

Conformity Assessment of Directive 2009/110/EC ITALY

Final Report
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NATIONAL IMPLEMENTING MEASURES

List of the national implementing measures notified to the European Commission	General observations
<p>Decreto Legislativo n. 45 del 16 Aprile 2012 - Attuazione della direttiva 2009/110/CE, concernente l'avvio, l'esercizio e la vigilanza prudenziale dell'attività degli istituti di moneta elettronica, che modifica le direttive 2005/60/CE e 2006/48/CE e che abroga la direttiva 2000/46/CE.</p> <p>Legislative Decree n. 45 of 16 April 2012 – Transposition of Directive 2009/110/EC on the taking up, pursuit and prudential supervision of electronic money institutions, amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC.</p> <p>(hereinafter referred to as D. Lgs. 45/2012)</p>	<p>D. Lgs. 45/2012 is an act of primary legislation, issued with the aim of transposing the Directive. Articles 1 and 2 amend the TUB in order to make it conform with the Directive. In particular, a new Title V-bis (containing Articles from 114-bis to 114-quinquies.4) is inserted in the TUB, repealing the previously in force Title V-bis, inserted by L. 39/2002 to comply with Directive 2000/46/EC, and founding the previous regime regulating electronic money institutions. Article 3 of D. Lgs. 45/2012 contains a minor amendment to D. Lgs. 231/2007, transposing Directive 2005/60/EC. Article 4 is of direct application and sets the transitional provisions.</p> <p>D. Lgs. 45/2012 is directly used throughout the assessment only as regards Article 18. For the rest of the assessment, reference is made to the TUB, as amended by D. Lgs. 45/2012.</p> <p>D. Lgs. 45/2012 was adopted on 16 April 2012 and entered into force on 13 May 2012.</p> <p>The text of D. Lgs. 45/2012 can be found in Italian at: http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2012;045</p>
<p>Provvedimento della Banca d'Italia n. 149 del 20 Giugno 2012 – Disposizioni di vigilanza per gli istituti di pagamento e gli istituti di moneta elettronica.</p> <p>Measure of the Bank of Italy n. 149 of 20 June 2012 – Rules on prudential supervision for payment institutions and electronic money institutions.</p> <p>(hereinafter referred to as RPS)</p>	<p>The RPS is an act issued by the Bank of Italy on the basis of the general regulatory powers conferred to it by Articles 53 and 67 of the TUB, and of the specific powers conferred to it by Articles 114-quinquies and 114-quinquies.1 of the TUB as regards electronic money institutions. The RPS is an act of secondary legislation: its binding force is based on the acts empowering the issuing authority and it cannot derogate to any act of primary legislation.</p> <p>The RPS is the act specifying the core dispositions on electronic money institutions contained in Title V-bis of the TUB. Therefore, it is extensively used throughout the report, as many of the Directive provisions are not transposed through primary legislation, but their transposition has been left to the Bank of Italy. The RPS repeals the previous regulation issued on the subject by the Bank of Italy.</p> <p>The RPS contains the applicable provisions for both payment institutions and electronic money institutions. Its dispositions are generally destined to both kinds of institutions, apart from the cases where it is differently specified.</p>

