<p>provides for the definition of ‘activity of credit institutions’; therefore, electronic money institutions shall not be considered as credit institutions anymore.</p> <p>Where Section 2 of the API simply provides that notably a public limited company may constitute a payment institution where it complies with the authorisation requirements in the API, this implies that a credit institution, which may be a public limited company, shall also be able to ‘issue electronic money’.</p> <p>Conclusively, and considering the above, it is considered that the Finnish law partially complies with the Directive requirements.</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) "sähköisellä rahalla" sähköisesti tai magneettisesti tallennettua rahallista arvoa, joka ilmenee liikkeeseenlaskijaan kohdistuvana saatavana, joka on laskettu liikkeeseen vastaanotettuja varoja vastaan direktiivin 2007/64/EY 4 artiklan 5 kohdassa määriteltyjä maksutapahtumia varten ja jonka muu luonnollinen henkilö tai oikeushenkilö kuin sähköisen rahan liikkeeseenlaskija itse ottaa vastaan;</p>	<p>API, S. 5, point 6a)</p>	<p>API, S. 5, point 6a)</p> <p>6a) <i>electronic money</i> means an amount of money which has been electronically or magnetically stored against a payment made to an issuer of electronic money and which one or several businesses have committed to accept as payment; (22.7.2011/899)</p> <p>API, S. 5, point 5)</p> <p>5) <i>payment transaction</i> means an operation where funds are transferred, withdrawn or made</p>	<p>API, 5 §, 6 a kohta</p> <p>6 a) <i>sähköisellä rahalla</i> raha-arvoa, joka on tallennettu sähköisesti tai magneettisesti sähköisen rahan liikkeeseenlaskijalle suoritettua rahamäärää vastaan maksutapahtumien tekemistä varten ja jonka yksi tai useampi yritys on sitoutunut hyväksymään maksuksi; (22.7.2011/899)</p> <p>API, 5 §, 5 kohta</p> <p>5) <i>maksutapahtumalla</i> toimenpidettä, jolla varoja siirretään, nostetaan tai asetetaan käytettäväksi;</p>	<p>CONFORM</p> <p>Section 5, point 6a of the API transposes Article 2 point 2 of the Directive.</p> <p>Whereas the wording is comparable, the Finnish law has transposed the Directive definition in a streamlined manner.</p> <p>Notably, it only refers to ‘undertakings’ that have committed to accept electronic money as payment, whereas the Directive refers to ‘natural or legal person[s]’.</p> <p>Whereas the Finnish law does neither refer to specific payment transactions where electronic money may be used according to point 5 of Article 4 of Directive 2007/64/EC, it seems that this may be implied in a general manner.</p> <p>Moreover, a ‘payment transaction’ is defined</p>

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				available; (22.7.2011/899)	(22.7.2011/899)	<p>in Section 5 point 5 of the API as an operation where ‘funds are transferred, withdrawn or made available’.</p> <p>The above definition corresponds to Article 4 point 5 of Directive 2007/46/EC; thus, the definition provided for in the Finnish law may be considered as complying with the Directive definition.</p> <p>Where Recital 8 of this Directive provides in a detailed wording that the definition of ‘electronic money’ should be ‘technically neutral’, the definition in the Finnish law, while not providing for any detailed technical description of ‘electronic money’, may be considered as providing for a neutral definition.</p> <p>Moreover, Government Bill HE 2/2011 on the modification of the API provides also in its point 3 that this definition of ‘electronic money’ shall be considered as ‘neutral as regards the used devices’.</p> <p>Therefore, considering the above, the Finnish law is considered to comply with the Directive definition.</p>
Art. 2 pt (3)	3. "electronic money issuer" means entities referred to in Article 1(1), institutions benefiting from the waiver under Article 1(3) and legal persons benefiting from a waiver under Article 9;	3) "sähköisen rahan liikkeeseenlaskijalla" 1 artiklan 1 kohdassa tarkoitettuja tahoja, laitoksia, joihin sovelletaan 1 artiklan 3 kohdassa tarkoitettua poikkeusta, ja oikeushenkilöitä, joihin sovelletaan 9 artiklassa	API, S. 5, point 2b)	API, S. 5, point 2b) 2b) <i>electronic money issuer</i> means an electronic money institution or other natural- or legal person which issues electronic money; (22.7.2011/899)	API, 5 §, 2 b) kohta 2 b) <i>sähköisen rahan liikkeeseenlaskijalla</i> sähkörahayhteisöä ja muuta luonnollista tai oikeushenkilöä, joka laskee liikkeeseen sähköistä rahaa;	CONFORM Section 5, point 2b of the API transposes Article 2 point 3 of the Directive. The said Directive article has been transposed in a streamlined manner as the Finnish law does not refer specifically to any entities in comparison to the Directive article. However, as the API has also transposed

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		tarkoitettua poikkeusta;			(22.7.2011/899)	Directive 2007/46/EC, it has also transposed the personal scope of application of the said Directive, which corresponds to the one in Article 1(1) of this Directive. The same applies as regards the institutions benefiting from the waiver under Article 1(3) of this Directive.
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) "keskimäärin liikkeessä olevalla sähköisellä rahalla" kuuden edeltävän kalenterikuukauden aikana kunkin kalenteripäivän lopussa liikkeeseen laskettuun sähköiseen rahaan liittyvien rahoitusvastuiden kokonaismäärän keskiarvoa; laskelma tehdään kunkin kalenterikuukauden ensimmäisenä kalenteripäivänä ja sitä sovelletaan kyseiseen kalenterikuukauteen.	API, S. 30a(2)	API, S. 30a(2) (22.7.2011/899) (2) The average outstanding electronic money referred to in paragraph 1 shall be calculated as the average total pay-back obligation of the issued electronic money at the end of each calendar day during the six previous calendar months	API, 30 a §, 2 mom (22.7.2011/899) Edellä 1 momentissa tarkoitettu liikkeessä olevan sähköisen rahan keskimäärä lasketaan kuuden edeltävän kalenterikuukauden aikana kunkin kalenteripäivän lopussa liikkeessä olevan sähköiseen rahaan liittyvän yhteenlasketun takaisinmaksuvelvollisuuden keskiarvona.	CONFORM Section 30a(2) of the API almost literally transposes Article 2 point 4 of the Directive, whereas the wording differs some, there are no material discrepancies. Whereas the Finnish law does not directly provide for a definition of ‘average outstanding electronic money’ the API provides in its Section 30a on an ‘Electronic money institutions minimum own funds’ for the calculation method of the average outstanding electronic money, which corresponds to the definition provided for in the Directive article.
Art. 3(1)	TITLE II REQUIREMENTS FOR THE TAKING UP, PURSUIT AND PRUDENTIAL SUPERVISION OF THE BUSINESS OF ELECTRONIC MONEY INSTITUTIONS <i>Article 3</i>	II OSASTO SÄHKÖISEN RAHAN LIIKKEESEENLASKIJ ALAITOSTEN LIIKETOIMINNAN ALOITTAMISTA JA HARJOITTAMISTA JA TOIMINNAN VAKAUDEN VALVONTAA	API, 1 §, 1 mom	API, S. 1(1) (1) This Act shall apply to business activities where payment services are provided. The provisions in this Act on payment services and payment institutions shall also be applied on the issuance of	API, 1 §, 1 mom. Tätä lakia sovelletaan liiketoimintaan, jossa tarjotaan maksupalvelua. Mitä tässä laissa säädetään maksupalvelusta ja maksulaitoksesta, sovelletaan myös sähköisen rahan	CONFORM Section 1(1) of the API transposes Article 3(1) of the Directive. Where the Directive provides specifically that certain articles of Directive 2007/64/EC shall as well apply <i>mutatis mutandis</i> to electronic money institutions, the Finnish law provides that the API (which transposes Directive 2007/64/EC) shall apply to electronic money

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<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>KOSKEVAT VAATIMUKSET</p> <p>3 artikla Yleiset toiminnan vakauden valvontaa koskevat säännöt</p> <p>1. Sähköisen rahan liikkeeseenlaskija-laitoksiin sovelletaan direktiivin 2007/64/EY 5 artiklaa, 10–15 artiklaa, 17 artiklan 7 kohtaa ja 18–25 artiklaa soveltuvin osin, sanotun kuitenkaan rajoittamatta tämän direktiivin soveltamista.</p>	<p>electronic money and electronic money institutions, unless otherwise provided. (22.7.2011/899)</p>	<p>liikkeeseenlaskuun ja sähkörahayhteisöön, jollei jäljempänä toisin säädetä. (22.7.2011/899)</p>	<p>institutions and to the activity of the issuance of electronic money ‘unless otherwise provided’.</p> <p>Therefore, the API applies in a general manner as well to electronic money institutions.</p> <p>It may also be pointed out that the API has transposed the mentioned articles of Directive 2007/64/EC in a conform manner.</p> <p>As regards the transposition of the mentioned articles:</p> <ul style="list-style-type: none"> - Government Decree 2011/554 transposes Article 5 of the Directive 2007/64/EC; - Section 5, 6, 13 and 22 of the API transpose Article 10 of the said Directive; - Section 12 of the API and Chapter 9 on ‘Delivery’ of the Act on Administrative Procedure transpose Article 11 of the said Directive; - Section 18 of the API, Section 26 of the AFSA and Section and Section 45 and 54 of the Act on Administrative Procedure transpose Article 12 of the said Directive; - Section 16 of the API transposes Article 13 of the said Directive; - Section 11 of the API transposes Article 14 of the said Directive; - Section 1, third subparagraph, point 7 of Chapter 8 of the Act on

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						<p>Accounting transposes Article 15 of the said Directive;</p> <ul style="list-style-type: none"> - Section 23 of the API transposes Article 17(7), first and second subparagraphs of the said Directive whereas no provision was retrieved for Article 17(7), third subparagraph of the said Directive; - Section 23 and 24 of the API transposes Article 18 of the said Directive; - Section 20 of the API transposes Article 19 of the said Directive; - Section 4 of the API and Section 83 of the APS transpose Article 20 of the said Directive; - Section 18, 24, 26, 33 of the AFSA transpose Article 21 of the said Directive; - Section 71 of the AFSA and Section 22 of the Act on the Publicity of the Activity of Civil Servants transpose Article 22 of the said Directive; - Section 73 of the AFSA transposes Article 23 of the said Directive; - Section 50 and 71 of the AFSA transpose Article 24 of the said Directive; - Section 42 and 45 of the API and Section 50, 54 and 60 of the AFSA transpose Article 25 of the said Directive.

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						Whereas no NIM was available at the time of the assessment of Directive 2007/64/EC as regards its Article 5, Government Decree 2011/554 on the ‘Reports that shall be Included in the Authorisation Request’ has since been made available on the official website finlex.fi and has, <i>prima facie</i> , correctly transposed the said Directive article. Therefore, based on the above, the Finnish law is considered to comply with the Directive article.
Art. 3(2)	2. Electronic money institutions shall inform the competent authorities in advance of any material change in measures taken for safeguarding of funds that have been received in exchange for electronic money issued.	2. Sähköisen rahan liikkeeseenlaskijalaitosten on ilmoitettava toimivaltaisille viranomaisille etukäteen kaikista tärkeistä muutoksista toimitissa, joilla turvataan sähköistä rahaa vastaan vastaanotetut varat.	API, S. 26(6)	API, S. 26(6) (6) A payment institution shall inform the FSA in advance of any significant change in the activities in which the payment institution has engaged in order to apply this Section. FSA STD 6.1, S. 9(2), point 12 9.2. Safeguarding of client funds (12) Thus, a payment institution which only provides payment services should arrange for the safeguarding of the client funds in a reliable manner. This implies at least the following:	API, 26 §, 6 mom. Maksulaitoksen on ilmoitettava etukäteen Finanssivalvonnalle merkittävistä muutoksista toimitissa, joihin maksulaitos on ryhtynyt tämän pykälän noudattamiseksi. FSA STD 6.1, 9 kohdan 2 alakohdan 12 alakohta 9.2 Asiakasvarojen suojaaminen (12) Siten myös sellaisen maksulaitoksen, joka harjoittaa ainoastaan maksupalvelun tarjoamista, tulisi järjestää asiakasvarojen suojaaminen luotettavalla tavalla. Tämä tarkoittaa	CONFORM Section 26(6) of the API almost literally transposes Article 3(2) of the Directive. Where the Finnish law refers to the application of ‘this Section’, it refers to Section 26 on the ‘Safeguarding of client funds’. However, according to Section 26(1) of the API, payment institutions which carry out ‘other activities’ shall safeguard their funds. Nevertheless, FSA Standard 6.1 , Section 9(2), point 12 provides that even where only payment services (electronic money, by comparison) are provided, safeguarding measures shall be applied. Thus, also electronic money institutions which would only issue electronic money shall safeguard the client funds. Where Recital 14 of the Directive provides detailed guidance on what changes the electronic money institution should notably

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				[...]	ainakin seuraavaa: [...]	<p>inform the competent authority about (change in the safeguarding method, a change in the credit institution where safeguarded funds are deposited, or a change in the insurance undertaking or credit institution which insured or guaranteed the safeguarded funds), the Finnish law has not provided for such details.</p> <p>However, the general wording in the Finnish law, which follows the Directive article, shall also be interpreted within the light of the guidance provided in Recital 14 of the Directive.</p> <p>Therefore, considering the above, the Finnish law is considered to comply with the Directive article.</p>
Art. 3(3) 1st subparagraph a.	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	3. Jokaisen luonnollisen henkilön tai oikeushenkilön, joka päättää hankkia tai luovuttaa joko välittömästi tai välillisesti direktiivin 2006/48/EY 4 artiklan 11 kohdassa tarkoitetun määräosuuden sähköisen rahan liikkeeseenlaskijalaitokses sa taikka lisätä tai vähentää välittömästi tai välillisesti tällaista määräosuutta, minkä seurauksena hänen osuutensa pääomasta tai äänioikeuksista nousisi 20 prosenttiin tai sen yli tai	API, S. 21a(1), (2) and (4)	API, S. 21a(1), (2) and (4) (22.7.2011/899) Information obligation as regards the acquisition and sale of shares and holdings in electronic money institutions (1) Anyone who intends directly or indirectly acquire shares, holdings or investment shares or a share in its equity or make a contribution in an electronic money institution shall inform the FSA in advance if his or her ownership, through the	API, 21 a §, 1, 2 ja 4 mom. (22.7.2011/899) Sähkörahayhteisön osakkeiden ja osuuksien hankintaa ja luovutusta koskeva ilmoitusvelvollisuus Jokaisen, joka aikoo suoraan tai välillisesti hankkia sähkörahayhteisön osakkeita, osuuksia tai sijoitusosuuksia taikka osuuden yhtiön peruspääomasta tai yhtiöpanoksesta, on ilmoitettava siitä etukäteen Finanssivalvonnalle, jos	CONFORM Section 21a(1),(2) and (4) of the API almost literally transposes Article 3(3), first subparagraph of the Directive. Whereas the structure of the Finnish law differs from the Directive provision, it refers in an equivalent manner to the same limits as the Directive as regards: <ul style="list-style-type: none"> - direct holdings in the electronic money institution; - voting rights in the electronic money institution; or - any comparable rights or other significant influence in the electronic money institution's administration. <p>These different aspects of exercise of power</p>

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50 %, or so that the electronic money institution would become or cease to be its subsidiary, shall inform the competent authorities of their intention in advance of such acquisition, disposal, increase or reduction.	laskisi mainittuun rajaan tai sen alle, nousisi 30 prosenttiin tai sen yli tai laskisi mainittuun rajaan tai sen alle tai nousisi 50 prosenttiin tai sen yli tai laskisi mainittuun rajaan tai sen alle, taikka siten, että sähköisen rahan liikkeeseenlaskija-laitoksesta tulisi hänen tytäryhtiönsä tai se lakkaisi olemasta hänen tytäryhtiönsä, on ilmoitettava tällaisesta hankkimisesta, luovuttamisesta, lisäämisestä tai vähentämisestä etukäteen toimivaltaisille viranomaisille.	acquisition would: 1) be at least 20 per cent of the shares, holdings, investment shares or share in its equity or of the contribution; 2) would increase as much as to correspond to at least 20 per cent of the total voting rights produced by the shares or holdings; or 3) in any other way provide significant influence comparable to ownership in the administration of the electronic money institution. (2) If the ownership referred to in paragraph 1 is increased in a manner which increases it to between 30 and 50 per cent of the shares, holdings or investment shares or a share in its equity or of the contribution in an electronic money institution or where the ownership would correspond to an equivalent share of the total voting rights produced by the share or	hänen omistuksensa hankinnan johdosta: 1) olisi vähintään 20 prosenttia sähkörahayhteisön osake-, osuus-, sijoitusosuus- tai peruspääomasta tai yhtiöpanoksesta; 2) olisi niin suuri, että se vastaisi vähintään 20:tä prosenttia kaikkien osakkeiden tai osuuksien tuottamasta äänimäärästä; tai 3) muutoin oikeuttaisi käyttämään 2 kohdassa tarkoitettuun omistukseen rinnastettavaa tai muuten merkittävää vaikutusvaltaa sähkörahayhteisön hallinnossa. Jos 1 momentissa tarkoitettua omistusta aiotaan lisätä siten, että omistus hankinnan johdosta olisi vähintään 30 tai 50 prosenttia sähkörahayhteisön osake-, osuus-, sijoitusosuus- tai peruspääomasta tai yhtiöpanoksesta tai omistus vastaisi samansuuruisia osuutta kaikkien osakkeiden tai osuuksien tuottamasta	within an electronic money institution seem to comply with the definition provided for in point 11 of Article 4 of Directive 2006/48/EC to which the Directive article refers. Consequently, and in line with the Directive requirement, where the limits in the abovementioned points exceed or fall below 20 %, 30 %, 50 % or where an electronic money institution becomes or ceases to be a subsidiary, the relevant person shall inform the FSA, which is the competent authority. Therefore, considering the above, the Finnish law is complying with the Directive article.