	<p>The RPS was adopted on 20 June 2012 and entered into force on 16 July 2012.</p> <p>An updated version of the RPS can be found in Italian at:</p> <p>http://www.bancaditalia.it/vigilanza/cons-pubblica/proc_concluse/raccolta/2012/moneta_elettronica/DOC_CONS_IP_IMEL_02_DV.pdf</p>
<p>List of additional national implementing measures referred to in the conformity assessment</p>	<p>General observations</p>
<p>Regio Decreto n. 262 del 16 marzo 1942 – Codice civile</p> <p>Royal Decree n. 262 of 16 March 1941 n. 262 – Civil Code</p> <p>(hereinafter referred to as “the Civil Code”)</p>	<p>The Civil Code is the Act of primary legislation that rules all private relations among natural and legal persons, meant as all relations which do not involve the exercise of public power.</p> <p>Throughout the report, reference to the Civil Code is made only as regards Article 3(1) of the Directive.</p> <p>The Civil Code was adopted on 16 March 1942 and entered into force on 21 April 1942.</p> <p>An updated version of the Civil Code can be found in Italian at:</p> <p>http://www.altalex.com/index.php?idnot=34794</p>
<p>Regio Decreto n. 1443 del 28 ottobre 1940 – Codice di procedura civile</p> <p>Royal Decree 28 October 1940 n. 1443 – Code of Civil Procedure</p> <p>(hereinafter referred to as Code of Civil Procedure)</p>	<p>The Code of Civil Procedure is the Act of primary legislation collecting all the main and general rules applicable to all legal proceedings about private relations among natural and legal persons, meaning proceedings in which neither the exercise of a public power, nor the application of a criminal sanction is involved.</p> <p>Throughout the report, reference to the Code of Civil Procedure is made only as regards Article 3(1).</p> <p>The Code of Civil Procedure was adopted on 28 October 1940, and entered into force on 21 April 1942.</p> <p>The text of the Code of Civil Procedure can be found in Italian at:</p> <p>http://www.altalex.com/index.php?idnot=33723</p>
<p>Decreto Legislativo n. 385 del 1° settembre 1993 – Testo unico delle leggi in materia bancaria e creditizia</p> <p>Legislative Decree n. 385 of 1 September 1993 – Single text on the laws concerning banks and credit institutions</p> <p>(hereinafter referred to as “the TUB”)</p>	<p>The TUB is the Act of primary legislation providing for the fundamental rules regulating the activity of banks and credit institutions, as well as their prudential supervision.</p> <p>The TUB is the text of primary legislation on which the assessment is based. In fact, the core provisions concerning electronic money institutions and implementing the Directive is contained in Title V-bis of the TUB, as amended by D. Lgs. 45/2012.</p> <p>The TUB was adopted on 1 September 1993 and entered into force on 1 January 1994.</p>

	<p>An updated version of the TUB can be found in Italian at: http://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=1993-09-30&atto.codiceRedazionale=093G0428&currentPage=1</p>
<p>Decreto Legislativo n. 11 del 27 gennaio 2010 – Attuazione della direttiva 2007/64/CE, relativa ai servizi di pagamento nel mercato interno, recante modifica delle direttive 97/7/CE, 2002/65/CE, 2005/60/CE, 2006/48/CE, e che abroga la direttiva 97/5/CE.</p> <p>Legislative Decree n. 11 of 27 Janvier 2010 – Transposition of Directive 2007/64/EC on payment services in the internal market, amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC, 2006/48/EC, and repealing Directive 97/5/EC.</p> <p>(hereinafter referred to as D. Lgs. 11/2010)</p>	<p>D. Lgs. 11/2010 is the act of primary legislation transposing Directive 2007/64/EC on payment services in the internal market. On the one hand, it inserts Title V-ter, regulating payment institutions, in the TUB. On the other hand, it provides for a set of rules regulating payment services.</p> <p>Throughout the report, reference to D. Lgs. 11/2010 is made only as regards Article 13(1).</p> <p>D. Lgs. 11/2010 was adopted on 27 January 2010 and entered into force on 1 March 2010.</p> <p>An updated version of D. Lgs. 11/2010 can be found in Italian at: http://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=2010-02-13&atto.codiceRedazionale=010G0027&currentPage=1</p>

SUMMARY

1. Executive summary

Directive 2009/110/EC (hereinafter referred to as the Directive) has been transposed into Italian legislation through the adoption of D. Lgs. 45/2012, inserting a new Title V-bis in the TUB, and providing for other minor amendments to the same TUB and to D. Lgs. 231/2007. The core provisions transposing the Directive are, therefore, contained into the new Title V-bis of the TUB. These provisions are complemented by those contained in the RPS. The RPS is an act of secondary legislation issued by the Bank of Italy on the basis of the powers conferred to it by the new Title V-bis of the TUB in order to transpose the new requirements set by the Directive. It repeals the regulation previously in force on the subject. The report is, therefore, centred on the dispositions of primary legislation contained in the TUB and on the dispositions of secondary legislation contained in the RPS. A few other acts are only mentioned as regards specific issues.

Article 114-quinquies.2 of the TUB indicates the Bank of Italy as the competent authority for regulating and supervising the sector of electronic money services.

While the Directive significantly refers to Directive 2007/64/EC, the sets of rules concerning electronic money institutions and payment institutions are autonomous and separated in the TUB (and contained, respectively, in Title V-bis and Title V-ter of the TUB). The RPS, on the other hand, is applicable to both electronic money institutions and payment institutions, apart from the dispositions explicitly referred to only one type of institutions.

Overall, the Italian transposing legislation reflects the principles set out in the Directive. Title V-bis of the TUB contains the core provisions, and reflects the fundamental dispositions of Articles 1, 3, 6, 7 and 11. For what is not provided, it empowers the Bank of Italy to issue implementing provisions. Such provisions can be found in the RPS, an extensive text completing the transposition of the Directive, and especially very detailed as regards the subject matter of Articles 5, 7 and 9. As a result, the structure of the Italian law is different from that of the Directive, and in some cases relevant details are not correctly transposed. For this reason, eleven cases of partial conformity and three cases of non conformity have been detected throughout the report. A general issue has been detected as regards the applicability of the clauses involving cross-border services and freedom of establishment as regards the EEA countries that are not Members of the EU.

2. The implementation of Directive 2009/110/EC

2.1. Scope

No structural discrepancies have been detected between the Directive and the NIMs as regards the scope of application.

However, it is worth recalling that an issue of partial conformity has been detected as regards the transposition of Article 1(1)(d) of the Directive, as Article 114-bis of the TUB does not specify that the European Central Bank and the national central banks are considered as electronic money issuers only “when not acting in their capacity of public authorities”.

2.2. Terminology

No major discrepancies have been detected between the Directive and the NIMs as regards the terminology.

A relevant remark should be made, however, about the fact that when the Italian legislation refers to “electronic money institutions”, it includes the institutions benefitting from the waiver referred to in Article 9. This is because such waiver does not exclude, according to the RPS, the obligation for the electronic money institutions benefitting from it, to be duly registered according to Article 114-quinquies of the TUB.

It is also worth recalling that the wording “banks” in the Italian legislation corresponds to that of “credit institutions” contained in the Directive. These wordings have to be considered as equivalent.

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

An organic set of dispositions corresponding to Title I of the Directive cannot be found in the Italian legislation. However, Articles 1(2) and 114-bis of the TUB, and Chapter I, Section II of the RPS reflect, although with a different structure, the Directive provisions concerned.

The main issue concerning the scope of application of the Directive is its applicability to the EEA countries that are not Members of the EU. In fact, no mention is made to this regard by the transposing acts. Moreover, both in the TUB and the RPS it is clearly specified that reference to the “Community” or to “electronic money institutions of the Community” has to be intended as including only the EU Member States. This makes the clauses involving cross-border services and freedom of establishment not applicable as regards the EEA countries that are not Members of the EU.

As regards definitions, the Italian legislation does not include an organic definition of “electronic money issuer”; instead, it chooses a slightly different approach by listing the subjects allowed to issue electronic money. Such different approach does not ultimately affect conformity with the corresponding definition of the Directive.

2.4.1.1. Article 1 – Subject matter and scope

Article 114-bis of the TUB transposes Article 1(1). As explained above, it expressly allows a number of subjects to issue electronic money, contextually excluding any other subject from carrying out such activity. The only issue of partial conformity is observed as regards the fact that Article 114-bis of the TUB does not specify that the European Central Bank and the national central banks are considered as electronic money issuers only “when not acting in their capacity of public authorities”.

Paragraphs 4 and 5 are transposed by Article 1(2)(h-ter) of the TUB, excluding from the definition of electronic money the instruments referred to in the Directive dispositions.

2.4.1.2. Article 2 – Definitions

The definition of “electronic money institutions” is given by Article 1(2)(h-bis) of the TUB is constructed in a different way than the corresponding definition contained in Article 2, point 1. As explained in the observations concerning Article 2, point 1, this does not ultimately alter the content of the definition. It is, however, important to remark that the notion of “electronic money institutions includes, in the Italian legislation, the institutions benefitting from the waiver referred to in Article 9.

As specified above, the definition of “electronic money issuer” is not present in the Italian legislation, as such notion is never used as such. However, this does not affect conformity, as all the subjects listed in Article 2, point 3 are considered as electronic money issuers by the TUB.

Points 2 and 4 do not raise specific issues.

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

Title II of the Directive is transposed, in its general lines, by Articles 114-quater to 114-quinquies.4 of the TUB. These Articles, however, delegate to the Bank of Italy the power to issue dispositions specifying and completing those set in the TUB. The combined reading of title V-bis of the TUB and of the whole RPS provides for the legal framework transposing Title II of the Directive.