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				<p>holding or where the electronic money institution would become a subsidiary, the FSA shall also be informed in advance on this acquisition.</p> <p>(4) The notification referred to in paragraph 1 or 2 shall also be done where the owned shares or holdings fall below one of the ownership limits referred to in paragraph 1 or 2 or where the electronic money institution ceases to be a subsidiary of the person who has the notification obligation.</p>	<p>äänimäärästä, taikka sähkörahayhteisöstä tulisi tytäryritys, myös tästä hankinnasta on ilmoitettava etukäteen Finanssivalvonnalle.</p> <p>Edellä 1 tai 2 momentissa tarkoitettu ilmoitus on tehtävä myös, jos omistettujen osakkeiden tai osuuksien määrä laskee jonkin 1 tai 2 momentissa säädetyn omistusrajan alapuolelle tai sähkörahayhteisö lakkaa olemasta ilmoitusvelvollisen tytäryritys.</p>	
Art. 3(3) 2nd subpar a.	The proposed acquirer shall supply to the competent authority information indicating the size of the intended holding and relevant information referred to in Article 19a(4) of Directive 2006/48/EC.	Hankkimista kaavailevan on toimitettava toimivaltaiselle viranomaiselle tiedot aiotun määräosuuden koosta ja muut, direktiivin 2006/48/EY 19 a artiklan 4 kohdassa tarkoitetut asianmukaiset tiedot.	API, S. 21b (1) and (6) AFSA, S. 32a	<p>API, S. 21b (1) and (6) (22.7.2011/899)</p> <p>Limitation on the acquisition of shares and holdings in an electronic money institution</p> <p>(1) Section 32a of the AFSA provides on the FSA's right to prohibit the acquisition of the ownership share according to Section 21a and its Section 32b provides on the procedures regarding</p>	<p>API, 21 b §, 1 ja 6 mom. (22.7.2011/899)</p> <p>Sähkörahayhteisön osakkeiden ja osuuksien hankintaa koskeva rajoitus</p> <p>Finanssivalvonnan oikeudesta kieltää 21 a §:ssä tarkoitettu omistusosuuden hankinta säädetään Finanssivalvonnasta annetun lain 32 a §:ssä ja kieltopäätöksen antamista</p>	<p>PARTIALLY CONFORM</p> <p>Section 21b(1) and (6) of the API and Section 32a of the AFSA transpose Article 3(3), second subparagraph of the Directive.</p> <p>It appears that the purpose of the information requirement set out in the Directive article is precisely to allow the relevant competent authorities to prohibit the acquisition of a holding in the electronic money institution.</p> <p>Section 21b(1) of the API refers to Section 32a of the AFSA which provides on the FSA's authority to prohibit an acquisition in an electronic money institution.</p>

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		<p>the prohibition decision.</p> <p>(6) A government decree shall provide on the information that shall be annexed in the notifications referred to in this Section.</p> <p>AFSA, S. 32a (27.3.2009/207)</p> <p>Prohibition of the acquisition of an ownership share</p> <p>Where the FSA has received the notification referred to in Section 21a of the API it may prohibit the acquisition of the ownership share referred to in the mentioned provisions in an electronic money institution [...] (<i>target company</i>), if the ownership of the share would endanger the target company being run according to sound and prudent business principles or, where the target company is an insurance company, the insured interests where there are grounds to doubt: (29.12.2011/1493)</p>	<p>koskevasta menettelystä mainitun lain 32 b §:ssä.</p> <p>Tässä pykälässä tarkoitettuihin ilmoituksiin liitettävistä tiedoista säädetään valtioneuvoston asetuksella.</p> <p>AFSA 32 a § (27.3.2009/207)</p> <p>Omistussuuden hankinnan kieltäminen</p> <p>Finanssivalvonta voi saatuun [...] maksulaitoslain 21 a §:ssä [...] tarkoitetun ilmoituksen kieltää mainituissa lainkohdissa tarkoitetun omistussuuden hankinnan [...] sähkörahayhteisössä [...] (<i>kohdeyritys</i>), jos osuuden omistus vaarantaisi kohdeyrityksen terveiden ja varovaisten liikeperiaatteiden mukaisen toiminnan tai, jos kohdeyritys on vakuutusyhtiö, vakuutetut edut sillä perusteella, että on perusteltua aihetta epäillä: (29.12.2011/1493)</p> <p>1) ilmoitusvelvollisen</p>	<p>As Section 32a of the AFSA provides that the FSA may prohibit the acquisition of a holding in an electronic money institution where ‘it would endanger the electronic money institution’s operations being run according to sound and prudent business principles’, this corresponds in a general manner to the reasons provided for in Article 19a(4) (and/or to Article 19a(1)) of Directive 2006/48/EC).</p> <p>Whereas, and as regards electronic money institutions, the Finnish law does not explicitly refer to Article 19a(4) (and/or to Article 19a(1)) of Directive 2006/48/EC, a similar regime is applied as regards insurance companies.</p> <p>However, Section 33c of the AFSA provides that the voting rights may be cancelled where the operations of an electronic money institution has been endangered as provided for in Section 32a of the AFSA.</p> <p>This Section notably refers to suspicions in the sufficiency of the electronic money institution’s reputation and financial position; the reliability of the management in the acquired company or the endangering of other conditions in relation to the authorisation certificate; the supervision of the electronic money institution or related information exchange between competent authorities; or terrorism financing or money laundering.</p> <p>Section 21a(6) of the API provides that a Government Decree shall provide for the information that shall be provided in relation with the acquisition of the holding; however, no Government Decree which would provide</p>

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				<p>1) on the adequacy of the reputation or economical situation of the person which has a notification obligation ;</p> <p>2) on the target company's management's trustworthiness or suitability or the endangering of any other authorisation requirements in the target company due to the acquisition ;</p> <p>3) on the endangering of the target company's supervision or the conditions for information exchange between authorities due to the acquisition ;</p> <p>4) on the connection of the acquisition to money laundering or terrorist financing. (22.7.2011/902)</p>	<p>mainetta tai taloudellisen aseman riittävyyttä;</p> <p>2) kohdeyrityksen johdon luotettavuuden tai sopivuuden taikka muiden toimilupaedellytysten vaarantumista kohdeyrityksessä hankinnan johdosta;</p> <p>3) kohdeyrityksen valvonnan ja siihen liittyvän viranomaisten tietojenvaihdon edellytysten vaarantumista hankinnan johdosta; tai</p> <p>4) hankinnan liittymistä rahanpesuun tai terrorismin rahoitukseen. (22.7.2011/902)</p>	<p>on the said information could be retrieved on Finlex.</p> <p>Consequently, whereas the Finnish law generally complies with the Directive article, it is considered partially conforming to the Directive article due to the absence of the Government Decree (which should provide for what information should be provided) referred to above.</p>
Art. 3(3) 3rd subpar a.	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	Niissä tapauksissa, joissa toisessa alakohdassa tarkoitettujen henkilöiden käyttämä vaikutusvalta on omiaan aiheuttamaan haittaa laitoksen järkevälle ja vakaalle toiminnalle, toimivaltaisten viranomaisten on esitettävä vastalauseensa	AFSA, S. 33(1) AFSA, S. 32c(1)	AFSA, S. 33(1) Execution prohibition and invitation to modify [a decision] (1) The FSA may prohibit the planned execution of an operation of the supervised or any decision taken by another actor on	AFSA, 33 §, 1 mom. Toimeenpanokielto ja oikaisukehoitus Finanssivalvonta voi kieltää valvottavan tai muun finanssimarkkinoilla toimivan tekemän päätöksen tai valvottavan tai muun	CONFORM Section 33(1) and 32c(1) of the AFSA transpose Article 3(3), third subparagraph of the Directive. Whereas the Directive article provides specifically that the competent authority may 'express its opposition or take other appropriate measures' in order to prevent that the acquisition of a holding would be to the

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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.	tai toteutettava muita asianmukaisia toimenpiteitä kyseisen tilanteen lakkauttamiseksi. Toimenpiteisiin voi kuulua kieltoja, johtajiin tai johtohenkilöihin kohdistuvia seuraamuksia tai kyseessä olevien osakkaiden tai jäsenten omistamiin osakkeisiin tai osuuksiin kuuluvan äänioikeuden käyttöön kohdistuvia keskeytyksiä.	<p>the financial markets or oblige the supervised or other actor on the financial markets to terminate the execution of an operation, where the decision, operation or procedure is in contradiction with the provisions or regulations adopted on the basis of the latter, the conditions in the authorisation of the supervised or other actor on the financial markets or any rules with regard to their activity on the financial market. [...]</p> <p>AFSA, S. 32c(1) (27.3.2009/207)</p> <p>Limitation of rights based on shares or holdings</p> <p>(1) The FSA may prohibit the shareholders or investment shareholder's right to use the voting rights attached to the shares [...] in an electronic money institution or in an insurance undertaking for maximum one year at the time, if: (29.12.2011/1493)</p>	<p>finanssimarkkinoilla toimivan suunnitteleman toimenpiteen toteutuksen taikka velvoittaa valvottavan tai muun finanssimarkkinoilla toimivan lopettamaan toiminnassaan soveltamansa menettelyn, jos päätös, toimenpide tai menettely on ristiriidassa valvottavaan tai muuhun finanssimarkkinoilla toimivaan sovellettavien finanssimarkkinoita koskevien säännösten tai niiden nojalla annettujen määräysten, toimiluvan ehtojen taikka valvottavan tai muun finanssimarkkinoilla toimivan toimintaa koskevien sääntöjen kanssa. [...]</p> <p>AFSA, 32 c § (27.3.2009/207)</p> <p>Osakkeisiin ja osuuksiin perustuvien oikeuksien rajoittaminen</p> <p>Finanssivalvonta voi kieltää osakkeiden tai osuuksien omistajalta oikeuden äänivallan käyttöön [...]</p>	<p>‘detriment of the prudent and sound management of the institution’ the Finnish law is more general in its formulations.</p> <p>As a matter of fact, it provides that the FSA may prohibit</p> <ul style="list-style-type: none"> – a ‘decision’, – ‘the execution of an operation’, or – ‘order the termination of any procedure’, <p>where any of these would be in ‘contradiction with the provisions or regulations adopted on the basis of the latter on the financial markets’[on electronic money institutions], the ‘conditions in relation to the [electronic money institution’s] authorisation’ to act on the financial market or ‘with any other rules concerning the electronic money institution’s operations’.</p> <p>Therefore, it appears that this general wording in the Finnish law may be considered as complying with the Directive article and that it implies that any of the above-mentioned measures may be taken where an acquisition of a holding in an electronic money institution would be ‘likely to operate to the detriment of the prudent and sound management’.</p> <p>Moreover, Finland has applied the option in the last part of the Directive article: the FSA may prohibit the use of the voting rights notably where:</p> <ul style="list-style-type: none"> – the FSA has not been informed of the

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				<p>1) the notification obligation on the acquisition of shares or investment shares provided for in Section 21a of the API or Section 5 of Chapter 5 of the Act on Insurance Undertakings has not been complied with; (29.12.2011/1493)</p> <p>2) the shares have been acquired notwithstanding the prohibition of the FSA according to Section 32a ; or</p> <p>3) the acquisition of the shares which exceeds the ownership limit provided for in the provisions of the first paragraph endangers the target company's operations being run according sound and prudent business principles.</p>	<p>sähkörahayhteisössä tai vakuutusyhtiössä enintään yhden vuoden ajaksi kerrallaan, jos: (29.12.2011/1493)</p> <p>1) osakkeiden tai osuuksien hankinnasta ei ole tehty [...] maksulaitoslain 21 a §:ssä tai vakuutusyhtiölain 4 luvun 5 §:ssä tarkoitettua ilmoitusta; (29.12.2011/1493)</p> <p>2) osakkeet tai osuudet on hankittu Finanssivalvonnan 32 a §:ssä tarkoitettua kiellosta huolimatta; tai</p> <p>3) edellä 1 kohdassa tarkoitetuissa lainkohdissa säädetyn omistusrajan ylittävä omistus vaarantaa 32 a §:ssä tarkoitettulla tavalla kohdeyrityksen terveiden ja varovaisten liikeperiaatteiden mukaisen toiminnan tai, jos kohdeyritys on vakuutusyhtiö, vakuutetut edut.</p>	<p>acquisition of a holding in accordance with Section 21a of the API;</p> <ul style="list-style-type: none"> – the holdings have been acquired despite the FSA 's prohibition; – where the acquisition of the holding in the electronic money institution, the total amount of shares held by the acquirer endangers the electronic money institutions operations being run according to sound and prudent business principles. <p>It appears as well from that Section 33(1) of the AFSA would allow the FSA to take decisions as regards directors or managers of an electronic money institution. In addition, Section 25 of the API provides in general that the management shall be trustworthy and competent.</p> <p>Also, as the above-mentioned Section 32a of the AFSA refers notably to 'an activity based prudent and sound business principles', it appears that the FSA has the adequate powers to ensure the stability of an electronic money institution.</p> <p>Consequently, the Finnish law is considered to comply with the Directive article.</p>
Art. 3(3) 4th subparagraph a.	Similar measures shall apply to natural or legal persons who fail to comply with the obligation	Samanlaisia toimenpiteitä on sovellettava luonnollisiin henkilöihin tai oikeushenkilöihin,	AFSA, S. 32c(1) AFSA,	AFSA, S. 32c(1), point 1 (1) The FSA may prohibit the shareholders or investment shareholder's	AFSA, 32 c §, 1 mom. 1 kohta Finanssivalvonta voi kieltää osakkeiden tai	CONFORM Section 32c(1), point 1 of the AFSA transposes Article 3(3), fourth subparagraph

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to provide prior information, as laid down in this paragraph.	<p>joitka eivät noudata tässä kohdassa tarkoitettua ennakoilmoitusvelvoitetta.</p>	<p>33(1) and (2)</p> <p>right to use the voting rights attached to the shares [...] in an electronic money institution or in an insurance undertaking for maximum one year at the time, if:</p> <p>1) the notification obligation on the acquisition of shares [...] provided for in Section 21a of the API or Section 5 of Chapter 5 of the Act on Insurance Undertakings has not been complied with; (29.12.2011/1493)</p> <p>AFSA, 33(1) and (2)</p> <p>Prohibition to execute and obligation to correct [any taken action]</p> <p>(1) “The Financial Supervisory Authority” may prohibit the decision or the execution of any other planned operation on the financial market of the supervised entity or any other entity operating on the financial market or oblige the supervised or supervised entity or any other entity to stop the procedures applied in its</p>	<p>osuuksien omistajalta oikeuden äänivallan käyttöön [...] sähkörahayhteisössä enintään yhden vuoden ajaksi kerrallaan, jos:</p> <p>1) osakkeiden tai osuuksien hankinnasta ei ole tehty [...] maksulaitoslain 21 a §:ssä tai vakuutusyhtiölain 4 luvun 5 §:ssä tarkoitettua ilmoitusta; (29.12.2011/1493)</p> <p>AFSA, 33 §, 1 ja 2 mom.</p> <p>Toimeenpanokielto ja oikaisukehotus</p> <p>«Finanssivalvonta» voi kieltää valvottavan tai muun finanssimarkkinoilla toimivan tekemän päätöksen tai valvottavan tai muun finanssimarkkinoilla toimivan suunnitteleman toimenpiteen toteutuksen taikka velvoittaa valvottavan tai muun finanssimarkkinoilla toimivan lopettamaan toiminnassaan soveltamansa menettelyn, jos päätös, toimenpide tai</p>	<p>of the Directive.</p> <p>Where the Directive provides that ‘similar measures shall apply to natural or legal persons who <i>fail to comply with the obligation to provide prior information</i>’, the Finnish law provides that the voting rights may be cancelled where the FSA has not been priorly informed about the acquisition of a holding in an electronic money institution in accordance with Section 21(a) of the API.</p> <p>Moreover, as the FSA is entitled under Section 33 of the AFSA to prohibit a decision or the execution of any measures and as it may also order the correction or cancellation of any taken measures, this complies with the wording in the Directive article which provides that ‘similar measures’ (injunctions, sanctions against directors or managers, or the suspension of the exercise of the voting as referred to in the third subparagraph of this Directive article) shall apply.</p> <p>Consequently, the Finnish law is considered to comply with the Directive article.</p>

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				<p>operations, where the decision, operation or procedure would in contradiction of the rules applicable to the supervised entity or any other entity operating on the financial markets or to any rules provided on the basis of the said rules, terms of the authorisation or any other rules applicable on the activity of the supervised entity or any other entity operating on the financial market. [...]</p> <p>(2) [...] the Financial Supervisory Authority may oblige the supervised entity or any other entity operating on the financial market to take action within a reasonable deadline in order to cancel the execution of a decision or a measure or in order to obtain a correction. [...]</p>	<p>menettely on ristiriidassa valvottavaan tai muuhun finanssimarkkinoilla toimivaan sovellettavien finanssimarkkinoita koskevien säännösten tai niiden nojalla annettujen määräysten, toimiluvan ehtojen taikka valvottavan tai muun finanssimarkkinoilla toimivan toimintaa koskevien sääntöjen kanssa. [...]</p> <p>[...] «Finanssivalvonta» voi velvoittaa valvottavan tai muun finanssimarkkinoilla toimivan ryhtymään kohtuullisessa määräajassa toimenpiteisiin päätöksen täytäntöönpanon taikka toimenpiteen peruuttamiseksi tai oikaisun aikaansaamiseksi. [...]</p>	
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	Jos omistusyhteys on hankittu toimivaltaisten viranomaisten vastustuksesta huolimatta, näiden viranomaisten on muista seuraamuksista riippumatta määrättävä	AFSA, S. 32c(1), point 2	AFSA, S. 32c(1), point 2 (27.3.2009/207) (1) The FSA may prohibit the shareholders or investment shareholder's right to use the voting rights attached to the	AFSA, 32 c §, 1 mom. 2 kohta (27.3.2009/207) Finanssivalvonta voi kieltää osakkeiden tai osuuksien omistajalta oikeuden äänivallan käyttöön [...]	CONFORM Section 32(c)(1), point 2 of the AFSA transposes Article 3(3), fifth subparagraph of the Directive. Where the Directive article provides that the competent authority shall 'regardless of any

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	the voting rights of the acquirer to be suspended, the nullity of votes cast or the possibility of annulling those votes.	joko hankkijan vastaavan äänivallan käyttämisen keskeyttämisestä tai annettujen äänien mitätöinnistä taikka mahdollisuudesta mitätöidä nämä äänet.		shares [...] in an electronic money institution or in an insurance undertaking for maximum one year at the time, if: 2) the shares have been acquired notwithstanding the prohibition of the FSA according to Section 32a ; or	sähkörahayhteisössä enintään yhden vuoden ajaksi kerrallaan, jos: 2) osakkeet tai osuudet on hankittu Finanssivalvonnan 32 a §:ssä tarkoitetusta kiellosta huolimatta; tai	other sanction to be adopted’, provide for the ‘suspension of the exercise of the voting rights, the nullity of any cast votes or the possibility of annulling those votes’, the Finnish law provides that the FSA may prohibit the use of voting rights where any ‘shares have been acquired despite the prohibition provided by the FSA in accordance with Section 32(a) of the AFSA’. Whereas the Finnish law is less detailed than the Directive provision, it appears that the ‘prohibition’ of the use of the voting rights shall include the right to suspend the exercise of the rights attached to the shares or to provide for the nullity or annulment of any cast votes. Consequently, and in addition to any other sanctions that the FSA may provide, the Finnish law is in conformity with the Directive article.
Art. 3(3) 6th subpar a.	The Member States may waive or allow their competent authorities to waive the application of all or part of the obligations pursuant to this paragraph in respect of electronic money institutions that carry out one or more of the activities listed in Article 6(1)(e).	Jäsenvaltiot voivat kumota tämän kohdan mukaiset velvoitteet tai valtuuttaa toimivaltaiset viranomaiset kumoamaan ne kokonaan tai osittain sellaisten sähköisen rahan liikkeeseenlaskijalaitosten osalta, jotka hoitavat yhtä tai useampaa 6 artiklan 1 kohdan e alakohdassa tarkoitetuista toiminnoista.	N/A	N/A	N/A	Article 3(3), sixth subparagraph of the Directive sets out an option. Finland has not applied this option. Whereas the European Commission Working Document of 15 April 2011 indicates that Finland ‘is planning’ to apply the option provided for in Article 3(3), 6 th paragraph, no provision in this regard could be retrieved. Therefore, while it is considered that Finland did not apply this Directive option, further information from Finland could prove useful.
Art.	4. Member States shall	4. Jäsenvaltiot sallivat	API, S.	API, S. 24(1)	API, 24 §, 1 mom	CONFORM

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3(4)	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.	sähköisen rahan liikkeeseenlaskijalaitosten luovuttaa ja lunastaa sähköistä rahaa niiden puolesta toimivien luonnollisten henkilöiden tai oikeushenkilöiden välityksellä. Jos sähköisen rahan liikkeeseenlaskijalaitos haluaa luovuttaa sähköistä rahaa toisessa jäsenvaltiossa tällaisen luonnollisen henkilön tai oikeushenkilön avulla, sen on sovellettava direktiivin 2007/64/EY 25 artiklassa säädettyjä menettelyjä.	24(1)	Agency (1) The payment institution may offer payment services through an agent. The agent shall act on behalf and for the account of the payment institution. [...]	Asiamies Maksulaitos voi tarjota maksupalveluja asiamiehen välityksellä. Asiamies toimii maksulaitoksen lukuun ja sen vastuulla. [...]	<p>Section 24(1) of the API transposes Article 3(4) of the Directive.</p> <p>Where the Directive provides that ‘electronic money institutions may distribute and redeem electronic money through natural or legal persons which act on their behalf’, the Finnish law provides in a general manner that electronic money institutions may ‘offer payment services [redeem and distribute electronic money] through an agent’.</p> <p>It may be further observed that Article 25 of Directive 2007/64/EC has been correctly transposed by the API and that thus, where an electronic money institution would wish to distribute or redeem electronic money in another Member State by engaging an agent, it shall follow the procedure in the said Directive article.</p> <p>It may be noted that Article 17 of Directive 2007/64/EC has been transposed in a conforming manner mainly by Section 24 of the API and that thus, whereas an agent of an electronic money institution shall not allowed to issue electronic money, where the agent would comply with the provisions under Section 24 of the API, the agent shall be allowed to provide the payment services listed in the Annex of Directive 2007/64/EC, in accordance with Recital 10 of this Directive.</p> <p>Therefore, whereas the terminology in the Finnish law does not refer to ‘redeem and distribute electronic money’ but only to ‘payment services’, this difference of terminology may be considered equivalent as</p>

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						Recital 10 also refers to ‘payment services’ . Therefore, the Finnish law is considered to comply with the Directive article.
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. Sen estämättä, mitä 4 kohdassa säädetään, sähköisen rahan liikkeeseenlaskijalaitokset eivät laske liikkeeseen sähköistä rahaa asiamiesten välityksellä. Sähköisen rahan liikkeeseenlaskijalaitoksille on sallittava 6 artiklan 1 kohdan a alakohdassa tarkoitettujen maksupalvelujen tarjoaminen asiamiesten välityksellä ainoastaan siinä tapauksessa, että direktiivin 2007/64/EY 17 artiklan mukaiset edellytykset täyttyvät.	API, S. 24(1) and (5)	API, S. 24(1) and (5) (1) [...] The task of issuing electronic money may not be given entirely to the agent. (22.7.2011/899) (5) The FSA shall enter the agent in the register on payment institutions. The FSA may check the provided information before the registration of the agent where it has reasons to suspect that the truthfulness of the information. The FSA shall not register the agent if is not convinced of truthfulness of the information. The agent may not provide payment services before having been entered into the register.	API, 24 §, 1 ja 5 mom [...] Sähköisen rahan liikkeeseenlaskua ei saa antaa kokonaan asiamiehen hoidettavaksi. (22.7.2011/899) Finanssivalvonnan on merkittävä asiamies maksulaitosrekisteriin. Finanssivalvonta voi tarkastaa ilmoitetut tiedot ennen asiamiehen rekisteröintiä, jos sillä on syytä epäillä tietojen olevan totuudenvastaisia. Finanssivalvonta ei saa rekisteröidä asiamiestä, jos se tarkastuksen suoritettuaan ei ole vakuuttunut tietojen oikeellisuudesta. Asiamies ei saa tarjota maksupalvelua ennen kuin se on merkitty rekisteriin.	PARTIALLY CONFORM Section 24(1) and (5) of the API transpose Article 3(5) of the Directive. Where the Directive article provides that ‘electronic money institutions shall not issue electronic money through agents’, the Finnish law provides that the issuance of electronic money may not ‘entirely’ be done through an agent. Therefore, there seems to be a doubt if an agent would be allowed to issue electronic money ‘partially’ for the account of the electronic money institution. Consequently, whereas, further information on this point from Finland could prove useful, the Finnish law is considered to only partially comply with the Directive article on this point. On the second part of the Directive article, whereas Section 24(5) of the API provides that an agent shall be registered, it does not provide that this shall only be the case where the agent provides payment services referred to in Article 6(1)(a) of the Directive for the account of the electronic money institution. Moreover, Section 24 of the API transposes Article 17 of Directive 2007/64/EC. Therefore, whereas it appears that the Finnish law is stricter on the registration requirement