While Title II of the Directive is built around substantial references to the provisions set for payment institutions by Directive 2007/64/EC, this technique is not followed by the Italian legislator. Therefore, where the Directive refers to Directive 2007/64/EC, the conformity of the appropriate dispositions applicable to electronic money institutions has been assessed, without detecting, in general, major discrepancies.

Overall, the transposition of Title II is conform to the basic principles inspiring the Directive. Several issues of partial conformity, and an issue of non conformity, have been, however, detected, as regards specific dispositions.

2.4.2.1. Article 3 – General prudential rules

As explained above, in the absence of a disposition making applicable to electronic money institutions the provisions set out for payment institutions, for assessing the transposition of Article 3(1) it has been necessary to assess the conformity of the provisions set by Articles 114-quater and 114-quinquies of the TUB and by Chapters II, VI, VII and VIII of the RPS for electronic money with Articles 5 and 10 to 15, Article 17(7) and Article 18 to 25 of Directive 2007/64/EC. Some issues of partial conformity have only been detected as regards Articles 12, 13 and 24 of Directive 2007/64/EC.

Article 3(2) (concerning information obligations in case of material changes in measures taken for safeguarding funds) has not been transposed. At this regard, the Italian legislation has been therefore considered as not conform.

Article 3(3) (concerning mandatory authorisation for the acquisition of qualifying holding) is correctly transposed by Chapter III of the RPS, apart from an issue of partial conformity

due to the fact that Article 3(3), first subparagraph of the Directive provides for the need of a prior authorisation for the operations it refers to, while Chapter III, Section II, Paragraph 1.1 of the RPS only provides for a duty of information.

Article 3(4) and 3(5) (concerning the exercise of the activities of the electronic money institutions through other authorised entities) are correctly transposed by Chapter VII of the RPS.

2.4.2.2. Article 4 – Initial capital

Article 4 is correctly transposed by Chapter II, Section II of the RPS.

2.4.2.3. Article 5 – Own funds

The provisions concerning the own funds to be held by electronic money institutions is contained in Chapter V of the RPS. The dispositions transposing Article 5 of the Directive are to be found throughout Chapter V of the RPS, which extensively sets out the whole framework concerning own funds for both payment institutions and electronic money institutions, without referring to other dispositions. Notwithstanding this difference of structure, the transposing provisions do not raise any issue of conformity as regards Article 5 of the Directive.

2.4.2.4. Article 6 – Activities

Article 6(1) is transposed by Articles 114-quater(3) and 114-quinquies(4) of the TUB. Article 114-quater(3)(a) transposes points (a), (b) and (d); Article 114-quater(3)(b) transposes point (c); and Article 114-quinquies(4) transposes point (e). Notwithstanding such different, and more synthetic, structure, the transposing provisions are conform with Article 6(1) of the Directive, concerning the activities that electronic money institutions are allowed to engage in. Chapter IV, Section II, Paragraph 3 of the RPS correctly transposes Article 6(1), second subparagraph of the Directive.

The transposition of paragraph 2 to 4 (concerning the prohibition of taking deposits from the public, the obligation to exchange without delay the funds received by customers, and the applicability of Articles 16(2) and (4) of Directive 2007/64/EC) does not raise any specific issue: Article 10 of the TUB transposes Article 6(2); Article 114-quater(2) of the TUB transposes Article 6(3); Chapter IV, Section II, Paragraph 2 of the RPS transposes Article 6(2).

2.4.2.5. Article 7 – Safeguarding requirements

Article 114-quarter of the TUB and Chapter IV of the RPS transpose Article 7.

The dispositions transposing Article 7 of the Directive are to be found throughout Chapter V of the RPS, which extensively sets out the whole framework concerning own funds for both payment institutions and electronic money institutions, without referring to other dispositions. Also in this case, notwithstanding this difference of structure, the transposing provisions are, overall, conform with Article 7.

An issue of partial conformity has, however, been observed as regards Article 7(2), first subparagraph, concerning the range of instruments that have to be considered as secure, low-risk assets. In fact, the RPS seems to allow electronic money institutions to invest the funds received by customers in a range of instruments that does not match the list of instruments made available for electronic money institutions by the Directive, through the reference to Table 1 of point 14 of Annex I to Directive 2006/49/EC.