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						<p>in comparison to the Directive, this does not seem to be an issue on the conformity.</p> <p>Consequently, and considering the above the Finnish law is considered to partially comply with the Directive article.</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>4 artikla</i> Alkupääoma</p> <p>Jäsenvaltioiden on vaadittava, että sähköisen rahan liikkeeseenlaskijalaitoksilla on toimiluvan myöntämisaikana alkupääoma, joka sisältää direktiivin 2006/48/EY 57 artiklan a ja b alakohdassa säädetyt erät ja on vähintään 350000 euroa.</p>	API, S. 27(2) and (3)	<p>API, S. 27(2) and (3)</p> <p>(2) The electronic money institution's share capital, initial own funds or contribution shall be at least 350 000 EUR. (22.7.2011/899)</p> <p>(3) The equity shall be totally subscribed at time of the authorisation. (22.7.2011/899)</p>	<p>API, 27 §, 2 ja 3 mom.</p> <p>Sähkörahayhteisön osakepääoman, osuuspääoman, peruspääoman tai yhtiöpanoksen on oltava vähintään 350 000 euroa. (22.7.2011/899)</p> <p>Pääoma on oltava kokonaan merkitty toimilupaa myönnettäessä. (22.7.2011/899)</p>	<p>CONFORM</p> <p>Section 27(2) and (3) of the API transpose Article 4 of the Directive.</p> <p>In line with the Directive requirement, the Finnish law provides that an electronic money institution's initial capital shall not be less than EUR 350 000.</p> <p>Moreover, the Finnish law provides that the initial capital shall be 'totally subscribed' at the time of the authorisation; this does not seem to hamper the proper transposition of the Directive provision.</p> <p>However, the Finnish law does not contain a direct reference to the items set out in Article 57(a) and (b) of Directive 2006/48/EC, which in turn refers to Article 22 on the 'Subscribed capital' and to Article 23 on the 'Reserves'.</p> <p>Nevertheless, the mention in the Finnish law to 'subscribed capital' seems to fulfil the Directive requirement.</p> <p>Consequently, the Finnish law is considered to comply with the Directive article.</p>
Art. 5(1)	<p><i>Article 5</i> Own funds</p> <p>1. The electronic money institution's own funds, as</p>	<p><i>5 artikla</i> Omat varat</p> <p>1. Sähköisen rahan liikkeeseenlaskijalaitoksen</p>	N/A	N/A	N/A	<p>CONFORM</p> <p>Article 5(1) of the Directive has not been explicitly transposed by the Finnish law.</p>

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	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.	omien varojen, sellaisina kuin ne on määritelty direktiivin 2006/48/EY 57–61, 63, 64 ja 66 artiklassa, on oltava vähintään yhtä suuret kuin tämän artiklan 2–5 kohdassa tai tämän direktiivin 4 artiklassa edellytetyistä määristä suurempi.				However, as it has transposed paragraphs 2 to 5 of this Directive Article in a conform manner; it appears that conformity may be implied as regards the transposition of this Directive article.
Art. 5(2) 1st subpar a.	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. Sähköisen rahan liikkeeseenlaskijalaitoksen omia varoja koskevat vaatimukset lasketaan jollakin direktiivin 2007/64/EY 8 artiklan 1 ja 2 kohdassa säädetyistä kolmesta menetelmästä (A, B tai C), kun kyseessä ovat 6 artiklan 1 kohdan a alakohdassa tarkoitettut toiminnot, jotka eivät liity sähköisen rahan liikkeeseen laskemiseen. Toimivaltaiset viranomaiset päättävät soveltuvasta menetelmästä kansallisen lainsäädännön pohjalta.	API, S. 30(1) and (3)	API, S. 30(1) and (3) Minimum amount of own funds (1) In order to cover its risks the payment institution shall at least have a minimum amount of own funds calculated in accordance with the method referred to in Section 29 which has been approved by the FSA. [...] (3) The FSA shall approve the method for the calculation of the own funds at the request of the payment institution. [...]	API, 30 §, 1 ja 3 mom. Omien varojen vähimmäismäärä Maksulaitoksella on riskiensä kattamiseksi oltava omia varoja vähintään määrä, joka on laskettu Finanssivalvonnan hyväksymän, 29 §:ssä tarkoitetun menetelmän mukaisesti. [...] Finanssivalvonta hyväksyy omien varojen laskentaa koskevan menetelmän maksulaitoksen hakemuksesta. [...]	CONFORM Section 30(1) and (3) of the API transpose Article 5(2), first subparagraph of the Directive. Where the Directive provides that the own funds of an electronic money institution shall be calculated according to the methods laid down in Article 8(1) and (2) of Directive 2007/64/EC where the electronic money institution provides services referred to in Article 6(1)(a) of this Directive which are not linked to the issuance of electronic money, the Finnish law does not specifically refer to Article 6(1)(a) of the Directive. However, as the API applies to all the activities listed in the Annex of Directive 2007/64/EC (to which Article 6(1)(a) of the Directive refers), it may be considered that it is implicitly referred to the said activities. Consequently, as Section 30(3) of the API refers to Section 29 of the API which provides for Calculation Methods A, B and C mentioned in the Directive article, and which

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						<p>have been completed by Government Decree 2011/555 (which provides for the relevant details for the calculation methods – <i>prima facie</i> conformity is observed), i it may be considered that where an electronic money institution provides payment services referred to in the Annex of Directive 2007/64/EC, its own funds shall be calculated in accordance with Calculation Methods A, B and C mentioned in the said Directive article.</p> <p>The last part of the Directive article is also complied with as the FSA shall approve the calculation method chosen by the electronic money institution.</p> <p>As regards the provisions in Recital 11 of the Directive, which notably provides that the funds of electronic money holders shall be held separate from the funds of the electronic money institution for other business activities, it appears that Section 26(1) of the API has provided for this obligation; it may be verified under Article 9 of the compliance assessment report of Directive 2007/64/EC.</p> <p>As regards terrorism financing and money laundering referred to in the same Recital 11, Act No 2008/503 on the Prevention and Investigation of Money Laundering and Terrorism Financing provides in its Section 2, point 20 that it applies to payment institutions referred to in the API; it may thus be considered that it applies as well to electronic money institutions.</p> <p>Where Recital 11 provides that the ‘same risks shall be treated in the same way for all payment service providers’ the Finnish law</p>

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						<p>does not contain provisions according to which there would be a different treatment to this regard.</p> <p>Therefore, the Finnish law is considered being in compliance with the Directive article.</p>
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.	Kun kyseessä on sähköisen rahan liikkeeseen laskeminen, sähköisen rahan liikkeeseenlaskijalaitoksen omia varoja koskevat vaatimukset lasketaan 3 kohdassa tarkoitettulla menetelmällä D.	API, S. 30a(1)	API, S. 30a(1) (22.7.2011/899) Minimum amount of own funds of an electronic money institution (1) An electronic money institution shall, in addition to the own funds provided for in Section 30, continuously have an amount of own funds which correspond at least to 2 % of the average amount of electronic money issued by the electronic money institution.	API, 30 a §, 1 mom. (22.7.2011/899) Sähkörahayhteisön omien varojen vähimmäismäärä Sähkörahayhteisöllä on oltava jatkuvasti omia varoja 30 §:ssä säädetyn määrän lisäksi vähintään määrää, joka vastaa kahta prosenttia sähkörahayhteisön liikkeeseen laskeman sähköisen rahan keskimäärästä.	CONFORM Section 30a(1) of the API transposes Article 5(2), second subparagraph of the Directive. Where the Directive article provides that ‘the own funds requirements of an electronic money institution shall be calculated in accordance with Method D’, the Finnish law provides directly for the details of calculation Method D. Consequently, the Finnish law is considered to comply with the Directive article.
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.	Sähköisen rahan liikkeeseenlaskijalaitoksilla on kaikkina aikoina oltava omia varoja enemmän tai yhtä paljon kuin ensimmäisessä ja toisessa alakohdassa tarkoitetuissa vaatimuksissa yhteensä	API, S. 30a(1)	API, S. 30a(1) (22.7.2011/899) Minimum amount of own funds of an electronic money institution (1) An electronic money institution shall, in	API, 30 a §, 1 mom. (22.7.2011/899) Sähkörahayhteisön omien varojen vähimmäismäärä Sähkörahayhteisöllä on oltava jatkuvasti omia varoja 30 §:ssä säädetyn	CONFORM Section 30a(1) of the API transposes Article 5(2), third subparagraph of the Directive. The Finnish law provides that the amount of own funds shall continuously correspond to the amount referred to in Section 30 of the API, which in turn refers to Section 29 of the API; Section 29 of the API provides for

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		edellytetään.		addition to the own funds provided for in Section 30, continuously have an amount of own funds [...]	määrän lisäksi vähintään määrä, [...]	<p>Calculation Methods A, B and C; and Section 30(3) of the API provides that these methods shall be applied with regards to activities referred to in Article 6(1)(a) of the Directive and that are not linked to the issuance of electronic money.</p> <p>As the mentioned own funds shall be held in addition to the funds that shall be held with regard to the issuance of electronic money, the Finnish law complies with the Directive which requires that ‘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.</p> <p>Thus, the Finnish law is considered in conformity with the Directive article.</p>
Art. 5(3)	3. Method D: The own funds of an electronic money institution for the activity of issuing electronic money shall amount to at least 2 % of the average outstanding electronic money.	3. Menetelmä D: Sähköisen rahan liikkeeseenlaskijalaitoksen sähköisen rahan liikkeeseen laskemiseen tarkoitettujen omien varojen on oltava vähintään 2 prosenttia keskimäärin liikkeessä olevasta sähköisestä rahasta.	API, S. 30a(1)	API, S. 30a(1) (22.7.2011/899) Minimum amount of own funds of an electronic money institution (1) An electronic money institution shall, in addition to the own funds provided for in Section 30, continuously have an amount of own funds which corresponds at least to 2 % of the average amount of electronic money issued by the electronic money	API, 30 a §, 1 mom. (22.7.2011/899) Sähkörahayhteisön omien varojen vähimmäismäärä Sähkörahayhteisöllä on oltava jatkuvasti omia varoja 30 §:ssä säädetyn määrän lisäksi vähintään määrä, joka vastaa kahta prosenttia sähkörahayhteisön liikkeeseen laskeman sähköisen rahan keskimäärästä.	CONFORM Section 30a(1) of the API transposes Article 5(3) of the Directive. In accordance with the Directive requirement, the Finnish law provides that an electronic money institution shall have own funds corresponding to at least 2 % of the average outstanding electronic money in addition to the amount corresponding to Calculation Method A, B or C, as provided under Article 5(2), 3 rd subparagraph of the Directive. This also complies with the requirement in Recital 11 according to which an electronic money institution shall also have a regime for on-going capital requirements next to the initial capital requirements.

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				institution.		Therefore, the Finnish law seems to comply with the Directive requirement.
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 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	4. Jos sähköisen rahan liikkeeseenlaskijalaitokset suorittavat 6 artiklan 1 kohdan a alakohdassa tarkoitettuja toimintoja, jotka eivät liity sähköisen rahan liikkeeseen laskemiseen, tai jotakin 6 artiklan 1 kohdan b–e alakohdassa tarkoitetuista toiminnoista, eikä liikkeessä olevan sähköisen rahan määrä ole ennalta tiedossa, toimivaltaisten viranomaisten on annettava näiden liikkeeseenlaskijalaitosten laskea omia varoja koskeva vaatimuksensa sellaisen edustavan osuuden perusteella, joka oletetaan käytettävän sähköisen rahan liikkeeseenlaskuun, edellyttäen, että tämä edustava osuus voidaan arvioida kohtuullisesti historiatietojen perusteella ja toimivaltaisista viranomaisista tyydyttävällä tavalla. Jos sähköisen rahan liikkeeseenlaskijalaitos ei	API, S. 30a(4)	API, S. 30a(4) (22.7.2011/899) Minimum amount of own funds of an electronic money institution (4) Where the electronic money institution may not without unreasonable costs calculate the outstanding amount of electronic money according to the method provided for in the paragraph 2, the FSA may, at the request of the electronic money institutions authorize the estimation of the outstanding amount of electronic money according to prudent historical data. The FSA shall provide the authorisation if the average amount of outstanding electronic money may continuously be estimated in a reliable manner. During the 12 months following the authorisation [to operate as an electronic money institution] the issued	API 30 a §, 4 mom. (22.7.2011/899) Sähkörahayhteisön omien varojen vähimmäismäärä Jos sähkörahayhteisö ei ilman kohtuuttomia kustannuksia voi laskea liikkeessä olevan sähköisen rahan keskimäärää 2 momentissa tarkoitettulla tavalla, Finanssivalvonta voi sähkörahayhteisön hakemuksesta myöntää luvan määrittää liikkeessä oleva sähköisen rahan määrä varovasti arvioidujen historiatietojen perusteella. Finanssivalvonnan on myönnettävä lupa, jos liikkeessä olevan sähköisen rahan keskimäärä voidaan jatkuvasti arvioida luotettavalla tavalla. Toimiluvan myöntämistä seuraavan 12 kuukauden ajan liikkeessä olevan sähköisen rahan määrä saadaan arvioida toimilupahakemukseen	CONFORM Section 30a(4) of the API transposes Article 5(4) of the Directive. Whereas the Directive refers to its Article 6(1) (a) to (e) in order to justify the calculation of the own funds ‘on the basis of a representative portion’ of outstanding electronic money, the Finnish law does not contain such a reference; on the contrary, it refers to a more general situation where an electronic money institution would not be able calculate the own funds ‘without unreasonable costs’. In this case, in accordance with the Directive article, the FSA may authorize the calculation of the own funds on the basis of prudent historical data; moreover, the FSA shall provide the authorisation where the outstanding electronic money can be estimated continuously in a reliable manner. Also, with regard to the last part of the Directive article (‘where an electronic money institution has not completed a sufficient period of business’) the Finnish law provides that where 12 months have not lapsed since the authorisation, the outstanding electronic money may be estimated according to the calculation made in the business plan submitted for approval to the FSA during the authorisation procedure. Consequently, although the Finnish law

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	electronic money evidenced by its business plan subject to any adjustment to that plan having been required by the competent authorities.	ole ollut liiketoiminnassa riittävän pitkään, sen omia varoja koskevat vaatimukset lasketaan liiketoiminta-suunnitelmassa kaavaillun liikkeessä olevan sähköisen rahan perusteella soveltaen kaikkia muutoksia, joita toimivaltaiset viranomaiset ovat vaatineet kyseiseen suunnitelmaan.		amount of electronic money may be estimated according to the estimation made in the business plan which was annexed to the authorisation application and which was approved by the FSA.	liitetyssä, Finanssivalvonnan hyväksymässä liiketoiminta-suunnitelmassa esitetyn arvion mukaisesti.	differs from the Directive article on the reasons for which a representative portion assumed to be used for the issuance of electronic money may be used to calculate the own funds, it appears that the Finnish law may be considered of comparable effect with regard to the Directive article. Therefore, the Finnish law is considered to comply with the Directive article.
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	5. Toimivaltaiset viranomaiset voivat sähköisen rahan liikkeeseenlaskijalaitosten riskinhallintaprosesseja, tappioita koskevaa riskitietokantaa ja sisäisiä valvontamekanismeja koskevan arvioinnin perusteella vaatia, että sähköisen rahan liikkeeseenlaskijalaitoksella on oltava omien varojen määrä, joka on enintään 20 prosenttia suurempi kuin 2 kohdan mukaisen menetelmän soveltamisesta johtuva määrä, tai sallia, että sähköisen rahan liikkeeseenlaskijalaitoksella on omien	API, S. 31(2)	API, S. 31(2) (2) The FSA may for a maximum period of 3 years, on the basis of results on the payment institutions risk management, capacity to carry losses or its internal control mechanisms, order that the payment institutions own funds shall be 20 % higher than calculated according to Section 30 or 30a. The FSA may also correspondingly lower the required amount of own funds for maximum 20 % for a maximum three year period.	API, 31 §, 2 mom. Finanssivalvonta voi enintään kolmen vuoden ajaksi edellyttää, että maksulaitoksen omien varojen määrä on enintään 20 prosenttia suurempi kuin 30 tai 30 a §:n mukaisesti laskettu määrä, jos se on välttämätöntä maksulaitoksen riskienhallintaa, tappion kantokykyä tai sisäisen valvonnan menetelmiä koskevien arvioiden perusteella. Finanssivalvonta voi vastaavasti myös alentaa vaadittavien omien varojen määrää enintään 20 prosentilla enintään	CONFORM The option provided for in Article 5(5) of the Directive has been transposed by Section 31(2) of the API. Although the structure of the sentences and the wording differs to some extent the Finnish law has transposed the option in a comparable manner. However, the Finnish law specifies that the FSA may require that the own funds shall be lower or higher, ‘when necessary’, for a maximum length of 3 years whereas the Directive article does not contain an equivalent time limit. Therefore, whereas the Directive article does not contain an equivalent time limit, this time limit ensures that an electronic money institution takes the necessary measures in order to comply with its (capital)

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	than the amount which would result from the application of the relevant method in accordance with paragraph 2.	varojen määrä, joka on enintään 20 prosenttia pienempi kuin 2 kohdan mukaisen menetelmän soveltamisesta johtuva määrä.			kolmen vuoden ajaksi.	requirements provided under this Directive. This specific time period provided for by the Finnish law does however not seem to hamper the transposition of this Directive article and thus, the Finnish law is considered to comply with the Directive article.
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. Jäsenvaltioiden on toteutettava tarvittavat toimenpiteet omiksi varoiksi hyväksyttävien osuuksien moninkertaisen käytön estämiseksi, kun	N/A	N/A	N/A	CONFORM The Finnish law does not contain an equivalent introductory wording as the Directive article; however, it complies with its underlying points.
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) sähköisen rahan liikkeeseenlaskijalaitos kuuluu samaan ryhmittymään kuin toinen sähköisen rahan liikkeeseenlaskijalaitos, luottolaitos, maksulaitos, sijoituspalveluyritys, rahastoyhtiö tai vakuutusyritys tai jälleenvakuutusyritys;	AA, Ch. 6, S. 7(1)	AA, Ch. 6, S. 7(1) Intra-group items and minority shares (1) The consolidated financial statement shall show the result and financial situation of the group as if the companies in the group were one accounting entity. Operations based on internal items between the companies in the group shall be eliminated.	AA, 6 luku, 7 §, 1 mom. Konsernin sisäiset erät ja vähemmistöosuudet Konsernitilinpäätöksessä on esitettävä konsernin tulos sekä taloudellinen asema siten kuin konserniyritykset olisivat yksi kirjanpitovelvollinen. Konserniyritysten välisiin toimiin perustuvien konsernin sisäisten erien vaikutus eliminoidaan.	CONFORM Section 7(1) under Chapter 6 of the AA transposes Article 5(6)(a) of the Directive. Where the Directive provides that the multiple use of elements eligible for own funds shall be prevented where ‘the electronic money institution belongs to the same group as another electronic money institution [...]’ the AA provides in a general manner that the ‘financial situation’ shall be presented as if the undertakings within the group were ‘one sole undertaking’; moreover, as the internal operations shall be eliminated, this appears to ensure that the same elements are not used to in order to calculate the own funds. Consequently, the Finnish law is considered to comply with the Directive article.
Art. 5(6)(b)	(b) where an electronic money institution carries	b) sähköisen rahan liikkeeseenlaskijalaitos	API, S. 30a(1)	API, S. 30a(1) (22.7.2011/899)	API, 30 a §, 1 mom. (22.7.2011/899)	CONFORM Section 30a(1) and 28(2) of the API transpose