2.4.2.6. Article 8 – Relations with third countries

Article 8(1) is correctly transposed by Article 114-quinquies(8) of the TUB.

Article 8(2) (concerning the obligation, for Member States, to notify the Commission of all authorisations for branches of electronic money institutions having their head office outside the Community) and 8(3) (concerning agreements with third countries) are not transposed. However, this does not give rise to any issue of conformity. In fact, as regards Article 8(2), the

lack of legislative specification does not exclude the communication obligation deriving directly from the Directive. As regards Article 8(3), the non transposition does not raise any issue of conformity, as it does not contain any positive obligation for the Member States.

2.4.2.7. Article 9 – Optional exemptions

Article 9 is transposed by Chapter XI of the RPS. It is important to remark that Chapter XI of the RPS waives only a limited number of dispositions: more specifically, the most part of those contained in Chapter V of the RPS, implementing Article 7 of the Directive. As a consequence, the electronic money institutions benefitting from the waiver are subject to the general provisions as regards registration, and therefore they do not constitute a special category of electronic money institutions at this regard.

Besides these considerations, two issues of partial conformity have been detected. First, the first sentence of Article 9(1), second subparagraph (concerning the calculation of the patrimonial requisite for the application of the waiver when the amount of outstanding electronic money is unknown in advance) is not transposed. Second, the 30 days deadline set by Article 9(6) (concerning the obligation, for electronic money institutions benefitting from the waiver, to seek for authorisation when the conditions for benefitting from the waiver are no longer met) is extended to 90 days by Chapter IX, Paragraph 2 of the RPS.

For the rest, Chapter XI of the RPS is conform with Article 9.

2.4.3. Title III – Issuance and redeemability of electronic money

The provisions transposing Title III of the Directive are all contained in the TUB, in particular in Articles 114-bis, 114-ter and 126-novies. Apart from a minor issue of partial conformity concerning Article 11(1), the only relevant issue concerns Article 13, which does not appear to have been transposed.

2.4.3.1. Article 10 – Prohibition from issuing electronic money

Article 10 is correctly transposed by Article 114-bis(1) of the TUB.

2.4.3.2. Article 11 - Issuance and redeemability

Articles 114-ter and 126-novies transpose Article 11 of the Directive. As regards redemption of the electronic money, the structure of the Italian provisions is similar to that of the Directive. Only a minor issue of partial conformity arises, as Article 11(1) (concerning the obligation, for electronic money institutions, to issue electronic money at par value) is not expressly transposed: however, it seems to be intended by the Italian legislator that its transposition is implied in the wording of Articles 114-ter, transposing Article 11(2).

2.4.3.3. Article 12 – Prohibition of interest

Article 12 is correctly transposed by Article 114-bis(3) of the TUB.

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

Article 13 does not appear to be transposed in the Italian legislation. The remedies referred to by Article 13 do not seem to be applicable to electronic money institutions. Therefore, non conformity is concluded.

2.4.4. Title IV – Final provisions and implementing measures

2.4.4.1. Article 16 – Full harmonization

No disposition of Italian legislation transposes Article 16 of the Directive.

The Italian provisions are, however, in line with the clause contained in Article 16(1). Therefore, conformity is concluded at this regard.

The non transposition of Article 16(2) does not affect conformity either, as Title V-bis of the TUB and Chapter XII of the RPS recognise significant powers to the Bank of Italy as regards the supervision of the activity of the electronic money institutions and their respect of the rules set in compliance with the Directive.

2.4.4.2. Article 18 – Transitional provisions

Article 18 is transposed by Article 4 of D. Lgs. 45/2012.

Article 4 of D. Lgs. 45/2012 raises 3 specific issues of partial conformity. First, the two deadlines set by Article 8 of the Directive at 30 October 2011 and to 30 April 2012 are both extended to 20 August 2012. Second, a special *passerelle* is offered also to electronic money institutions registered after 30 April 2011, going beyond the wording of the Directive. Third, Article 4(2) of D. Lgs. 45/2012 does not refer to the possibility, for the Bank of Italy, to indicate which measures need to be taken in order to ensure compliance.

For the rest, Article 4 of D. Lgs. 45/2012 faithfully mirrors Article 18.