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out activities other than the issuance of electronic money.	harjoittaa muuta toimintaa kuin sähköisen rahan liikkeeseenlaskua.	API, S. 28(2)	<p>Minimum amount of own funds of an electronic money institution</p> <p>(1) An electronic money institution shall, in addition to the own funds provided for in Section 30, continuously have an amount of own funds which correspond at least to 2 % of the average amount of electronic money issued by the electronic money institution.</p> <p>API, S. 28(2)</p> <p>(2) The amount of the payment institution's turnover that derives from payment services and which corresponds to the shares, cash contribution and subordinated loans shall be deducted from the own funds of a payment institution which operates other activities referred to in Section 9(2).</p>	<p>Sähkörahayhteisön omien varojen vähimmäismäärä</p> <p>Sähkörahayhteisöllä on oltava jatkuvasti omia varoja 30 §:ssä säädetyn määrän lisäksi vähintään määrää, joka vastaa kahta prosenttia sähkörahayhteisön liikkeeseen laskeman sähköisen rahan keskimäärästä.</p> <p>API, 28 §, 2 mom.</p> <p>Maksulaitoksen, joka harjoittaa 9 §:n 2 momentissa tarkoitettua muuta liiketoimintaa, omien varojen määrästä vähennetään osakkeista, osuuksista, rahamääräisistä yhtiöpanoksista ja pääomalainoista määrä, joka vastaa maksupalveluiden osuutta maksulaitoksen liikevaihdosta.</p>	<p>Article 5(6)(b) of the Directive.</p> <p>Where the Directive provides that the multiple use of elements eligible for own funds shall be prevented 'where an electronic money institution carries out activities other than the issuance of electronic money', it appears that the content of the Directive article may be implicitly inferred from Section 30a of the API which provides that an electronic money institution shall have an amount own funds, as regards the issuance of electronic money, which corresponds to 'an additional 2 %' of the average outstanding electronic money.</p> <p>Therefore, as it shall be considered that an electronic money institution shall hold own funds which are 'additional to the funds that shall be mandatorily held according to Section 30 of the API', it appears that it shall not be possible to use the same funds for the calculation of the own funds with regard to the issuance of electronic money and notably all the activities listed in the Annex of Directive 2007/64/EC (to which Section 30 of the API indirectly refers).</p> <p>Section 28(2) of the API also provides that the share of the turnover which derives from other activities shall be deducted from the amount of own funds; this seems also to ensure that there is no multiple use of elements eligible for own funds.</p> <p>Therefore, the Finnish law is considered to comply with the Directive article.</p>

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Art. 5(7)	7. Where the conditions laid down in Article 69 of Directive 2006/48/EC are met, Member States or their competent authorities may choose not to apply paragraphs 2 and 3 of this Article to electronic money institutions which are included in the consolidated supervision of the parent credit institutions pursuant to Directive 2006/48/EC.	7. Jos direktiivin 2006/48/EY 69 artiklassa säädetyt edellytykset täyttyvät, jäsenvaltiot tai niiden toimivaltaiset viranomaiset voivat päättää olla soveltamatta tämän artiklan 2 ja 3 kohtaa sähköisen rahan liikkeeseenlaskijalaitoksiin, jotka kuuluvat emoluottolaitoksen konsolidoidun valvonnan piiriin direktiivin 2006/48/EY nojalla.	API, S. 31(1)	API, S. 31(1) (22.7.2011/899) Exception for the minimum amount of own funds (1) The provisions of Section 30 and 30a shall not apply to a payment institution which fulfils the conditions provided for in Section 56 of the ACI on the exception as regards the minimum amount of own funds and which is part of consolidated supervision of the parent company as provided in the ACI.	API, 31 §, 1 mom. (22.7.2011/899) Omien varojen vähimmäismäärästä poikkeaminen Mitä 30 ja 30 a §:ssä säädetään, ei sovelleta maksulaitokseen, joka täyttää luottolaitostoiminnasta annetun lain 56 §:ssä säädetyt omien varojen vähimmäismäärää koskevan poikkeusluvan edellytykset ja joka kuuluu emoluottolaitoksen konsolidoidun valvonnan piiriin siten kuin luottolaitostoiminnasta annetussa laissa säädetään.	CONFORM Section 31 of the API has transposed the option provided for in Article 5(7) of the Directive. Where the Directive provides that the own funds requirements in Article 5(2) and (3) may not be applied where the conditions laid down in Article 69 of Directive 2006/48/EC are met, the Finnish law refers in an equivalent manner to Section 56 of the ACI. In fact, Section 56 of the ACI contains the provisions corresponding to Article 69(1) of Directive 2006/48/EC; it does not transpose paragraphs 2 to 4 of the said Article. However, it appears that the criteria set out in Article 69(1) of Directive 2006/48/EC may be considered sufficient as regards the transposition of this Directive article. Moreover, in line with the Directive article, the Finnish law provides that electronic money institution shall be part of the consolidated supervision as provided in the ACI. Consequently, the Finnish law is considered to comply with the Directive article.
Art. 6(1) 1st subpara.	<i>Article 6 Activities</i> 1. In addition to issuing electronic money, electronic money institutions shall be entitled to engage in any	<i>6 artikla Toiminnot</i> 1. Sähköisen rahan liikkeeseenlaskun lisäksi sähköisen rahan liikkeeseenlaskijalaitokset voivat harjoittaa mitä	N/A	N/A	N/A	CONFORM The Finnish law does not contain an equivalent introductory wording; however it complies with the underlying points.

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	of the following activities:	tahansa seuraavista toiminnoista:				
Art. 6(1) 1st subpar a. (a)	(a) the provision of payment services listed in the Annex to Directive 2007/64/EC;	a) direktiivin 2007/64/EY liitteessä luetellut maksupalvelut;	APS, S. 1(2)	<p>APS, S. 1(2)</p> <p>This Act shall apply to the following payment services:</p> <ol style="list-style-type: none"> 1) cash deposits on payment accounts or cash withdrawals from payment accounts and operations linked to the management and provision of a payment account; 2) execution of a payment transaction as a transfer to the service provider's account, as a direct debit or through a payment card or other payment device; 3) the issuance of payment devices; 4) the refund of a payment operation made with a payment device; 5) money transfer 6) a payment operation which is performed in a way in which the consent of the payer for the payment operation is given by mobile phone or by computer or any other 	<p>APS, 1 §, 2 mom.</p> <p>Tätä lakia sovelletaan seuraaviin maksupalveluihin:</p> <ol style="list-style-type: none"> 1) palvelu käteispanon tekemiseksi maksutilille tai käteisen nostamiseksi maksutililtä sekä maksutilin hoitoon ja tarjoamiseen liittyvät toimet; 2) maksutapahtuman toteuttaminen tilisiirtona, varojen siirtona palveluntarjoajan maksutilille, suoraveloituksena taikka maksukortilla tai muulla maksuvälineellä; 3) maksuvälineen liikkeeseenlasku; 4) maksuvälineellä toteutettavaa maksutapahtumaa koskeva tapahtumahyvitys; 5) rahanvälitys; 6) maksutapahtuman toteuttaminen siten, että maksajan suostumus maksutapahtuman 	<p>CONFORM</p> <p>Section 1(2), points 1 to 6 of the APS transpose Article 6(1), first subparagraph, point (a) of the Directive.</p> <p>The APS has transposed the activities listed in the Annex to Directive 2007/64/EC; thus, electronic money institutions are allowed to provide payment services listed in the said Annex.</p> <p>The Government Bill HE 2/2011 also provides in its Section 5.4 that an electronic money institution shall be allowed to 'provide other services in accordance with its authorisation and conduct other business activities'.</p> <p>Consequently, the Finnish law is conforming to the Directive article.</p>

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				telemetric means or computerised device and where the payment is made to an undertaking taking care of such telecommunication- or computerised system or network and which only operates as an intermediary between the payment service user and the provider of a service, asset or other commodity (payment service performed with technical device).	toteuttamiseen annetaan matkapuhelimella tai tietokoneella taikka muulla telepäätelaitteella tai tietoteknisellä laitteella ja maksu suoritetaan sellaiselle televiestintä- tai tietotekniikkajärjestelmää tai -verkkoa hoitavalle yritykselle, joka toimii ainoastaan maksutapahtuman välittäjänä maksupalvelun käyttäjän ja tavarán, palvelun tai muun hyödykkeen toimittajan välillä.	
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) direktiivin 2007/64/EY liitteessä olevissa 4, 5 ja 7 kohdassa tarkoitettuihin maksupalveluihin liittyvien luottojen myöntäminen edellyttäen, että mainitun direktiivin 16 artiklan 3 ja 5 kohdassa säädetyt edellytykset täyttyvät;	API, S.10(1)	API, S.10(1) A payment institution may provide credit lined to the payment service only if: 1) the credit is linked to the payment service linked to the payment services defined in Section 1(1), points 2 to 4 or 6 and provided it is only granted for the realisation of the mentioned payment service; 2) the credit is granted from other funds than those received for the execution of payment	2010/297, 10 §, 1 mom. Maksulaitos saa myöntää maksupalveluun liittyvää luottoa vain, jos: 1) luotto liittyy 1 §:n 2—4 tai 6 kohdassa tarkoitettuun maksupalveluun ja se myönnetään ainoastaan osana kyseisen maksupalvelun toteuttamista; 2) luotto myönnetään muista kuin maksutapahtumien toteuttamiseksi vastaanotetuista tai	CONFORM Section 10 of the API transposes Article 6(1), first subparagraph, point (b) of the Directive. Where the Directive article provides that an electronic money institution shall be able to ‘grant credit in relation 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’, it may be observed, in the first place, that Section 10 of the API on the ‘Granting of credit’ transposes Article 16(3) and (5) of Directive 2007/64/EC. In the second place, the said Section 10 of the API refers to Section 1 of the API which notably transposes points 4, 5 or 7 of the Annex to Directive 2007/64/EC.

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				<p>transactions or from funds that are held [for the clients]; and</p> <p>3) according to the contractual terms, the credit granted shall be repaid within 12 months, if the payment institution offers the credit granted from a branch or without establishing a branch from another Member or offered by an agent established in such a State.</p>	<p>säilytettävistä varoista; sekä</p> <p>3) luotto on sopimusehtojen mukaan maksettava takaisin enintään 12 kuukaudessa, jos maksulaitos tarjoaa luoton toiseen Euroopan talousalueeseen kuuluvaan valtioon perustamastaan sivuliikkeestä tai sivuliikettä perustamatta toisessa Euroopan talousalueeseen kuuluvassa valtiossa taikka sen tarjoaa tällaiseen valtioon sijoittautunut asiamies.</p>	<p>Thus, it is established that an electronic money institution may grant credit related to payment services where it complies with the conditions in Article 16(3) and (5) of Directive 2007/64/EC.</p> <p>Consequently, the Finnish law is considered to comply with the Directive article.</p>
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 money or to the provision of payment services referred to in point (a);	c) sähköisen rahan liikkeeseenlaskun tai a alakohdassa tarkoitettujen maksupalvelujen tarjoamisen osalta toiminnallisten palvelujen ja niihin läheisesti liittyvien lisäpalvelujen tarjoaminen;	API, S. 9(1), point 1	<p>API, S. 9(1), point 1</p> <p>Authorized business activities</p> <p>(1) The payment institution may in addition to the services mentioned in the authorisation:</p> <p>1) provide operational or additional services closely linked to the payment services, such as currency exchange;</p>	<p>API, 9 §, 1 mom. 1 kohta</p> <p>Sallittu liiketoiminta</p> <p>Maksulaitos saa toimiluvassa mainittujen maksupalvelujen lisäksi:</p> <p>1) tarjota toiminnallisia tai maksupalveluihin läheisesti liittyviä lisäpalveluja, kuten valuutanvaihtopalveluita; sekä</p>	<p>CONFORM</p> <p>Section 9(1), point 1 of the API transposes in an almost literal manner Article 6(1), first subparagraph, point (c) of the Directive.</p> <p>As an example of an ancillary service the API refers to foreign exchange services.</p> <p>Consequently, the Finnish law is considered to comply with the Directive article.</p>
Art. 6(1) 1st subpar	(d) the operation of payment systems as defined in point 6 of	d) direktiivin 2007/64/EY 4 artiklan 6 kohdassa määriteltyjen	API, S. 9(1),	<p>API, S. 9(1), point 2</p> <p>2) operate or provide</p>	<p>API, 9 §, 1 mom. 2 kohta</p> <p>2) ylläpitää ja tarjota</p>	<p>CONFORM</p> <p>Section 9(1), point 2 of the API transposes</p>

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a. (d)	Article 4 of Directive 2007/64/EC and without prejudice to Article 28 of that Directive;	maksujärjestelmien ylläpito, sanotun kuitenkin rajoittamatta kyseisen direktiivin 28 artiklan soveltamista;	point 2	payment systems.	maksujärjestelmiä.	Article 6(1), first subparagraph, point (d) of the Directive. In accordance with the Directive article, an electronic money institution may also operate and offer payment systems. Therefore, the Finnish law is considered to comply with the Directive article.
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) muu liiketoiminta kuin sähköisen rahan liikkeeseenlasku ottaen huomioon voimassa oleva yhteisön ja kansallinen lainsäädäntö.	API, S. 9(2)	API, S. 9(2) (2) A payment institution may provide other services unless otherwise provided in Section 19(2).	API, 9 §, 2 mom. Maksulaitos saa harjoittaa muutakin liiketoimintaa, jollei 19 §:n 2 momentista muuta johdu.	CONFORM Section 9(2) of the API transposes Article 6(1), first subparagraph, point (e) of the Directive. In accordance with the Directive article, an electronic money institution may provide other services (it shall be considered implied that it shall comply with all existing legislation, as required by the Directive article). The reference to Section 19(2) of the API corresponds to the FSA's right to restrict the right to operate other activities or require that no other activities than mentioned in Section 9(1) of the API (reproduced under Article 6(1), first subparagraph, point (c) and (d) of the Directive) be carried out if it would not allow to organize the operations and the risk management in a sufficiently reliable manner. Consequently, the Finnish law is considered to comply with the Directive article.
Art. 6(1) 2nd subpar	Credit referred to in point (b) of the first subparagraph shall not be granted from the funds	Ensimmäisen alakohdan b alakohdassa tarkoitettuja luottoja ei myönnetä varoista, jotka on	API, S. 10(2)	API, S. 10(2) Provision of credit (2) An electronic money	API, 10 §, 2 mom Luoton myöntäminen Sähkörahayhteisö ei saa	CONFORM Section 10(2) of the API transposes Article 6(1), second subparagraph of the Directive.

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a.	received in exchange of electronic money and held in accordance with Article 7(1).	vastaanotettu sähköistä rahaa vastaan ja joita säilytetään 7 artiklan 1 kohdan mukaisesti;		institution may not provide credit from the funds that it has received in exchange of electronic money (22.7.2011/899).	myöntää luottoa varoista, jotka se on ottanut sähköisen rahan liikkeeseenlaskua vastaan. (22.7.2011/899)	In accordance with the Directive article, an electronic money institution may not grant credit from funds ‘received in exchange of electronic money’. Whereas the Finnish law does not refer explicitly to Article 7(1) of the Directive, this does not appear to hamper the transposition of the Directive article. Therefore, the Finnish law is considered to comply with the Directive article.
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. Sähköisen rahan liikkeeseenlaskijalaitokset eivät saa ottaa yleisöltä vastaan direktiivin 2006/48/EY 5 artiklassa tarkoitettuja talletuksia tai muita takaisin maksettavia varoja.	API, S. 9(3)	API, S. 9(3) (3) [...] The funds that the payment institution has received from the payment service users are not deposits or other repayable funds, as referred to in the ACI. (22.7.2011/899)	API, 9 §, 3 mom. [...] Maksulaitoksen maksupalvelunkäyttäjiltä vastaanottamat varat eivät ole luottolaitostoiminnasta annetussa laissa tarkoitettuja talletuksia tai muita takaisinmaksettavia varoja. (22.7.2011/899)	CONFORM Section 9(3) of the API transposes of Article 6(2) the Directive. Where the Directive provides that ‘electronic money institutions shall not take deposits or other repayable funds from the public’, the Finnish law provides that the funds received by an electronic money institution ‘are not considered as deposits or other repayable funds’ as defined in the Act on Credit Institutions. Consequently, the Finnish law is considered to comply with the Directive article.
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	3. Varat, joita sähköisen rahan liikkeeseenlaskijalaitokset vastaanottavat sähköisen rahan haltijalta, on viipymättä vaihdettava sähköiseen rahaan. Tällaiset varat eivät myöskään ole direktiivin	API, 36a(2)	API, 36a(2) (2) The funds received for the issuance of electronic money shall be exchanged for electronic money without delay.	API, 36 a §, 2 mom. Sähköisen rahan liikkeeseenlaskua vastaan vastaanotetut varat on muutettava sähköiseksi rahaksi välittömästi.	CONFORM Section 36a(2) of the API transposes Article 6(3) of the Directive. The Finnish law has only transposed the first sentence of the Directive article in an explicit manner. Although its wording differs, there are no material discrepancies: the funds received by an electronic money institution

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	received from the public within the meaning of Article 5 of Directive 2006/48/EC.	2006/48/EY 5 artiklassa tarkoitettuja yleisöltä vastaanotettuja talletuksia tai muita takaisin maksettavia varoja.			shall immediately be exchanged to electronic money in accordance with the Directive requirement. Whereas the second sentence has not been explicitly transposed, Section 9(3) of the API (reproduced under Article 6(2) of the Directive), provides in a general manner that funds received by an electronic money institution shall not be considered as deposits or repayable funds; this complies with Article 5 of Directive 2006/48/EC which prohibits any other persons than credit institutions to provide credit. Consequently, the Finnish law complies with the Directive article.	
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. Varoihin, jotka on otettu vastaan tämän artiklan 1 kohdan a alakohdassa tarkoitettua toimintaa varten ja jotka eivät liity sähköisen rahan liikkeeseenlaskuun, sovelletaan direktiivin 2007/64/EY 16 artiklan 2 ja 4 kohtaa.	API, S. 9(3)	API, S. 9(3) (3) [...] The funds that the payment institution has received from the payment service users are not deposits or other repayable funds, as referred to in the ACI. (22.7.2011/899)	API, 9 §, 3 mom. [...] Maksulaitoksen maksupalvelunkäyttäjiltä vastaanottamat varat eivät ole luottolaitostoiminnasta annetussa laissa tarkoitettuja talletuksia tai muita takaisinmaksettavia varoja. (22.7.2011/899)	CONFORM Section 9(3) of the API transposes Article 6(4) of the Directive. Where the Directive provides that ‘funds received for the activities referred to in paragraph 1(a) of this Article that are <i>not linked</i> to the activity of issuing electronic money’ the Finnish law provides in a general manner that funds received from a payment service user are not ‘deposits or other repayable funds’. Therefore, although the Finnish law does not explicitly refer to the activities in Article 6(1)(a) and which would not be linked to the activity of issuing electronic money, it is still considered to comply with the Directive article.