3. Conclusions on conformity

3.1. Cases of partial conformity

Article 1(1), point (d) of the Directive, in consideration of the fact that that Article 114-bis of the TUB does not specify that the European Central Bank and the national central banks are considered as electronic money issuers only “when not acting in their capacity of public authorities”.

Article 3(1) of the Directive, in consideration of the fact that Articles 12, 13 and 24 of Directive 2007/64/EC are not correctly transposed in the Italian legislation as regards their applicability to electronic money institutions.

Article 3(3), first subparagraph of the Directive, in consideration of the fact that, while it provides for the need of a prior authorisation for the operations it refers to, Chapter III, Section II, Paragraph 1.1 of the RPS only provides for a duty of information.

Article 7(2), first subparagraph of the Directive, in consideration of the fact that the RPS seems to allow electronic money institutions to invest the funds received by customers in a range of instruments that is broader than the one referred to in the Directive.

Article 9(1), second subparagraph of the Directive, in consideration of the fact that the first sentence is not transposed.

Article 9(6) of the Directive, in consideration of the fact that the 30 days deadline is extended to 90 days by Chapter IX, Paragraph 2 of the RPS.

Article 11(1) of the Directive, in consideration of the fact that it is not expressly transposed by the Italian legislation (however, it seems to be intended by the Italian legislator that its transposition is implied in the wording of Articles 114-ter, transposing Article 11(2)).

Article 18(1), first subparagraph of the Directive, in consideration of the fact that the deadline of 30 October 2011 is postponed to 20 August 2012, and that a special *passerelle* is

offered also to electronic money institutions registered after 30 April 2011, going beyond the wording of the Directive.

Article 18(1), second subparagraph of the Directive, in consideration of the fact that the deadline of 30 October 2011 is postponed to 20 August 2012, and that Article 4(2) of D. Lgs. 45/2012 does not refer to the possibility, for the Bank of Italy, to indicate which measures need to be taken in order to ensure compliance.

Article 18(1), third subparagraph of the Directive, in consideration of the fact that the deadline of 30 October 2011 is postponed to 20 August 2012.

Article 18(3) of the Directive, in consideration of the fact that the deadline of 30 April 2012 is postponed to 20 August 2012.

3.2. Cases of non-conformity

Article 3(2) of the Directive, in consideration of the fact that the duty to inform the competent authorities on the changes in the mechanisms for safeguarding funds is not transposed by the Italian legislation.

Article 13 of the Directive, in consideration of the fact that no mechanism of out-of-court dispute settling is foreseen in the Italian legislation.

3.3. Option ('May' clause)

3.3.1.1. Italy has chosen to transpose the following options into its national legislation

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

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

Article 7(3) of the Directive (as regards the option contained in Article 9(2) and 9(3) of Directive 2007/64/EC) – Calculation of safeguarding requirements when funds can be used for future payment transactions and for non-payment services; and extension of the applicability of the provisions concerning safeguarding requirements referred to in Article 9(1) of Directive 2007/64/EC also to institutions not carrying out the activities referred to in Article 16(1)(c) of Directive 2007/64/EC.

Article 9(1), first subparagraph of the Directive – Waiver of authorisation/supervision requirements for small payment institutions.

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

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

3.3.1.2. Italy has chosen not to transpose the following options into its national legislation

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

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

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

Article 7(1) of the Directive (as regards the option contained in Article 9(1)(c) of Directive 2007/64/EC) – Possibility to cover with an insurance the funds to be safeguarded.

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

Article 7(3) of the Directive (as regards the options contained in Articles 9(1)(c) and 9(4) of Directive 2007/64/EC) – Possibility to cover with an insurance the funds to be safeguarded; and application of safeguarding requirements only to funds that individually exceed EUR 600.

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

Article 18(2) of the Directive – Automatic registration for electronic money institutions benefitting of the transitional provisions.

4. List of acronyms

D. Lgs. Legislative Decree

L. Law

NIM National Implementing Measure

TUB Single text on the laws concerning banks and credit institutions (Legislative Decree n. 385 of 1 September 1993)

RPS Rules on prudential supervision for payment institutions and electronic money institutions (Measure of the Bank of Italy n. 149 of 20 June 2012)

Directive 2009/110/EC			National Implementing Measures			Conformity Assessment
Article No.	EN	MS	Act, Article No.	EN	MS	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>TITOLO 1 AMBITO DI APPLICAZIONE E DEFINIZIONI</p> <p><i>Articolo 1</i> Oggetto e ambito di applicazione</p> <p>1. La presente direttiva fissa le norme in materia di esercizio dell'attività di emissione di moneta elettronica ai cui fini gli Stati membri riconoscono le seguenti categorie di emittenti di moneta elettronica:</p>	N/A	N/A	N/A	<p>CONFORM</p> <p>Due to the different structure of Italian legislation, no disposition corresponds to the introductory wording of Article 1(1) of the Directive, without any effect on conformity.</p> <p>As regards the general statement contained in Article 1(1), introductory wording of the Directive and concerning the aim of the Directive, the absence of a corresponding statement in any provision of Italian legislation cannot be considered as having any impact from the legal point of view.</p> <p>In this sense, it is relevant to point out that the core provisions of Italian law transposing the Directive are contained in Title V-bis of the TUB, labelled "Electronic money and electronic money institutions", inserted by L. 39/2002 to comply with Directive 2000/46/EC, and subsequently repealed and entirely substituted by D. Lgs. 45/2012, transposing the Directive.</p> <p>In view of the above, conformity can be concluded.</p>
Art. 1(1)(a)	(a) credit institutions as defined in point 1 of	a) enti creditizi, quali definiti all'articolo 4,	TUB, Art	TUB, Art 114-bis(1)	TUB, Art 114-bis(1)	CONFORM

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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 of that Directive;	punto 1), della direttiva 2006/48/CE, incluse, ai sensi del diritto nazionale, le loro succursali, secondo la definizione di cui all'articolo 4, punto 3), di tale direttiva, se esse hanno sede nella Comunità e la loro sede sociale si trova al di fuori della Comunità, conformemente all'articolo 38 di tale direttiva;	114-bis(1) TUB, Art. 1(2)(d)	1. The issuance of electronic money is reserved to banks and electronic money institutions. TUB, Art. 1(2)(d) d) “banks authorised in Italy”: Italian banks and the Italian branches of non-EU banks;	1. L'emissione di moneta elettronica e' riservata alle banche e agli istituti di moneta elettronica. TUB, Art. 1(2)(d) d) “banche autorizzate in Italia”: le banche italiane e le succursali in Italia di banche extracomunitarie;	Articles 1(2)(d) and 114-bis(1) of the TUB transpose Article 1(1)(a) of the Directive. In conformity with Article 1(1)(a) of the Directive, Article 114-bis(1) of the TUB expressly allows banks to issue electronic money. As regards the definition of “banks”, the combined reading of Articles 1 and 10 of the TUB leads to define them as institutions which “take deposits from the public and which provide credit”. This definition matches the definition of “credit institutions” given by Article 4(1)(1) of Directive 2006/48/EC. Therefore, the use of the term “bank” in the Italian legislation has to be considered as equivalent to that of the term “credit institution” in the Directive and in the EU legislation referred. According to Article 1(2)(d) of the TUB, the authorised Italian branches of non-EU banks are included in the notion of “banks authorised in Italy”. These branches are therefore included among the banks allowed to issue electronic money on the basis of Article 114-bis(1) of the TUB. The Italian legislation does not extend such legitimacy to non-EU credit institutions operating through a branch located in another Member State. This is in conformity with Article 1(1)(a) of the Directive, as the branches of non-EU credit institutions do not benefit from the EU-passport rights.