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Art. 7(1)	<p><i>Article 7</i> Safeguarding requirements</p> <p>1. Member States shall require an electronic money institution to safeguard funds that have been received in exchange for electronic money that has been issued, in accordance with Article 9(1) and (2) of Directive 2007/64/EC. Funds received in the form of payment by payment instrument need not be safeguarded until they are credited to the electronic money institution's payment account or are otherwise made available to the electronic money institution in accordance with the execution time requirements laid down in the Directive 2007/64/EC, where applicable. In any event, such funds shall be safeguarded by no later than five business days, as defined in point 27 of Article 4 of that Directive, after the issuance of electronic money.</p>	<p><i>7 artikla</i> Suojaamista koskevat vaatimukset</p> <p>1. Jäsenvaltioiden on vaadittava sähköisen rahan liikkeeseenlaskijalaitoksia suojaamaan liikkeeseen lasketun sähköisen rahan vastineeksi vastaanotetut varat direktiivin 2007/64/EY 9 artiklan 1 ja 2 kohdan mukaisesti. Maksuvälineen avulla suoritettuna maksuna vastaanotettuja varoja ei tarvitse suojata ennen kuin ne on hyvitetty sähköisen rahan liikkeeseenlaskijalaitoksen maksutilille tai saatettu muulla tavoin sähköisen rahan liikkeeseenlaskijalaitoksen saataville tarvittaessa direktiivissä 2007/64/EY vahvistettujen suoritusaikaa koskevien vaatimusten mukaisesti. Tällaiset varat on kuitenkin suojattava viimeistään kyseisen direktiivin 4 artiklan 27 kohdassa määritellyn viiden työpäivän aikana sähköisen rahan</p>	API, S. 26(1) and (2)	<p>API, S. 26(1) and (2) (22.7.2011/899) Safeguarding of client funds</p> <p>(1) A payment institution which provides other services referred to in Section 9(2) next to payment services, shall according to the following provisions in this paragraph safeguard the funds received from a payment service user or another payment service provider for the execution of payment transactions and funds issued for exchange into electronic money [...]</p> <p>(2) [...] The funds that a service provider pays an electronic money institution on the basis of the use of electronic money shall be deposited or invested according to this paragraph as soon as the funds are available for the electronic money institution, however, at the latest 5 working days after the issuance of the electronic money [...]</p>	<p>API, 26 §, 1 ja 2 mom. (22.7.2011/899) Asiakasvarojen suojaaminen</p> <p>Maksulaitoksen, joka maksupalvelun tarjoamisen lisäksi harjoittaa 9 §:n 2 momentissa tarkoitettua muuta liiketoimintaa, on jäljempänä tässä pykälässä säädetyllä tavalla suojattava maksupalvelun käyttäjiltä tai toiselta maksupalveluntarjoajalta maksutapahtumien toteuttamiseksi ja sähköisen rahan liikkeeseenlaskua vastaan vastaanotetut varat. [...]</p> <p>[...] Varat, jotka palveluntarjoaja hyvittää sähkörahayhteisölle sähköisen rahan käytön perusteella, on talletettava tai sijoitettava tämän momentin mukaisesti niin pian kuin varat ovat sähkörahayhteisön käytettävissä, kuitenkin viimeistään viidentenä työpäivänä sähköisen rahan liikkeeseenlaskusta. [...]</p>	<p>CONFORM</p> <p>Section 26(1) and (2) of the API transpose Article 7(1) of the Directive.</p> <p>In accordance with the Directive requirement, the Finnish law also requires under Section 26(1) of the API that electronic money institutions safeguard the funds received for the issuance of electronic money.</p> <p>Where the Finnish law provides that the above shall apply where the electronic money institution conducts other operations than the issuance of electronic money, this complies with the context set by the introductory wording of Article 9 of Directive 2007/64/EC and does thus not set extra requirements.</p> <p>The said Section 26 of the API also transposes Article 9(1) and (2) of Directive 2007/64/EC in a conforming manner, except to the detail as regards the FSA's approval of the estimation based on historical data referred to in Article 9(2) of the said Directive.</p> <p>Where the second part of the Directive article provides that the funds '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', the Finnish law seems to have transposed this requirement through general terms; it provides that the funds shall be safeguarded once they have been 'received' by the electronic money institution.</p>

Directive 2009/110/EC			National Implementing Measures			Conformity Assessment
		liikkeeseenlaskun jälkeen.				<p>This shall be interpreted as the funds having been ‘credited’ or ‘made available’ and that thus, the Finnish law complies with the second part of the Directive.</p> <p>Section 26(2) of the API also provides as regards the deadline within which any funds shall be safeguarded, that the electronic money institution shall safeguard the funds received from a service provider as fast as they are available and in any case within 5 business days.</p> <p>It may be noted that Finland has transposed the Directive option under Article 9(2) of the Directive 2007/64/EC which provides that ‘where a portion is variable or unknown in advance, Member States may allow payment institutions to apply this paragraph on the basis of a representative portion [...] reasonably estimated on the basis of historical data to the satisfaction of the competent authorities’</p> <p>This applies as well to electronic money institutions, as the API does not provide otherwise.</p> <p>Therefore, the Finnish law complies with the Directive article.</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	2. Edellä 1 kohdan soveltamista varten turvallinen, vähäriskinen varallisuus kuuluu johonkin sijoituspalveluyritysten ja luottolaitosten omien varojen riittävydestä 14	API, S. 26(2)	API, S. 26(2) (22.7.2011/899) Safeguarding of client funds (2) [...] The FSA shall provide for when securities or other	API, 26 § 2 mom. (22.7.2011/899) Asiakasvarojen suojaaminen [...] Finanssivalvonta antaa määräykset siitä, milloin arvopaperia tai	PARTIALLY CONFORM Section 26(2) of the API transposes Article 7(2), first subparagraph of the Directive. The Finnish law provides that the FSA shall provide for when securities or other investment items shall be considered as low-

Directive 2009/110/EC		National Implementing Measures			Conformity Assessment	
	and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions for which the specific risk capital charge is no higher than 1,6 %, but excluding other qualifying items as defined in point 15 of that Annex.	päivänä kesäkuuta 2006 annetun Euroopan parlamentin ja neuvoston direktiivin 2006/49/EY liitteessä I olevassa 14 kohdan taulukossa tarkoitettuun varallisuusluokkaan ja sen erityisriskin pääomavaatimus on enintään 1,6 prosenttia, lukuun ottamatta muita "ehdot täyttäviä eriä", sellaisina kuin ne ovat määriteltynä kyseisen liitteen 15 kohdassa.		investment items may be considered as low-risk or liquid.	muuta sijoituskohdetta voidaan pitää vähäriskisenä ja helposti rahaksi muutettavana.	risk and liquid. However, although FSA Standard RA 6.1 on payment services provides that the FSA has powers to regulate the sector based on Section 26(2) of the API, it does not contain a definition of what securities or other investment items may be considered as low-risk or liquid. Therefore, some further information from the FSA could prove useful. Therefore, it appears that the Finnish law shall be considered partially conforming to the Directive article.
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.	Edellä 1 kohdan soveltamista varten turvallista, vähäriskistä varallisuutta ovat myös sellaisten arvopapereiden yhteissijoitusyritysten osuudet, jotka sijoittavat pelkästään ensimmäisessä alakohdassa tarkoitettuun varallisuuteen.	N/A	N/A	N/A	NOT CONFORM Article 7(2), second subparagraph of the Directive provides that units in an UCITS which invests solely in assets as specified in the first subparagraph of this Article shall also be considered as 'secure, low-risk assets'. However, as the FSA does not appear to have defined the 'low-risk or liquid' assets (which should include the above-mentioned UCITS), the Finnish law does not contain a provision which would include the said UCITS in the category of 'secure, low-risk assets'. Consequently, the Finnish law is considered not conforming in comparison to the Directive article.

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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.	Toimivaltaiset viranomaiset voivat 1 kohdan soveltamista varten poikkeuksellisissa olosuhteissa ja asianmukaisesti perustellen määrittellä ensimmäisessä ja toisessa alakohdassa tarkoitettua turvallisuutta, turvallisuuksi, maturiteettia, arvoa tai muuta riskielementtiä koskevan arvioinnin perusteella, mikä osa tästä varallisuudesta ei ole turvallista, vähäriskistä varallisuutta.	N/A	N/A	N/A	<p>Article 7(2), third subparagraph of the Directive provides for an option which would allow the competent authorities to determine in exceptional circumstances, for the purposes of Article 7(1) of the Directive, which of the assets specified therein do not constitute secure, low-risk assets.</p> <p>Whereas the European Commission Working Document of 15 April 2011 indicates that Finland was going to adopt this provision, no such provision could be retrieved among the FSA standards; thus some further information on this point could also be inquired from the FSA.</p>
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. Sähköisen rahan liikkeeseenlaskijalaitoksiin, jotka hoitavat tämän direktiivin 6 artiklan 1 kohdan a alakohdassa tarkoitettuja, sähköisen rahan liikkeeseenlaskuun liittymättömiä toimintoja, sovelletaan direktiivin 2007/64/EY 9 artiklaa.	N/A	N/A	N/A	<p>CONFORM</p> <p>Article 7(3) of the Directive has been transposed by Section 26 of the API on Safeguarding of client funds as Section 26 of the API transposes Article 9 of Directive 2007/64/EC; its provisions apply, <i>mutatis mutandis</i>, to electronic money institutions.</p> <p>It should be observed that whereas the Finnish law was considered partially conforming to Article 9(2) of the above-mentioned Directive (because of no mention of the fact that the competent authority shall be satisfied that the portion of the funds to be used for future payment transactions can be reasonably estimated on the basis of historical data), the amended API provides that the FSA</p>

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						<p>shall be informed by the payment institution on 'all essential modifications with regard to its compliance with Section 26 of the API'; thus, it may be considered, as regards the transposition of Article 9(2) of Directive 2007/64/EC in specific, that the Finnish law complies with its provisions.</p> <p>Therefore, as regards this Directive article and considering the above, the Finnish law is considered to comply with the Directive article.</p>
Art. 7(4)	<p>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.</p>	<p>4. Jäsenvaltiot tai niiden toimivaltaiset viranomaiset voivat 1 ja 3 kohdan soveltamiseksi määrittellä kansallisen lainsäädännön mukaisesti, mitä menetelmää sähköisen rahan liikkeeseenlaskijalaitosten on sovellettava varojen suojaamiseksi.</p>	<p>API, S. 26(2) and (3)</p>	<p>API, S. 26(2) and (3)</p> <p>(2) [...] The payment institution shall deposit the funds at an account at the central bank, a deposit bank or any other credit institution authorized to receive deposits in any other State or place it in low-risk, liquid securities or other investment items, [...]</p> <p>(3) The payment institution may safeguard the funds defined in the paragraph 1 also by assuring that the received funds are refunded to the payment service users by an insurance company or credit institution which does not belong to the same group as the</p>	<p>API, 26 §, 2 ja 3 mom.</p> <p>[...] Maksulaitoksen on talletettava varat tilille keskuspankkiin, talletuspankkiin tai muussa valtiossa toimiluvan saaneeseen talletusten vastaanottamiseen oikeutettuun luottolaitokseen taikka vähäriskisiin ja helposti rahaksi muutettaviin arvopapereihin tai muihin sijoituskohteisiin, [...]</p> <p>Maksulaitos voi suojata 1 momentissa tarkoitettut varat myös siten, että maksulaitoksen vastaanottamat varat maksetaan maksulaitoksen tullessa maksukyvyttömäksi</p>	<p>CONFORM</p> <p>Article 7(4) of the Directive provides for an option; although according to the Working Document of 15 April 2011 Finland was 'planning' to adopt this option, it does not seem to have been adopted.</p> <p>However, according to the Finnish law, a electronic money institution may chose between:</p> <ul style="list-style-type: none"> - depositing its funds in the central bank, credit institution or place it in low-risk and liquid securities or other investment items; or - insuring them through an insurance company or credit institution not belonging to the same group as itself. <p>Therefore, an electronic money institution may choose how to safeguard the funds.</p> <p>Consequently, the Finnish law is considered to comply with the Directive article.</p>

Directive 2009/110/EC			National Implementing Measures		Conformity Assessment	
				payment institution and which has granted an insurance or a guarantee, when the payment institution has become insolvent.	maksupalvelun käyttäjille sellaisen vakuutusyhtiön tai luottolaitoksen, joka ei kuulu maksulaitoksen kanssa samaan ryhmään, myöntämästä vakuutuksesta tai takauksesta.	
Art. 8(1)	<p><i>Article 8</i> Relations with third 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><i>8 artikla</i> Suhteet kolmansiin maihin</p> <p>1. Jäsenvaltiot eivät saa soveltaa sähköisen rahan liikkeeseenlaskijalaitokseen, jonka kotipaikka on yhteisön ulkopuolella, sivukonttoreihin liiketoimintaa aloitettaessa tai harjoitettaessa säännöksiä, joiden johdosta ne saavat edullisemman kohtelun kuin sellainen sähköisen rahan liikkeeseenlaskijalaitos, jonka kotipaikka on yhteisössä.</p>	<p>API, S. 6</p> <p>AFPIF, S. 4(1)</p> <p>AFPIF, S. 4(1)</p> <p>AFPIF, S. 2, point 1</p>	<p>API, S. 6</p> <p>Authorisation to provide payment services</p> <p>(1) Payment services may only be provided if an authorisation defined in this Act has been granted. The authorisation of an electronic money institution shall in addition reveal its right to issue electronic money. (22.7.2011/899)</p> <p>The AAFPIF provides on a foreign payment institution's right to provide payment services in Finland. (2010/298).</p> <p>AFPIF, S. 4(1)</p> <p>Conditions for establishing a branch</p> <p>(1) A foreign payment institution may establish a</p>	<p>API, 6 §</p> <p>Maksupalvelun tarjoamisen luvanvaraisuus</p> <p>Maksupalvelua saa tarjota vain, jos toimintaan on saatu tässä laissa tarkoitettu toimilupa. Sähkörahayhteisön toimiluvasta on erikseen käytävä ilmi oikeus laskea liikkeeseen sähköistä rahaa. (22.7.2011/899)</p> <p>Ulkomaisen maksulaitoksen oikeudesta tarjota maksupalveluja Suomessa säädetään ulkomaisen maksulaitoksen toiminnasta Suomessa annetussa laissa (2010/298).</p> <p>AFPIF, 4 §, 1 mom.</p> <p>Sivuliikkeen aloittamisen</p>	<p>CONFORM</p> <p>Section 6 of the API which cross- refers to Act No 2010/298 on Foreign Payment Institutions in Finland transposes Article 8(1) of the Directive.</p> <p>Where the Directive article provides that a Member State shall not provide 'more favourable treatment' to an electronic money institution having its 'head office outside the Community', the AFPIF provides in its Section 4(1) and 5(1) that, as regards a foreign payment institution, the establishment of a branch is only subject to the requirement that the FSA be adequately informed.</p> <p>According to Section 5(1) of the AFPIF, a foreign payment institution may also provide services without establishing a branch or a subsidiary provided that its supervisory authority has informed the Finnish FSA</p> <p>However, a 'foreign payment institution' is defined as an institution which has received its authorisation in another EEA Member State than Finland.</p> <p>Consequently, whereas the Directive has 'EEA relevance', it appears that the Directive</p>

Directive 2009/110/EC		National Implementing Measures	Conformity Assessment	
		<p>branch in Finland once its home Member State's competent authority has informed the FSA about the establishment of the branch.</p> <p>AFPIF, S. 5(1) Provision of payment services without establishing a branch</p> <p>(1) A foreign payment institution shall have the right to exercise its activity in Finland without establishing a subsidiary or a branch.</p> <p>AFPIF, S. 2, point 1 Definitions</p> <p>For the purpose of this Act:</p> <p>1) foreign payment institution shall mean a legal person which performs payment services and which has received the corresponding authorisation referred to in Section 6 of the API (297/2010) in another Member State of the</p>	<p>edellytykset</p> <p>Ulkomainen maksulaitos voi perustaa sivuliikkeen Suomeen yrityksen kotivaltion valvontaviranomaisen ilmoitettua sivuliikkeen perustamisesta Finanssivalvonnalle.</p> <p>AFPIF, 5 §, 1 mom. Maksupalveluiden tarjoaminen sivuliikettä perustamatta</p> <p>Ulkomaisella maksulaitoksella on oikeus harjoittaa toimintaa Suomessa myös perustamatta tytäryritystä tai sivuliikettä.</p> <p>AFPIF, 2 §, 1 kohta Määritelmät</p> <p>Tässä laissa tarkoitetaan:</p> <p>1) ulkomaisella maksulaitoksella maksupalvelun tarjoamista harjoittavaa oikeushenkilöä, joka on saanut maksulaitoslain (297/2010) 6 §:ssä tarkoitettua toimilupaa vastaavan toimiluvan</p>	<p>article reference to 'outside the Community' shall be held as meaning outside the EEA.</p> <p>Therefore, it appears that Finland has not provided for the situation where a foreign institution (outside the EEA) would issue electronic money in Finland.</p> <p>Nevertheless, as there are no provisions in the Finnish law which would allow to consider that a foreign electronic money institution would receive more favourable treatment in Finland, it appears that the API shall apply.</p> <p>It should also notably be mentioned that Section 12 of the AFPI provides that Section 36a of the API on the 'Issuance and redemption of electronic money' shall apply on foreign electronic money institutions.</p> <p>Thus it appears that the Finnish law may be considered conforming to the Directive article.</p>

Directive 2009/110/EC			National Implementing Measures			Conformity Assessment
				European Economic Area than Finland;	muussa Euroopan talousalueeseen kuuluvassa valtiossa kuin Suomessa;	
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. Toimivaltaisten viranomaisten on annettava tiedoksi komissiolle kaikki sellaisille sähköisen rahan liikkeeseenlaskijalaitoksille myönnetyt sivukonttoritoimiluvat, joiden kotipaikka on yhteisön ulkopuolella.	N/A	N/A	N/A	<p>NOT CONFORM</p> <p>Article 8(2) of the Directive has not been explicitly transposed into Finnish legislation; no corresponding provision could be retrieved in the API, the AFPIF or the AFSA.</p> <p>Whereas, the website of the FSA contains a list of entities which have cross-border activities, no list was retrieved as regards ‘branches of electronic money institutions having their head office outside the Community’.</p> <p>No provision which would stipulate an obligation to notify the Commission was retrieved.</p> <p>Consequently, the Finnish law is considered to not comply with the Directive article.</p>
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	3. Rajoittamatta 1 kohdan soveltamista yhteisö voi yhden tai useamman kolmannen maan kanssa tehdyin sopimuksin ryhtyä soveltamaan säännöksiä, joilla varmistetaan sellaisen sähköisen rahan liikkeeseenlaskijalaitoksen sivukonttoreille, jonka kotipaikka on yhteisön ulkopuolella, samanlainen	N/A	N/A	N/A	Article 8(3) of the Directive does not require an explicit transposition into national legislation; no corresponding provision was retrieved in the Finnish legislation.

Directive 2009/110/EC		National Implementing Measures			Conformity Assessment	
	Community.	kohtelu koko yhteisössä.				
Art. 9(1) 1st subparagraph a. intr. wording	<p><i>Article 9</i> Optional Exemptions</p> <p>1. Member States may waive or allow their competent authorities to waive the application of all or part of the procedures and conditions set out in Articles 3, 4, 5 and 7 of this Directive, with the exception of Articles 20, 22, 23 and 24 of Directive 2007/64/EC, and allow legal persons to be entered in the register for electronic money institutions if both of the following requirements are complied with:</p>	<p><i>9 artikla</i> Valinnaiset poikkeukset</p> <p>1. Jäsenvaltiot voivat jättää soveltamatta tai sallia toimivaltaisten viranomaistensa jättää soveltamatta tämän direktiivin 3, 4, 5 ja 7 artiklassa säädettyjä menettelyjä ja edellytyksiä tai osaa niistä, ei kuitenkaan direktiivin 2007/64/EY 20, 22, 23 ja 24 artiklan osalta, sekä sallia oikeushenkilöiden kirjaamisen sähköisen rahan liikkeeseenlaskijalaitosten rekisteriin, jos kummatkin seuraavat edellytykset täyttyvät:</p>	API, S. 7a(1)	<p>API, S. 7a(1) (22.7.2011/899)</p> <p>The exception from the authorisation requirement as regards the issuance of electronic money</p> <p>(1) Notwithstanding the provisions in Section 6, a natural person, which domicile is in Finland and a legal person, which head office is in Finland, may issue electronic money without authorisation, [...]</p>	<p>API, 7 a §, 1 mom. (22.7.2011/899)</p> <p>Sähköisen rahan liikkeeseenlaskun luvanvaraisuutta koskeva poikkeus</p> <p>Sen estämättä, mitä 6 §:ssä säädetään, luonnollinen henkilö, jonka kotipaikka on Suomessa, ja oikeushenkilö, jonka pääkonttori on Suomessa, saa laskea liikkeeseen sähköistä rahaa ilman toimilupaa, [...]</p>	<p>PARTIALLY CONFORM</p> <p>Section 7a(1) of the API transposes the introductory wording of Article 9(1), first subparagraph of the Directive.</p> <p>Whereas the Directive refers specifically to the possibility to waive the application of Articles 3, 4, 5 and 7 of this Directive (under Title II of this Directive on the ‘Requirements for the taking up, pursuit and prudential supervision of the business of electronic money institutions’) for certain electronic money institutions, the Finnish law provides in a streamlined manner that notwithstanding Section 6 of the API (on the authorisation required for payment institutions) and under the conditions provided for below, that a natural- or a legal person may issue electronic money without an authorisation.</p> <p>Therefore, as Articles 3, 4, 5 and 7 of this Directive contain the essential provisions in relation to the authorisation requirements, although the Finnish law is more general, it still appears to comply with the Directive requirement.</p> <p>However, whereas the Directive article only refers to legal person, the Finnish law also refers to natural persons.</p> <p>Therefore, as the Directive defines an ‘electronic money institution’ as a ‘legal person’ and not as a ‘natural person’ the Finnish law is considered to partially comply with the Directive article.</p>

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Art. 9(1) 1st subpar . (a)	(a) the total business activities generate an average outstanding electronic money that does not exceed a limit set by the Member State but that, in any event, amounts to no more than EUR 5000000; and	a) liiketoiminta tuottaa kokonaisuudessaan keskimääräisen liikkeessä olevan sähköisen rahan, joka ei ylitä jäsenvaltion asettamaa rajaa ja joka on joka tapauksessa enintään 5000000 euroa; sekä	API, S. 7a(1)	API, S. 7a(1) (22.7.2011/899) (1) [...] where the issued electronic money, calculated in accordance with Section 30a, does not exceed 5 million euro [...]	API, 7 a § (22.7.2011/899) [...] jos 30 a §:n mukaisesti laskettu liikkeessä olevan sähköisen rahan määrä ei ylitä 5:tä miljoonaa euroa. [...]	CONFORM Section 7a(1) of the API transposes Article 9(1), first subparagraph, point (a) of the Directive. Although the wording in the Finnish law differs some, it provides in accordance with the Directive that the outstanding electronic money (calculated according to Section 30a of the API) shall not exceed EUR 5.000.000. Whereas Section 30a of the API provides on the minimum own funds of an electronic money institution, as these shall be calculated on the basis of the outstanding electronic money, Section 30a(2) also provides for the manner in which the outstanding electronic money shall be calculated. Consequently, the Finnish law complies with the Directive provision.
Art. 9(1) 1st subpar a. (b)	(b) none of the natural persons responsible for the management or operation of the business has been convicted of offences relating to money laundering or terrorist financing or other financial crimes.	b) yhtäkään liiketoiminnan valvontaan tai harjoittamiseen osallistuvaa luonnollista henkilöä ei ole tuomittu rahanpesuun tai terrorismin rahoittamiseen liittyvistä rikoksista tai muista talousrikoksista.	API, S. 7(4) API, S. 13(4)	API, S. 7(4) (4) The right to provide a payment service according to this Section shall not exist where the person participating in the provision of services or the responsible natural person is not reliable within the meaning of Section 13 or if the payment service provider does not fulfil its obligations in accordance with the Act on the	API, 7 §, 4 mom. Tässä pykälässä tarkoitettua oikeutta tarjota maksupalvelua ei ole, jos palvelun tarjoamiseen osallistuva tai siitä vastaava luonnollinen henkilö ei ole 13 §:ssä tarkoitettulla tavalla luotettava taikka jos maksupalveluntarjoaja ei täytä, mitä sen velvollisuudeksi on säädetty rahanpesun ja terrorismin rahoittamisen	CONFORM Section 7(4) and 13(4) of the API transpose Article 9(1), first subparagraph, point (b) of the Directive. In accordance with the Directive which provides that ‘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’ the Finnish law provides in the first place in a more general manner that ‘the person participating in the provision of services or the responsible natural person’ must be

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				<p>Prevention and Clearance of Money Laundering and Terrorist Financing (503/2008). (22.7.2011/899)</p> <p>API, S. 13(4) Management of the payment institution</p> <p>(4) A person shall not be considered reliable where he or she has been convicted to a prison sentence during the past 5 years by judgment which has had legal force or who has during the past 3 years been convicted to pay a fine, which shows that he or she is obviously unsuitable to establish or own a payment institution, or where he or she has otherwise shown him- or herself obviously unsuitable to establish or own a payment institution.</p>	<p>estämisestä ja selvittämisestä annetussa laissa (503/2008). (22.7.2011/899)</p> <p>API, 13 § 4 mom. Maksulaitoksen johtaminen</p> <p>Henkilöä ei pidetä luotettavana, jos hänet on lainvoiman saaneella tuomiolla viiden arviota edeltäneen vuoden aikana tuomittu vankeusrangaistukseen tai kolmen arviota edeltäneen vuoden aikana sakkorangaistukseen rikoksesta, jonka voidaan katsoa osoittavan hänen olevan ilmeisen sopimaton perustamaan tai omistamaan maksulaitosta, taikka jos hän on muutoin aikaisemmalla toiminnallaan osoittanut olevansa ilmeisen sopimaton perustamaan tai omistamaan maksulaitosta.</p>	<p>‘reliable’ in accordance with Section 13 of the API.</p> <p>Moreover, the said persons shall fulfil their obligations as regards Money Laundering and Terrorist Financing according to the last part of Section 7(4) of the API.</p> <p>With regard to Section 13 of the API and specifically its Section 13(4), it provides for a negative description of a ‘reliable’ person; this person shall notably neither have been convicted to prison during the past five years or in any other way shown him- or herself ‘unsuitable to establish or own a payment institution’</p> <p>Consequently, considering the above, the Finnish law may be considered complying with the Directive article.</p>
Art. 9(1) 2nd subpar	Where an electronic money institution carries out any of the activities referred to in Article 6(1)(a) that are not linked	Jos sähköisen rahan liikkeeseenlaskijalaitokset suorittavat 6 artiklan 1 kohdan alakohdassa tarkoitettuja	API, S. 30a(4)	API, S. 30a(4) (4) At the request of the electronic money institution the FSA may	API, 30 a § 4 mom. Jos sähkörahayhteisö ei ilman kohtuuttomia kustannuksia voi laskea	CONFORM Section 30a(4) of the API transposes Article 9(1), second subparagraph of the Directive. Whereas the Directive article provides

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a,	<p>to the issuance of electronic money or any of the activities referred to in Article 6(1)(b) to (e) and the amount of outstanding electronic money is unknown in advance, the competent authorities shall allow that electronic money institution to apply point (a) of the first subparagraph on the basis of a representative portion assumed to be used for the issuance of electronic money, provided that such a representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the competent authorities. 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>toimintoja, jotka eivät liity sähköisen rahan liikkeeseenlaskuun, tai jotakin 6 artiklan 1 kohdan b–e alakohdassa tarkoitetuista toiminnoista, ja liikkeessä olevan sähköisen rahan määrä ei ole ennalta tiedossa, toimivaltaisten viranomaisten on annettava sähköisen rahan liikkeeseenlaskijalaitosten soveltaa tätä kohtaa sellaisen edustavan osuuden perusteella, joka oletetaan käytettävän sähköisen rahan liikkeeseenlaskuun, edellyttäen, että tämä edustava osuus voidaan arvioida kohtuullisesti historiatietojen perusteella ja toimivaltaisia viranomaisia tyydyttävällä tavalla. Jos sähköisen rahan liikkeellelaskija ei ole ollut liiketoiminnassa riittävän pitkään, vaatimusta arvioidaan liiketoimintasuunnitelmassa a kaavaillun liikkeessä olevan sähköisen rahan perusteella soveltaen kaikkia muutoksia, joita toimivaltaiset viranomaiset ovat</p>	<p>authorize the electronic money institution to define outstanding electronic money according to prudently assessed historical data, if the electronic money institution may not, without unreasonable costs, calculate the average outstanding electronic money according to paragraph 2. The FSA shall provide the authorisation if the average outstanding electronic money may be continuously assessed in a reliable manner. During the 12 months following the authorisation (to issue electronic money) the outstanding electronic money may be estimated according to the assessment made in the business plan which was annexed in the authorisation application.</p>	<p>liikkeessä olevan sähköisen rahan keskimäärää 2 momentissa tarkoitettulla tavalla, Finanssivalvonta voi sähkörahayhteisön hakemuksesta myöntää luvan määrittää liikkeessä oleva sähköisen rahan määrä varovasti arvioitujen historiatietojen perusteella. Finanssivalvonnan on myönnettävä lupa, jos liikkeessä olevan sähköisen rahan keskimäärä voidaan jatkuvasti arvioida luotettavalla tavalla. Toimiluvan myöntämistä seuraavan 12 kuukauden ajan liikkeessä olevan sähköisen rahan määrä saadaan arvioida toimilupahakemukseen liitettyssä, Finanssivalvonnan hyväksymässä liiketoimintasuunnitelmassa esitetyn arvion mukaisesti.</p>	<p>specifically for the situation where an electronic money institution carries out other activities than the issuance of electronic money (those listed in Article 6(1) of this Directive), the Finnish law does not contain an equivalent reference.</p> <p>On the contrary, it refers to the situation where the estimation of the outstanding electronic money would cause ‘unreasonable costs’.</p> <p>In this situation, the FSA may at request allow the electronic money institution to estimate the outstanding electronic money according to ‘prudently assessed historical data’.</p> <p>Whereas the Finnish law does not explicitly provide that the ‘historical data’ shall be estimated to the ‘satisfaction’ of the FSA, it may be considered implied.</p> <p>In addition, the Finnish law requires that it shall be possible to calculate the outstanding electronic money ‘continuously in a reliable manner’, which does not seem contrary to the Directive article.</p> <p>Where the last part of the Directive provides for the situation where an electronic money institution has ‘not completed a sufficiently long period of business’ in order to calculate the outstanding electronic money, the Finnish law provides in a comparable manner that in this situation the outstanding electronic money may be estimated on the basis of the ‘business plan approved by the FSA’ (which implies that any adjustments of the FSA may</p>

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		vaatineet kyseiseen suunnitelmaan.			<p>have been taken into account in the business plan).</p> <p>Consequently, whereas the context in the Finnish law is streamlined in relation to the Directive article, it appears however that it may be implied that where an electronic money institution carries out other activities than the issuance of electronic money, it could cause it ‘unreasonable costs’ to estimate the outstanding electronic money.</p> <p>Therefore, on this basis, and considering the above, it is considered that the Finnish law complies with the Directive article.</p>	
Art. 9(1) 3rd subpar a.	Member States may also provide for the granting of the optional exemptions under this Article to be subject to an additional requirement of a maximum storage amount on the payment instrument or payment account of the consumer where the electronic money is stored.	Jäsenvaltiot voivat myös asettaa tämän artiklan mukaisten valinnaisten poikkeusten myöntämistä koskevaksi lisäehdoksi, että kuluttajan maksuvälineeseen tai maksutiliin sovelletaan sähköistä rahaa talletettaessa talletettavan määrän enimmäisrajaa.	API, S. 26(1)	<p>API, S. 26(1) (22.7.2011/899)</p> <p>Safeguarding of client funds</p> <p>(1) [...] The provisions in this paragraph on the minimum amounts required in order for the funds to be included in the safeguarding net shall not apply to funds that have been received in exchange for the issuance of electronic money.</p>	<p>API, 26 §, 1 mom. (22.7.2011/899)</p> <p>Asiakasvarojen suojaaminen</p> <p>[...] Mitä tässä momentissa säädetään suojan piiriin kuuluvien varojen vähimmäismääristä, ei sovelleta varoihin, jotka on vastaanotettu sähköisen rahan liikkeeseenlaskua vastaan.</p>	<p>Article 9(1) third subparagraph of the Directive provides for an option; Section 26 of the API explicitly excludes that ‘minimum amounts’ shall be required in order for client funds to be included in the safeguarding net’.</p> <p>Thus, Finland has not adopted the Directive option. This is also in accordance with the European Commission Working Document of 15 April 2011 which indicates that Finland was not going to adopt this provision.</p>
Art. 9(1) 4th subpar a.	A legal person registered in accordance with this paragraph may provide payment services not related to electronic money issued in	Tämän kohdan mukaisesti rekisteröityneet oikeushenkilöt voivat tarjota sähköisen rahan liikkeeseenlaskuun liittymättömiä	API, S. 7(1)	<p>API, S. 7(1)</p> <p>The exception from the authorisation requirement as regards the provision of other</p>	<p>API, 7 §, 1 mom.</p> <p>Muun maksupalvelun tarjoamisen kuin sähköisen rahan liikkeeseenlaskun</p>	<p>CONFORM</p> <p>Section 7(1) of the API transposes Article 9(1), fourth subparagraph of the Directive.</p> <p>In line with the Directive article, the Finnish law provides that an electronic money</p>

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	accordance with this Article only if conditions set out in Article 26 of Directive 2007/64/EC are met.	maksupalveluja tämän artiklan mukaisesti ainoastaan siinä tapauksessa, että direktiivin 2007/64/EY 26 artiklassa tarkoitettut ehdot täyttyvät.		<p>payment services than the issuance of electronic money</p> <p>(1) Notwithstanding the provisions in Section 6, a natural person, which domicile is in Finland and a legal person, which head office is in Finland, may provide other payment services than the issuance of electronic money without authorisation according the conditions set out in this paragraph. (22.7.2011/899)</p>	<p>luvanvaraisuutta koskeva poikkeus</p> <p>Sen estämättä, mitä 6 §:ssä säädetään, luonnollinen henkilö, jonka kotipaikka on Suomessa, ja oikeushenkilö, jonka pääkonttori on Suomessa, saa tarjota muuta maksupalvelua kuin sähköisen rahan liikkeeseenlaskua ilman toimilupaa tässä pykälässä säädetyin edellytyksin. (22.7.2011/899)</p>	<p>institution may provide other services than issuance of electronic money without authorisation if the conditions provided for in Section 7(1) of the API are complied with.</p> <p>Where the Directive article also refers to Article 26 of Directive 2007/64/EC, it may be noted that Section 7 of the API also transposed the before mentioned Directive article.</p> <p>Consequently, the Finnish law is considered to comply with the Directive article.</p>
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. Oikeushenkilön, joka on rekisteröity 1 kohdan mukaisesti, on pidettävä kotipaikkansa siinä jäsenvaltiossa, jossa se tosiasiallisesti harjoittaa liiketoimintaansa.	API, S. 7a(1)	<p>API, S. 7a(1) (22.7.2011/899)</p> <p>The exception from the authorisation requirement as regards the issuance of electronic money</p> <p>(1) Notwithstanding the provisions in Section 6, a natural person, which domicile is in Finland and a legal person, which head office is in Finland, may issue electronic money without authorisation, [...]</p>	<p>7 a §, 1 mom. (22.7.2011/899)</p> <p>Sähköisen rahan liikkeeseenlaskun luvanvaraisuutta koskeva poikkeus</p> <p>Sen estämättä, mitä 6 §:ssä säädetään, luonnollinen henkilö, jonka kotipaikka on Suomessa, ja oikeushenkilö, jonka pääkonttori on Suomessa, saa laskea liikkeeseen sähköistä rahaa ilman toimilupaa, [...]</p>	<p>CONFORM</p> <p>Section 7a(1) of the API transposes Article 9(2) of the Directive.</p> <p>Following the Directive requirement, the Finnish law provides indirectly, while referring to Section 6 of the API (on the Authorisation requirement) that a natural- or legal person shall have its domicile or head office in Finland where it issues electronic money without authorisation.</p> <p>Therefore, although the Finnish law does not explicitly provide here that the electronic money institution may not provide its services outside Finland, Section 7(5) of the API (reproduced below) provides for this limitation.</p> <p>Consequently, the Finnish law is considered</p>

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						to comply with the Directive requirement.
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. Oikeushenkilöltä, joka on rekisteröity 1 kohdan mukaisesti, on kohdeltava sähköisen rahan liikkeeseenlaskijalaitoksen a. Niihin ei kuitenkaan sovelleta direktiivin 2007/64/EY 10 artiklan 9 kohtaa eikä 25 artiklaa.	API, S. 7a(2) API, S. 7(5)	API, S. 7a(2) (22.7.2011/899) (2) Section 7(3) to (6) which apply to a payment service provider shall be applied on the issuer of electronic money referred to in this paragraph, [...] API, S. 7(5) (5) [...] The service provider referred to in this Section may not create a secondary establishment or provide payment services in another State part of the EEA.	API, 7 a §, 2 mom. (22.7.2011/899) Tässä pykälässä tarkoitettuun sähköisen rahan liikkeeseenlaskijaan sovelletaan, mitä 7 §:n 3–6 momentissa säädetään maksupalvelun tarjoajasta, [...] API, 7 §, 5 mom. [...] Tässä pykälässä tarkoitettu palveluntarjoaja ei saa perustaa sivuliikettä tai tarjota maksupalveluja toiseen Euroopan talousalueeseen kuuluvaan valtioon.	CONFORM Section 7a(2) of the API which refers to Section 7(5) of the API transposes Article 9(3) of the Directive. In accordance with the Directive provision, Section 7(5) of the API provides that an electronic money institution may not establish a secondary establishment or issue electronic money in another Member State of the EEA. Consequently, as the Finnish law complies with the cross-references of the Directive article (Article 10(9) which provides for the right of establishment and the freedom to provide services and Article 25 on the ‘Exercise of the right of establishment and freedom to provide services’ of Directive 2007/64/EC), it is considered to comply with the Directive article.
Art. 9(4)	4. Member States may provide for a legal person registered in accordance with paragraph 1 to engage only in some of the activities listed in Article 6(1).	4. Jäsenvaltiot voivat myös säätää, että 1 kohdan mukaisesti rekisteröidyt oikeushenkilöt voivat harjoittaa vain joitakin 6 artiklan 1 kohdassa luetelluista toiminnoista.	N/A	N/A	N/A	Article 9(4) of the Directive provides for an option that Finland has not adopted. The European Commission Working Document of 15 April 2011 also indicates that Finland was not going to adopt this provision.
Art. 9(5) intr. wordi	5. A legal person referred to in paragraph 1 shall:	5. Edellä 1 kohdassa tarkoitettujen oikeushenkilöiden on:	N/A	N/A	N/A	CONFORM The Finnish law does not contain an equivalent introductory wording in comparison to the introductory wording of

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ng					Article 9(5) of the Directive; however, it complies with the underlying points of the Directive article.	
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) ilmoitettava toimivaltaisille viranomaisille 1 kohdassa esitettyihin edellytyksiin vaikuttavista muutoksista tilanteessaan; sekä	API, 8 §, S. 1	API, 8 §, S. 1 (22.7.2011/899) The notification obligation when providing payment services without authorisation (1) [...] The service provider shall also without delay inform the FSA of the termination of the activity, of any significant changes in the extent of the activity as well as of the changes referred to in Section 7(2) to (4) and Section 7a(1).	API, 8 §, 1 mom. (22.7.2011/899) Ilmoitusvelvollisuus tarjottaessa maksupalvelua ilman toimilupaa [...] Palveluntarjoajan on lisäksi viivytyksettä ilmoitettava Finanssivalvonnalle toiminnan lakkaamisesta, merkittävistä muutoksista toiminnan laajuudessa sekä muutoksista 7 §:n 2–4 momentissa ja 7 a §:n 1 momentissa tarkoitetuissa seikoissa.	CONFORM Section 8(1) of the API transposes Article 9(5)(a) of the Directive. In accordance with the Directive provision, an electronic money institution shall ‘without delay’ inform the FSA notably about any ‘significant changes in the extent of its activity’ or with regard to Section 7(2) to (4) of the API or Section 7a(1) of the API. Whereas Section 7(2) and (3) of the API do not appear relevant as regards electronic money institutions (it refers to the average amount of payment transactions that may be carried out during the past 12 months by a payment institution and to the transactions carried out by an agent), Section 7(4) of the API refers to the ‘reliability’ of any person participating in the payment operations and Section 7a(1) refers to the amount that an electronic money institution may issue without authorisation (5 000 000 EUR). The above notification obligations seem to compare with the obligations set out in Article 9(1) of the Directive. Consequently, it appears that the Finnish law complies with the notification obligation provided for in the Directive article.
Art. 9(5)(b)	(b) at least annually, on date specified by the	b) ilmoitettava vähintään vuosittain toimivaltaisten	API, 8 §, S. 3	API, 8 §, S. 3 (22.7.2011/899)	API, 8 §, 3 mom. (22.7.2011/899)	CONFORM Section 8(3) of the API transposes Article

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	competent authorities, report on the average outstanding electronic money.	viranomaisten määrittelemänä ajankohtana keskimääräisen liikkeessä olevan sähköisen rahan määrä kuuden edeltävän kalenterikuukauden ajalta.		(3) The person providing payment services on the basis of Section 7 or Section 7a shall annually inform the FSA of the total amount of payment transactions. [...]	Maksupalveluita 7 tai 7 a §:n nojalla ilman toimilupaa tarjoavan on vuosittain ilmoitettava Finanssivalvonnalle toteuttamiensa maksutapahtumien yhteismäärä. [...]	9(5)(b) of the Directive. In accordance with the Directive article, electronic money institutions shall inform the FSA annually of the ‘average amount of payment transactions’ (‘the average outstanding electronic money’). Therefore, the Finnish law is considered to comply with the Directive article. It should moreover be observed that the Finnish version of the Directive differs from the Directive article as it refers to the average outstanding electronic money ‘of the past 6 months’.
Art. 9(6)	6. Member States shall take the necessary steps to ensure that where the conditions set out in paragraphs 1, 2 and 4 are no longer met, the legal person concerned shall seek authorisation within 30 calendar days in accordance with Article 3. Any such person that has not sought authorisation within that period shall be prohibited, in accordance with Article 10, from issuing electronic money.	6. Jäsenvaltioiden on toteutettava tarvittavat toimenpiteet varmistaakseen, että jos 1, 2 ja 4 kohdan edellytykset eivät enää täyty, asianomaisen oikeushenkilön on haettava 30 kalenteripäivän kuluessa toimilupaa 3 artiklan mukaisesti. Jokaiselta tällaiselta oikeushenkilöltä, joka ei ole hakenut toimilupaa kyseisen ajan kuluessa, on 10 artiklan mukaisesti kiellettava sähköisen rahan liikkeeselasku.	API, S. 7(6) API, 8 §, S.2	API, S. 7(6) (22.7.2011/899) (6) Where the limit mentioned in paragraph 2 has been exceeded, the service provider shall apply for the authorisation mentioned in this Act within 30 days, align its activity within the provisions of this Act or terminate the activity. API, 8 §, S.2 (2) The FSA shall without delay cancel the decision if the activity does no longer fulfil the conditions provided for in Section	API, 7 §, 6 mom. (22.7.2011/899) Edellä 2 momentissa mainitun rajan ylittyttyä palveluntarjoajan on haettava tässä laissa tarkoitettua toimilupaa 30 päivän kuluessa, saatettava toimintansa muuten lain mukaiseksi tai lopetettava toimintansa. API, 8 §, 2 mom. Finanssivalvonnan on viipymättä peruutettava päätös, jos toiminta ei enää täytä 7 §:n 2–4	CONFORM Section 7(6) and 8(2) of the API transpose Article 9(6) of the Directive. Where the Directive article provides that ‘where the conditions set out in paragraphs 1, 2 and 4 are no longer met, the legal person concerned shall seek authorisation’, Section 7(6) of the API provides that where a service provider (electronic money institution) has ‘exceeded the limit set out in paragraph 2, the legal person concerned shall seek authorisation within 30 calendar days’. As a matter of fact, whereas the Finnish law only refers explicitly to the condition relating to the average amount of issued electronic money, the condition provided for in Article 9(2) of the Directive may be considered implicitly referred to as the relevant obligation has been correctly

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				7(2) to (4) or Section 7a(1).	momentissa tai 7 a §:n 1 momentissa säädettyjä edellytyksiä.	<p>transposed into Finnish legislation.</p> <p>Where the electronic money institution would not have sought authorisation and where it would not have rendered its activity in compliance with its obligations within the set deadline, it is required to end its activity.</p> <p>Moreover, Section 8(2) of the API, which also refers to Section 7(2) of the API and directly to Section 7a(1) of the API, provides that the FSA shall ‘without delay’ cancel the authorisation [of an electronic money institution] where it does no longer comply with the conditions set therein.</p> <p>Consequently, the Finnish law is in compliance with the Directive article.</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. Jäsenvaltioiden on varmistettava, että niiden toimivaltaisilla viranomaisilla on riittävät valtuudet tarkastaa, että tässä artiklassa vahvistettuja vaatimuksia noudatetaan jatkuvasti.	API, S. 8(3)	API, S. 8(3) (22.7.2011/899) (3) The person providing payment services on the basis of Section 7 or 7a without authorisation shall annually inform the FSA of the total amount of payment transactions. The FSA shall also have the right to obtain any relevant information for the purpose of the application of this Section from the service provider.	API, 8 §, 3 mom. (22.7.2011/899) Maksupalveluita 7 tai 7 a §:n nojalla ilman toimilupaa tarjoavan on vuosittain ilmoitettava Finanssivalvonnalle toteuttamiensa maksutapahtumien yhteismäärä. Finanssivalvonnalla on lisäksi oikeus saada mainitulta palveluntarjoajalta muut tämän pykälän soveltamisen kannalta tarpeelliset tiedot.	CONFORM Section 8(3) of the API transposes Article 9(7) of the Directive. Section 8 of the API provides on the information obligations where the electronic money institution issues electronic money without authorisation. Where the Directive article provides that the competent authority shall be ‘ <i>sufficiently empowered</i> ’ to verify continued compliance with the requirements laid down in this Article’, the Finnish law provides notably that the FSA shall have the right to ‘obtain any relevant information for the purpose of the application of this Section’. Consequently, the Finnish law is in compliance with the Directive article.

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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. Tätä artiklaa ei sovelleta direktiivin 2005/60/EY säännöksiin eikä kansallisiin rahanpesun torjuntaa koskeviin säännöksiin.	APCM LTF, S. 2, point 20	APCMLTF, S. 2, point 20 Scope of application This Act shall apply to : 20) payment institutions referred to in the Act on Payment Institutions (297/2010) and the institutions mentioned in its Section 7 and 7a ; (22.7.2011/907)	APCMLTF, 2 §, 20 kohta Lain soveltamisala Tätä lakia sovelletaan: 20) maksulaitoslaissa (297/2010) tarkoitettuun maksulaitokseen sekä mainitun lain 7 ja 7 a §:ssä tarkoitettuun; (22.7.2011/907)	CONFORM Section 2, point 20 of the APCMLTF transposes Article 9(8) of the Directive. Where the Directive article provides that this article shall apply without prejudice of the ‘provisions of Directive 2005/60/EC or national anti-money-laundering provisions’, the Finnish law provides that the APCMLTF applies to the institution referred to in Section 7a of the API, that is, to electronic money institutions which issue electronic money without authorisation. Consequently, the Finnish law complies with the Directive article.
Art. 9(9)	9. Where a Member State avails itself of the waiver provided for in paragraph 1, it shall notify the Commission accordingly by 30 April 2011. The Member State shall notify the Commission forthwith of any subsequent change. In addition, the Member State shall inform the Commission of the number of legal persons concerned and, on an annual basis, of the total amount of outstanding electronic money issued at 31 December of each calendar year, as referred	9. Jos jäsenvaltio käyttää hyväkseen 1 kohdassa tarkoitettua poikkeusta, sen on ilmoitettava asiasta komissiolle 30 päivään huhtikuuta 2011 mennessä. Jäsenvaltion on tehtävä komissiolle ilmoitus kaikista myöhemmistä muutoksista. Lisäksi jäsenvaltion on ilmoitettava komissiolle kyseisten oikeushenkilöiden määrä ja ilmoitettava vuosittain komissiolle 1 kohdassa tarkoitettu liikkeessä olevan sähköisen rahan kokonaismäärä kunkin	AFSA, S. 71(1), point 11	AFSA, S. 71(1), point 11 Right and obligation to provide information [...] the Financial Supervisory Authority has the right to provide information despite the secrecy provisions to: 11) the central bank of Finland or another EEA Member State and other authorities, which as monetary authorities has a similar mission, and other authorities responsible for the supervision of payment systems;	AFSA, 71 §, 1 mom., 11 kohta Oikeus ja velvollisuus luovuttaa tietoja [...] Finanssivalvonnalla on oikeus luovuttaa salassapitosäännösten estämättä tietoja: 11) Suomen tai muun ETA-valtion keskuspankille ja muulle toimielimelle, jolla on rahapoliittisena viranomaisena samanlainen tehtävä, sekä muulle maksujärjestelmien valvonnasta vastuussa olevalle viranomaiselle;	PARTIALLY CONFORM Article 9(9) of the Directive lays a direct obligation on the Member State (or eventually the competent authority), to inform the European Commission. Whereas the FSA has a general duty to provide information and cooperate with EEA Member States and their competent authorities under Section 71 of the AFSA no corresponding provision could be found in the relevant legislation as regards the European Commission. Consequently, partial conformity is observed.

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	to in paragraph 1.	kalenterivuoden joulukuun 31 päivänä.				
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>III OSASTO SÄHKÖISEN RAHAN LIIKKEESEENLASKU JA LUNASTETTAVUUS</p> <p><i>10 artikla</i> Sähköisen rahan liikkeeseenlaskun kieltäminen</p> <p>Rajoittamatta 18 artiklan soveltamista jäsenvaltioiden on kiellettävä sähköisen rahan liikkeeseenlasku luonnollisilta henkilöiltä tai oikeushenkilöiltä, jotka eivät ole sähköisen rahan liikkeeseenlaskijoita.</p>	API, S. 6(1)	<p>API, S. 6(1)</p> <p>Authorisation requirement for payment services</p> <p>(1) Payment services may only be provided if an authorisation defined in this Act has been granted. The right to issue electronic money shall specifically appear on the authorisation. (22.7.2011/899)</p>	<p>API, 6 §, 1 mom.</p> <p>Maksupalvelun tarjoamisen luvanvaraisuus</p> <p>Maksupalvelua saa tarjota vain, jos toimintaan on saatu tässä laissa tarkoitettu toimilupa. Sähkörahayhteisön toimiluvasta on erikseen käytävä ilmi oikeus laskea rahaa. (22.7.2011/899)</p>	<p>CONFORM</p> <p>Section 6(1) of the API transposes Article 10 of the Directive.</p> <p>As Article 10 of the Directive is to be assessed in relation to Article 18 of the Directive which provides for transitional measures with regard to the authorisation that electronic money institutions shall have in order to be allowed to carry out the activity of issuance of electronic money, but as the transitional period provided for in this latter article ended on 30 October 2011, it appears that Member States should have prohibited any institution not complying with the authorisation requirements under this Directive to issue electronic money by 30 October 2011.</p> <p>However, it does not appear possible to verify this within the framework of this assessment; some further information from the Member State could therefore prove useful in this regard.</p> <p>Nevertheless, as Section 6(1) of the API provides that an electronic money institution shall have an authorisation to issue electronic money, it appears implied that the electronic money issuer shall be prohibited from issuing electronic money where this would not be the case.</p> <p>Consequently, considering the above, it appears that the Finnish law shall be</p>

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						considered as complying with the Directive article.
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>11 artikla</i> Liikkeeseenlasku ja lunastettavuus</p> <p>1. Jäsenvaltioiden on varmistettava, että sähköisen rahan liikkeeseenlaskijat laskevat liikkeeseen sähköistä rahaa nimellisarvon mukaisesti varoja vastaanottaessaan.</p>	API, S. 36a(1)	<p>API, S. 36a(1) (22.7.2011/899)</p> <p>Issuance and redeemability of electronic money</p> <p>(1) Electronic money may only be issued and redeemed at par value.</p>	<p>API, 36 a §, 1 mom. (22.7.2011/899)</p> <p>Sähköisen rahan liikkeeseenlasku ja lunastaminen</p> <p>Sähköistä rahaa saadaan laskea liikkeeseen ja lunastaa ainoastaan nimellisarvosta.</p>	<p>CONFORM</p> <p>Section 36a(1) of the API transposes Article 10 of the Directive.</p> <p>In accordance with the Directive article, although the wording differs some, the Finnish law provides that electronic money may only be issued or redeemed at par value.</p> <p>Consequently, the Finnish law complies with the Directive article and also implicitly with the provisions of Recital 18 of the Directive.</p>
Art. 11(2)	<p>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.</p>	<p>2. Jäsenvaltioiden on varmistettava, että sähköisen rahan liikkeeseenlaskijat lunastavat sähköisen rahan haltijan pyynnöstä minä hetkenä hyvänsä nimellisarvosta haltijan hallussa olevan sähköisen rahan rahallisen arvon.</p>	API, S. 36a(1) and (4)	<p>API, S. 36a(1) and (4)</p> <p>(1) Electronic money may only be issued and redeemed at par value.</p> <p>(4) The issuer of electronic money shall redeem the electronic money of the electronic money holder at his or her request [...]</p>	<p>API, 36 a §, 1 ja 4 mom.</p> <p>Sähköistä rahaa saadaan laskea liikkeeseen ja lunastaa ainoastaan nimellisarvosta.</p> <p>Sähköisen rahan liikkeeseenlaskija on velvollinen lunastamaan sähköisen rahan haltijan vaatimuksesta tämän hallussa olevan sähköisen rahan [...]</p>	<p>CONFORM</p> <p>Section 36a(1) and (4) of the API transpose Article 11(2) of the Directive.</p> <p>In line with the Directive article, an electronic money issuer shall redeem, at the request of the electronic money holder, the electronic money in its possession.</p> <p>Following the Directive requirement, Section 36a(1) of the API provides that this may only be accomplished at par value of the electronic money.</p> <p>Whereas the Finnish law does not explicitly provide that the redemption may take place ‘at any moment’, this may be considered implied through the general wording of the Finnish law and as there are no counter indications.</p> <p>Thus, the Finnish law is considered to comply</p>

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						with the Directive requirement.
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. Sähköisen rahan liikkeeseenlaskijan ja sähköisen rahan haltijan sopimuksessa on ilmoitettava selvästi ja helposti havaittavalla tavalla lunastettavuutta koskevat ehdot ja siitä mahdollisesti perittävät maksut, ja sähköisen rahan haltijalle on ilmoitettava näistä ehdoista, ennen kuin mikään sopimus tai tarjous sitoo häntä.14	API, S. 36a(5)	API, S. 36a(5) (5) The conditions and eventual costs with regard to the redemption shall clearly and unambiguously appear in the contract between the electronic money issuer and the electronic money holder. The electronic money holder shall be informed of the conditions before concluding the contract.	API, 36 a §, 5 mom. Sähköisen rahan liikkeeseenlaskijan ja sähköisen rahan haltijan välisestä sopimuksesta on käytävä ilmi selvästi ja helposti havaittavalla tavalla lunastettavuutta koskevat ehdot ja lunastamisesta mahdollisesti perittävät maksut. Ehdot on ilmoitettava sähköisen rahan haltijalle ennen sopimuksen tekemistä.	CONFORM Section 36a(5) of the API transposes in an almost literal manner Article 11(3) of the Directive. There are no material discrepancies in between the national text and the text of the Directive. Thus, the Finnish law is considered to comply with the Directive requirement.
Art. 11(4) 1st subpar a. intr. wording	4. Redemption may be subject to a fee only if stated in the contract in accordance with paragraph 3 and only in any of the following cases:	4. Lunastamisesta voidaan periä maksu ainoastaan, jos asiasta on ilmoitettu 3 kohdan mukaisesti sopimuksessa, ja ainoastaan seuraavissa tapauksissa:	API, S. 36 a(6)	API, S. 36 a(6) (6) Redemption may be subject to a fee only if stated in the contract in accordance with paragraph 5 and only in the following cases:	API, 36 a §, 6 mom. Lunastamisesta voidaan periä maksu ainoastaan, jos se käy ilmi 5 momentin mukaisesti sopimuksesta ja ainoastaan seuraavissa tapauksissa:	CONFORM Section 36a(6) of the API transposes in a literal manner Article 11(4), introductory wording of the Directive.
Art. 11(4) 1st subpar a. (a)	(a) where redemption is requested before the termination of the contract;	a) lunastamista on pyydetty ennen sopimuksen päättymistä;	API, S. 36 a(6), point 1	API, S. 36a(6), point 1 1) redemption was requested before the termination of the contract;	API, 36 a §, 6 mom. 1 kohta 1) lunastamista on pyydetty ennen sopimuksen päättymistä;	CONFORM Section 36a(6), point 1 of the API transposes in a literal manner Article 11(4), first subparagraph, letter (a) of the Directive.
Art. 11(4)	(b) where the contract provides for a termination	b) sopimuksessa on määrätty	API, S. 36	API, S. 36a(6), point 2 2) the contract provides	API, 36 a §, 6 mom. 2 kohta	CONFORM Section 36a(6), point 2 of the API transposes

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1st subpar a. (b)	date and the electronic money holder terminates the contract before that date; or	päättämispäivästä ja sähköisen rahan haltija on päättänyt sopimuksen ennen kyseistä ajankohtaa;	a(6), point 2	for a termination date and the electronic money holder terminates the contract before that date;	2) sopimuksessa on määrätty päättämispäivästä ja sähköisen rahan haltija on päättänyt sopimuksen ennen kyseistä ajankohtaa;	in a literal manner Article 11(4), first subparagraph, letter (b) of the Directive.
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) lunastamista pyydetään yli vuoden kuluttua sopimuksen päättymisestä.	API, S. 36a(6), point 3	API, S. 36a(6), point 3 3) redemption is requested more than one year after the date of termination of the contract.	API, 36 a §, 6 mom. 3 kohta 3) lunastamista pyydetään yli vuoden kuluttua sopimuksen päättymisestä.	CONFORM Section 36a(6), point 3 of the API transposes in a literal manner Article 11(4), first subparagraph, letter (c) of the Directive.
Art. 11(4) 2nd subpar a.	Any such fee shall be proportionate and commensurate with the actual costs incurred by the electronic money issuer.	Maksun on oltava oikeassa suhteessa sähköisen rahan liikkeeseenlaskijalle aiheutuviin todellisiin kustannuksiin nähden.	API, S. 33(1)	API, S. 33(1) Contractual conditions (1) A payment institution may not in its payment service activity use a contractual condition which is not related to the payment service activity or which content, taking into account the position of the parties or the circumstances, shall be considered unreasonable for the client.	API, 33 §, 1 mom. Sopimusehdot Maksulaitos ei saa maksupalvelu-toiminnassaan käyttää sopimusehtoa, joka ei kuulu maksupalvelutoimintaan tai jota sen sisältö, osapuolten asema tai olosuhteet huomioon ottaen on pidettävä asiakkaan kannalta kohtuuttomana.	CONFORM Section 33(1) of the API transposes Article 11(4), second subparagraph of the Directive. Whereas the Finnish law does not contain a specific provision according to which any fees charged by the electronic money institution shall be ‘proportionate and commensurate with [its] actual costs’, it provides in a general manner that an electronic money institution may not include an ‘unreasonable condition’ in its contract, account being taken of the position of the parties and the actual circumstances. Therefore, it may be implied that this Finnish provision also regulates any fees provision that an electronic money institution may include in its contract. Consequently, any fees applied by an electronic money institution may not be ‘unreasonable’; thus it may be considered that these shall be ‘proportionate and

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						<p>commensurate with the actual costs' of the electronic money institution.</p> <p>Considering the above, the Finnish law is considered to comply with the Directive requirement.</p>
Art. 11(5)	5. Where redemption is requested before the termination of the contract, the electronic money holder may request redemption of the electronic money in whole or in part.	5. Jos lunastamista pyydetään ennen sopimuksen päättymistä, sähköisen rahan haltija voi pyytää sähköisen rahan lunastamista joko osin tai kokonaisuudessaan.	API, S. 36a(4)	API, S. 36a(4) (22.7.2011/899) (4) The issuer of electronic money shall redeem the electronic money at the electronic money holder's request if he or she requests for it during the contractual period [...]	API, 36 a §, 4 mom. (22.7.2011/899) Sähköisen rahan liikkeeseenlaskija on velvollinen lunastamaan sähköisen rahan haltijan vaatimuksesta tämän hallussa olevan sähköisen rahan, jos haltija vaatii lunastusta sopimusaikana [...]	CONFORM Section 36a(4) of the API transposes Article 11(5) of the Directive. Whereas the Directive provides that the 'electronic money holder may request redemption of the electronic money in whole or in part', the Finnish law provides in a general manner that electronic money issuer shall redeem the electronic money holder's electronic money at the latter's request during the contractual period. Therefore, it appears implied that the said 'request' may cover any amount (partial or total) of the available redeemable electronic money. Consequently, the Finnish law may be considered in compliance with the Directive article.
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. Jos lunastamista pyydetään sopimuksen päättymisajankohtana tai enintään vuosi sen jälkeen, niin sähköisen rahan haltijan pyynnöstä:	API, S. 36a(4)	API, S. 36a(4) (22.7.2011/899) (4) The issuer of electronic money shall redeem the electronic money at the electronic money holder's request if he or she requests for it during the contractual period or at the	API, 36 a §, 4 mom. (22.7.2011/899) Sähköisen rahan liikkeeseenlaskija on velvollinen lunastamaan sähköisen rahan haltijan vaatimuksesta tämän hallussa olevan sähköisen rahan, jos haltija vaatii	CONFORM Section 36a(4) of the API transposes the introductory wording of Article 11(6) as well as Article 11(6)(a) of the Directive. Where the Directive provides for the situation where 'redemption is requested by the electronic money holder <i>on or up to one year after the date of the termination of the</i>

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				latest a year after the termination of the contract. [...]	lunastusta sopimusaikana tai viimeistään vuoden kuluttua sopimuksen päättymisestä. [...]	<i>contract</i> , the Finnish law provides in a more general manner for the situation where the redemption is requested ‘at the latest one year after the termination of the contract’, which implies that redemption may be asked as well on ‘the date of the termination of the contract’. Consequently, the Finnish law is considered to comply with the Directive article.
Art. 11(6) (a)	a) the total monetary value of the electronic money held shall be redeemed; or	a) sähköisen rahan rahallinen arvo lunastetaan kokonaisuudessaan;	N/A	N/A	N/A	CONFORM Section 36a(4) of the API transposes Article 11(6)(a) of the Directive. Where the Directive provides for the situation where ‘redemption is requested by the electronic money holder <i>on or up to one year after the date of the termination of the contract</i> ’, the Finnish law provides in a more general manner for the situation where the redemption is requested ‘at the latest one year after the termination of the contract’, which implies that redemption may be asked as well on ‘the date of the termination of the contract’. Consequently, the Finnish law is considered to comply with the Directive article.
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	b) jos sähköisen rahan liikkeeseenlaskijalaitos hoitaa yhtä tai useampaa 6 artiklan 1 kohdan e alakohdassa tarkoitetuista toiminnoista ja etukäteen ei ole tiedossa, millainen osuus varoista käytetään	API, S. 36a(4)	API, S. 36a(4) (22.7.2011/899) (4) [...] If the request is made during the contractual period or if the electronic money may be used for payments which	API, 36 a §, 4 mom. (22.7.2011/899) [...] Jos vaatimus tehdään sopimusaikana taikka jos sähköistä rahaa voidaan käyttää myös sellaiseen maksamiseen, joka ei	CONFORM Section 36a(4) of the API transposes Article 11(6)(b) of the Directive. Where the Directive article refers to the situation where the electronic money institution carries out ‘other business activities’ (Article 6(1)(e) of the Directive)

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	money, all funds requested by the electronic money holder shall be redeemed.	sähköisenä rahana, kaikki sähköisen rahan haltijan pyytämät varat on lunastettava.		are not included in the scope of application of this Act and where it is not known in advance what proportion of the electronic money is to be used for such payments, the holder may also require the issuer to redeem only a part of the electronic money in its possession.	kuulu lain soveltamisalan piiriin, eikä etukäteen ole tiedossa, millainen osuus sähköisestä rahasta käytetään tällaiseen maksamiseen, haltija voi vaatia liikkeeseenlaskijaa lunastamaan myös ainoastaan haltijan vaatiman osuuden tämän hallussa olevasta sähköisestä rahasta.	and where it is ‘unknown in advance what proportion of funds is to be used as electronic money’, the Finnish law refers as well to the situation where it is ‘unknown in advance what proportion of funds is to be used as electronic money’. However, as regards the first part of the Directive article, the Finnish law refers to the situation where the ‘electronic money may be used for payments which are not included in the scope of application of this law’, which seems to correspond to ‘other business activities’. Therefore, the Finnish law is considered to comply with the Directive article.
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. Sen estämättä, mitä 4, 5 ja 6 kohdassa säädetään, muiden sähköistä rahaa vastaanottavien henkilöiden kuin kuluttajien lunastamisoikeuksiin sovelletaan sähköisen rahan liikkeeseenlaskijoiden ja kyseisten henkilöiden tekemää sopimusta.	API, S. 36a(7)	API, S. 36a(7) (7) A contractual condition which differs from the provisions in this Section to the detriment of the electronic money holder shall be null as regards consumers.	API, 36 a §, 7 mom. Sopimusehto, joka poikkeaa tämän pykälän säännöksistä sähköisen rahan haltijan vahingoksi, on mitätön kuluttajaa kohtaan.	CONFORM Section 36a(7) of the API transposes Article 11(7) of the Directive. Whereas the Directive provides specifically that the contractual agreement shall be applied as regards the redemption rights of a person other than a consumer, the Finnish law has transposed this Directive article by providing that a contractual condition which would prejudice the electronic money holder shall be considered null where the electronic money holder is a consumer. Consequently, <i>a contrario</i> , as regards professionals, contractual freedom shall be applied. Therefore, the Finnish law is considered to comply with the Directive article.

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Art. 12	<p><i>Article 12</i> 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>12 artikla</i> Koron kieltäminen</p> <p>Jäsenvaltioiden on kiellettävä koron tai muun, sähköisen rahan haltijan sähköisen rahan hallussapitoajan keston liittyvän etuuden myöntäminen.</p>	API, S. 36a(3)	API, S. 36a(3) (3) Interest or any other advantage related to the length of time during which electronic money is held may not be granted.	API, 36 a §, 3 mom. Sähköiselle rahalle ei saa maksaa korkoa tai muuta sähköisen rahan hallussapitoajan keston liittyvää etuutta.	<p>CONFORM</p> <p>Section 36a(3) of the API transposes Article 12 of the Directive.</p> <p>In line with the Directive article, the Finnish law forbids 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>Thus, the Finnish law complies with the Directive article.</p>
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>13 artikla</i> Tuomioistuinten ulkopuoliset valitukset ja oikeussuojakeinot riitojen ratkaisemiseksi</p> <p>Sähköisen rahan liikkeeseenlaskijoille direktiivin 2007/64/EY IV osaston nojalla kuuluviin velvollisuuksiin sovelletaan soveltuvin osin kyseisen osaston 5 lukua, sanotun kuitenkin rajoittamatta tämän direktiivin soveltamista.</p>	N/A	N/A	N/A	<p>PARTIALLY CONFORM</p> <p>The Finnish legislation, and notably the API, does not contain a provision on ‘Out-of-court complaint and redress procedures’ as regards electronic money institutions.</p> <p>It may also be noted that no explicit provision was retrieved as regards Article 80 of Directive 2007/64/EC.</p> <p>However, in accordance with Article 82 of Directive 2007/64/EC the FSA and the Consumer Protection Agent shall cooperate as regards the supervision of electronic money institutions.</p> <p>In accordance with Article 82 of Directive 2007/64/EC the Finnish Consumer Dispute Board is also a competent authority as regards out-of-court redress procedures.</p> <p>Nevertheless, as no provisions have been retrieved as regards Article 80 of Directive 2007/64/EC, partial conformity is observed.</p>

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Art. 16(1)	<p>TITLE IV FINAL PROVISIONS AND IMPLEMENTING MEASURE</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 in this Directive.</p>	<p>IV OSASTO LOPPUMÄÄRÄYKSET JA TÄYTÄNTÖÖNPANOT OIMENPITEET</p> <p>16 artikla Täysi yhdenmukaistaminen</p> <p>1. Jäsenvaltiot eivät saa pitää voimassa tai antaa muita säännöksiä kuin tässä direktiivissä säädetyt, sanotun kuitenkaan rajoittamatta 1 artiklan 3 kohdassa, 3 artiklan 3 kohdan kuudennessa alakohdassa, 5 artiklan 7 kohdassa, 7 artiklan 4 kohdassa, 9 artiklassa, ja 18 artiklan 2 kohdassa tarkoitettujen säännösten soveltamista siltä osin kuin tässä direktiivissä säädetään yhdenmukaistamisesta.</p>	N/A	N/A	N/A	<p>CONFORM</p> <p>Article 16(1) of the Directive sets out a full harmonisation duty. Owing to this duty and upon the analysis of the provided NIMs, Finland has not maintained or introduced provisions than insofar adopted provisions for the implementation of the Directive.</p> <p>Whereas some issues on the conformity are encountered, the Finnish law corresponds in a general manner to the provisions of the Directive.</p> <p>Section 3 of the Summary of this Assessment indicates the issues on the conformity found in the transposition of this Directive.</p>
Art. 16(2)	<p>2. Member States shall ensure that an electronic money issuer does not derogate, to the detriment of an electronic money holder, from the provisions of national law implementing or corresponding to</p>	<p>2. Jäsenvaltioiden on varmistettava, että sähköisen rahan liikkeeseenlaskija ei poikkea sähköisen rahan haltijan vahingoksi tämän direktiivin säännösten täytäntöönpanemiseksi annetuista tai niitä</p>	<p>API, S. 48(1)</p> <p>API, S. 49(1) and (2)</p>	<p>API, S. 48(1)</p> <p>Liability for damages</p> <p>(1) Anyone who by breach to the provisions of this Act or provisions issued on the basis of this Act shall be liable to compensate the damage</p>	<p>API, 48 §, 1 mom.</p> <p>Vahingonkorvausvelvollisuus</p> <p>Joka tämän lain tai sen nojalla annettujen säännösten vastaisella menettelyllä aiheuttaa vahinkoa, on velvollinen</p>	<p>CONFORM</p> <p>Section 48(1) and 49(1) and (2) of the API transposes Article 16(2) of the Directive.</p> <p>Where the Directive provides that, in principle, an electronic money issuer shall not ‘derogate, to the detriment of an electronic money holder, from the provisions of national law implementing or corresponding to</p>

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	provisions of this Directive except where explicitly provided for therein.	vastaavista kansallisen lainsäädännön säännöksistä, ellei tässä direktiivissä nimenomaisesti niin säädetä.		caused to another person. API, S. 49(1) and (2) Payment institution offense (1) A person who intentionally provides a payment service without authorisation in breach of the requirements of Section 6 or of the decision referred to in Section 8(2) shall be sentenced to fine for a payment institution offense or to 6 months of imprisonment, unless the offense is minor or a more severe penalty is provided for elsewhere in the law. (2) An agent who provides payment services in breach of Section 24(5) before having been registered shall also be sentenced for a payment institution offense.	korvaamaan vahinkoa kärsineelle aiheuttamansa vahingon. API, 49 §, 1 ja 2 mom. Maksulaitosrikos Joka tahallaan tarjoaa maksupalvelua 6 §:n vastaisesti ilman toimilupaa tai 8 §:n 2 momentissa tarkoitettua päätöstä, on tuomittava, jollei teko ole vähäinen tai siitä muualla laissa säädetä ankarampaa rangaistusta, maksulaitosrikoksesta sakkoon tai vankeuteen enintään kuudeksi kuukaudeksi. Maksulaitosrikoksesta tuomitaan myös asiamies, joka tarjoaa maksupalvelua 24 §:n 5 momentin vastaisesti ennen merkitsemistään rekisteriin.	provisions of this Directive', the API provides for adequate provisions as regards compensation and penalties where an electronic money institution would not comply with its obligations. In the first place, Section 48(1) provides for the principle that any damage caused in breach of the provisions on electronic money institutions shall be compensated. In the second place, Section 49(1) and (2) provide for penalties as regards offenses to the API and notably as regards the provision of electronic money without authorisation; anyone issuing electronic money without authorisation shall receive a fine or alternatively be imprisoned for 6 months. Consequently, the Finnish law is considered to comply with the Directive article.
Art. 18(1) 1st subpara.	<i>Article 18</i> Transitional provisions 1. Member States shall allow electronic money institutions that have taken up, before 30 April 2011,	<i>18 artikla</i> Siirtymäsäännökset 1. Jäsenvaltioiden on sallittava niiden sähköisen rahan liikkeeseenlaskijalaitosten,	Amen ding Act No 2011/899	Amending Act No 2011/899 Entry into force of the amended provisions and their application	Amending Act No 2011/899 Muutossäädösten voimaantulo ja soveltaminen:	CONFORM As Article 18(1), first subparagraph has provides for a negative obligation ('Member States shall allow electronic money institutions that have taken up, before 30 April 2011, activities in accordance with

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	activities in accordance with national law transposing Directive 2000/46/EC in the Member State in which their head office is located, to continue those activities in that Member State or in another Member State in accordance with the mutual recognition arrangements provided for in Directive 2000/46/EC without being required to seek authorisation in accordance with Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive.	jotka ovat ennen 30 päivää huhtikuuta 2011 aloittaneet toimintansa direktiivin 2000/46/EY täytäntöönpanoa varten annetun kansallisen lainsäädännön mukaisesti siinä jäsenvaltiossa, jossa niiden kotipaikka sijaitsee, jatkaa tätä toimintaansa kyseisessä jäsenvaltiossa ja muussa jäsenvaltiossa direktiivissä 2000/46/EY säädettyjen vastavuoroista tunnustamista koskevien järjestelyjen perusteella ilman, että niiden on haettava tämän direktiivin 3 artiklassa tarkoitettua toimilupaa tai että niitä vaaditaan noudattamaan muita tämän direktiivin II osastossa säädettyjä tai siinä tarkoitettuja säännöksiä.		An undertaking which at the time of entry into force of this Act operates a business where electronic money is issued may until 31 October 2012, notwithstanding this Act issue electronic money by following the provisions in force at the time of entry into force of this Act.	Yritys, joka tämän lain voimaan tullessa harjoittaa liiketoimintaa, jossa lasketaan liikkeeseen sähköistä rahaa, saa 31 lokakuuta 2012 saakka tämän lain estämättä laskea liikkeeseen sähköistä rahaa noudattaen tämän lain voimaan tullessa voimassa olleita säännöksiä.	national law transposing Directive 2000/46/EC in the Member State in which their head office is located, to continue those activities'), there seems to be no need to explicitly transpose this Directive article. However, it appears that the transitional provisions of the API have correctly transposed subparagraphs 1 and 2 of Article 18(1) of the Directive. Therefore, conformity is observed.
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	Jäsenvaltioiden on velvoitettava tällaiset sähköisen rahan liikkeeseenlaskijalaitokset toimittamaan toimivaltaisille viranomaisille kaikki tarvittavat tiedot, joiden perusteella toimivaltaiset viranomaiset voivat arvioida viimeistään 30	Amending Act No 2011/899	Amending Act No 2011/899 Entry into force of the amended provisions and their application An undertaking which at the time of entry into force of this Act operates a business where electronic money is issued may until	Amending Act No 2011/899 Muutos säädösten voimaantulo ja soveltaminen: Yritys, joka tämän lain voimaan tullessa harjoittaa liiketoimintaa, jossa lasketaan liikkeeseen sähköistä rahaa, saa 31	PARTIALLY CONFORM Article 18(1), second subparagraph seems to have been transposed by the transitional provision in Amending Act No 2011/899. Whereas the Directive provides that ' <i>such</i> electronic money institutions shall 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

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	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.	päivänä lokakuuta 2011, täyttävätkö sähköisen rahan liikkeeseenlaskijalaitokset tässä direktiivissä säädetyt vaatimukset, ja jos eivät, mitä toimenpiteitä on toteutettava vaatimusten täyttämiseksi, tai onko toimilupa syytä peruuttaa.		31 October 2012, notwithstanding this Act issue electronic money by following the provisions in force at the time of entry into force of this Act.	lokakuuta 2012 saakka tämän lain estämättä laskea liikkeeseen sähköistä rahaa noudattaen tämän lain voimaan tullessa voimassa olleita säännöksiä.	requirements laid down in this Directive' the Finnish law provides in a general manner that the undertakings which issue electronic money at the time of entry of Amending Act No 2011/899 may continue with this until 31 October 2012, that is, a year longer than provided for in the Directive. Consequently, the Finnish law is considered to partially comply with the Directive article.
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.	Edellytykset täyttävälle sähköisen rahan liikkeeseenlaskijalaitoksille myönnetään toimilupa, ne on kirjattava rekisteriin ja niiden on noudatettava II osaston vaatimuksia. Jos sähköisen rahan liikkeeseenlaskijalaitokset eivät noudata tässä direktiivissä säädettyjä vaatimuksia viimeistään 30 päivänä lokakuuta 2011, niitä on kiellettävä laskemasta liikkeeseen sähköistä rahaa.	N/A	N/A	N/A	CONFORM Article 18(3) of the Directive has not been explicitly transposed by the Finnish law. However, as Section 6 of the API provides for the authorisation requirement, it appears that it implicitly transposes this Directive article which provides that 'compliant electronic money institutions shall be granted authorisation' and that 'electronic money institutions which do not comply with the requirements laid down in this Directive by 30 October 2011 shall be prohibited from issuing electronic money'. Consequently, disregarding the issue on the deadline mentioned above under Article 18(1), 2 nd subparagraph, the Finnish law is considered to comply with the Directive article.
Art. 18(2)	2. Member States may provide for an electronic money institution to be automatically granted authorisation and entered	2. Jäsenvaltiot voivat säätää, että sähköisen rahan liikkeeseenlaskijalaitokselle myönnetään toimilupa ilman eri	Amending Act No 2011/899	Amending Act No 2011/899 Entry into force of the amended provisions and	Amending Act No 2011/899 Muutossäädösten voimaantulo ja	CONFORM The transitional provisions of Amending Act 2011/899 transpose Article 18(2) of the Directive; although the wording differs some,

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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.	toimenpiteitä ja se merkitään 3 artiklan mukaiseen rekisteriin, jos toimivaltaisilla viranomaisilla on jo todisteet siitä, että kyseessä oleva sähköisen rahan liikkeeseenlaskijalaitos noudattaa 3, 4 ja 5 artiklassa vahvistettuja vaatimuksia. Toimivaltaisten viranomaisten on ilmoitettava asianomaisille sähköisen rahan liikkeeseenlaskijalaitoksille asiasta ennen toimiluvan myöntämistä.	API, S. 15(1)	<p>their application</p> <p>22.7.2011/899:</p> <p>This Act shall enter into force on 1 August 2011.</p> <p>The FSA shall provide without request an authorisation according to this Act to a legal person which at the time of entry into force of this Act has an authorisation to operate as an electronic money institution according to the Act on Credit Institutions. The FSA shall inform the electronic money institution of the issuance of the authorisation before its entry into force. The FSA may take the necessary measures in order to issue the authorisation before the entry into force of this Act.</p> <p>API, S. 15(1)</p> <p>Registration of the authorisation</p> <p>The FSA shall notify the authorisation for registration at the registry of commerce.</p>	<p>soveltaminen:</p> <p>22.7.2011/899:</p> <p>Tämä laki tulee voimaan 1 päivänä elokuuta 2011.</p> <p>Finanssivalvonta myöntää ilman hakemusta tämän lain mukaisen sähkörahayhteisön toimiluvan oikeushenkilölle, jolla tämän lain voimaan tullessa on luottolaitostoiminnasta annetun lain mukainen sähkörahayhteisön toimilupa. Finanssivalvonnan on ilmoitettava sähkörahayhteisölle toimiluvan myöntämisestä ennen toimiluvan voimaantuloa. Finanssivalvonta voi ryhtyä tarvittaviin toimiin toimiluvan myöntämiseksi ennen lain voimaantuloa.</p> <p>API, 15 §, 1 mom</p> <p>Toimiluvan rekisteröinti</p> <p>Finanssivalvonnan on ilmoitettava toimilupa rekisteröitäväksi kaupparekisteriin.</p>	<p>there are no material discrepancies.</p> <p>It may however be noted that where the Directive article refers to the requirements in Articles 3, 4 and 5 of the Directive, the Finnish law refers to a legal person which has, at the time of the entry into force of Amending Act 2011/899, pursuant to the ACI, an authorisation to operate as an electronic money institution.</p> <p>Where the Directive provides that an undertaking that complies with the authorisation requirements shall be ‘entered in the register provided for in Article 3 [of the Directive]’, Section 15(1) of the API provides that the FSA shall notify an authorisation to the registry of commerce. A register may also be found on the web site of the FSA, under the title ‘Finnish authorised payment institutions (e-money)’ of the title ‘payment service providers’. There would only be one electronic money institution according to this register.</p> <p>Therefore, the Finnish law is considered to comply with the Directive article.</p>

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Art. 18(3)	<p>3. Member States shall allow electronic money institutions that have taken up, before 30 April 2011, activities in accordance with national law transposing Article 8 of Directive 2000/46/EC, to continue those activities within the Member State concerned in accordance with Directive 2000/46/EC until 30 April 2012, without being required to seek authorisation under Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive. Electronic money institutions which, during that period, have been neither authorised nor waived within the meaning of Article 9 of this Directive, shall be prohibited from issuing electronic money.</p>	<p>3. Jäsenvaltioiden on sallittava sähköisen rahan liikkeellelaskijoiden, jotka ovat ennen 30 päivää huhtikuuta 2011 aloittaneet toimintansa direktiivin 2000/46/EY 8 artiklan täytäntöön panemiseksi annetun kansallisen lainsäädännön mukaisesti, jatkaa direktiivin 2000/46/EY mukaista toimintaa asianomaisessa jäsenvaltiossa 30 päivään huhtikuuta 2012 saakka ilman, että niiden on haettava tämän direktiivin 3 artiklan mukaista toimilupaa, tai että niitä vaaditaan noudattamaan muita tämän direktiivin II osastossa säädettyjä tai siinä tarkoitettuja säännöksiä. Sähköisen rahan liikkeeseenlaskijalaitoksia, joille ei annettuna aikana ole myönnetty toimilupaa eikä tämän direktiivin 9 artiklan mukaista poikkeusta, on kiellettävä laskemasta liikkeeseen sähköistä rahaa.</p>	Amending Act No 2011/899	<p>Amending Act No 2011/899</p> <p>Entry into force of the amended provisions and their application</p> <p>An undertaking which at the time of entry into force of this Act operates a business where electronic money is issued may until 31 October 2012, notwithstanding this Act issue electronic money by following the provisions in force at the time of entry into force of this Act.</p>	<p>Amending Act No 2011/899</p> <p>Muutossäädösten voimaantulo ja soveltaminen:</p> <p>Yritys, joka tämän lain voimaan tullessa harjoittaa liiketoimintaa, jossa lasketaan liikkeeseen sähköistä rahaa, saa 31 lokakuuta 2012 saakka tämän lain estämättä laskea liikkeeseen sähköistä rahaa noudattaen tämän lain voimaan tullessa voimassa olleita säännöksiä.</p>	<p>PARTIALLY CONFORM</p> <p>The transitional provisions of Amending Act No 2011/899 transpose Article 18(3) of the Directive.</p> <p>Whereas the Directive article is more detailed than the Finnish law, the Finnish law seems to have transposed the Directive article in a streamlined manner (it does not refer to Article 8 of Directive 2000/46/EC or to Article 9 of this Directive).</p> <p>Therefore, it appears that it may be considered that the Finnish law refers implicitly to the corresponding provisions of Directive 2000/46/EC, mentioned in the Directive article.</p> <p>However, according to the Finnish law, an undertaking which would issue electronic money in accordance with the law applicable before the entry into force of Amending Act No 2011/899 would be allowed to pursue its activity until 31 October 2012, that is, 18 months longer than provided for in the Directive article.</p> <p>Where the last part of the Directive provides that ‘electronic money institutions which [...] have been neither authorized nor waived within the meaning of Article 9 of this Directive, shall be prohibited from issuing electronic money’, it appears that this may be implied in the Finnish law, as any undertaking issuing electronic money shall comply with the provisions in the API on the issuance of electronic money by 31 October 2012; if this would not be the case, the</p>

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						<p>activity would naturally be prohibited as not complying with the authorisation requirements.</p> <p>Consequently, and considering the above, the Finnish law seems to comply with the Directive article in general; however, as the set deadline is 18 months longer than the one provided for in the Directive, the Finnish law is considered partially conforming to the Directive provision.</p>