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					In view of the above, conformity can be concluded.	
Art. 1(1)(b)	(b) electronic money institutions as defined in point 1 of Article 2 of this Directive including, in accordance with Article 8 of this Directive and national law, a branch thereof, where such a branch is located within the Community and its head office is located outside the Community;	b) istituti di moneta elettronica, quali definiti all'articolo 2, punto 1), della presente direttiva, incluse, conformemente all'articolo 8 della presente direttiva e al diritto nazionale, le loro succursali se esse hanno sede nella Comunità e la loro sede sociale si trova al di fuori della Comunità;	TUB, Art 114-bis(1) TUB, Art 114-quinquies(8)	TUB, Art 114-bis(1) 1. The issuance of electronic money is reserved to banks and electronic money institutions. TUB, Art 114-quinquies(8) 8. The issuance of electronic money by an electronic money institution having its registered office in a third country is subject to the opening of a branch in Italy, following an authorisation by the Bank of Italy (...)	TUB, Art 114-bis(1) 1. L'emissione di moneta elettronica e' riservata alle banche e agli istituti di moneta elettronica. TUB, Art 114-quinquies(8) 8. L'emissione di moneta elettronica da parte di un istituto di moneta elettronica con sede legale in uno Stato extracomunitario e' subordinata all'apertura di una succursale in Italia autorizzata dalla Banca d'Italia (...)	CONFORM Articles 114-bis(1) and 114-quinquies(8) of the TUB transpose Article 1(1)(b) of the Directive. In conformity with Article 1(1)(a) of the Directive, Article 114-bis(1) of the TUB expressly allows electronic money institutions to issue electronic money. As it will be shown below, both Article 1(1)(b) of the Directive and Article 114-bis(1) of the TUB refer to the same notion of "electronic money institution". In conformity with Article 1(1)(a) of the Directive Article 114-quinquies(8) of the TUB allows the authorised Italian branches of non-EU electronic money institutions to issue electronic money in Italy. The Italian legislation does not extend such legitimacy to non-EU credit institutions operating through a branch located in another Member State. This is in conformity with Article 1(1)(b) of the Directive, as the branches of non-EU electronic money institutions do not benefit from the EU-passport rights. In view of the above, conformity can be concluded.

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Art. 1(1)(c)	(c) post office giro institutions which are entitled under national law to issue electronic money;	c) uffici postali autorizzati a emettere moneta elettronica a norma del diritto nazionale;	TUB, Art 114-bis(2)	TUB, Art 114-bis(2) 2. The following institutions are also allowed to issue electronic money, in accordance with the provisions applicable to them: the European Central Bank, the central banks of the Member States, the Italian State and the other Member States, the national, regional and local public administrations and Poste Italiane.	TUB, Art 114-bis(2) 2. Possono emettere moneta elettronica, nel rispetto delle disposizioni ad essi applicabili, la Banca centrale europea, le banche centrali comunitarie, lo Stato italiano e gli altri Stati comunitari, le pubbliche amministrazioni statali, regionali e locali, nonche' Poste Italiane.	CONFORM Article 114-bis(2) of the TUB transposes Article 1(1)(c) of the Directive. In conformity with Article 1(1)(c) of the Directive, Article 114-bis(2) of the TUB allows Poste Italiane to issue electronic money. Poste Italiane is, therefore, the only “post office giro institution (...) entitled under national law to issue electronic money”, in conformity with the wording of the Directive. No mention is made of post office giro institutions authorised under the law of another Member State. This does not contradict the wording of Article 1(1)(c) of the Directive, which only refers to institutions “entitled under national law”. In view of the above, conformity can be concluded.
Art. 1(1)(d)	(d) the European Central Bank and national central banks when not acting in their capacity as monetary authority or other public authorities;	d) la Banca centrale europea e le banche centrali nazionali ove non agiscono in veste di autorità monetarie o altre autorità pubbliche;	TUB, Art 114-bis(2)	TUB, Art 114-bis(2) 2. The following institutions are also allowed to issue electronic money, in accordance with the provisions applicable to them: the European Central Bank, the central banks of the Member States, the Italian State and the other Member States, the national,	TUB, Art 114-bis(2) 2. Possono emettere moneta elettronica, nel rispetto delle disposizioni ad essi applicabili, la Banca centrale europea, le banche centrali comunitarie, lo Stato italiano e gli altri Stati comunitari, le pubbliche amministrazioni statali, regionali e locali, nonche'	PARTIALLY CONFORM Article 114-bis(2) of the TUB transposes Article 1(1)(d) of the Directive. According to Article 114-bis(2) of the TUB the European Central Bank and the central banks of the Member States are entitled to issue electronic money. According to Article 1(1)(d) of the Directive, the institutions referred thereto have to be recognised as electronic money issuers “when

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				regional and local public administrations and the Italian Post.	Poste Italiane.	<p>not acting in their capacity as monetary authority or other public authorities”. The case in which these institutions act in their capacity of public authorities is excluded from the scope of the Directive. Such specification is absent in Article 114-bis(2) of the TUB, which does not refer to whether or not these institutions are “acting in their capacity as monetary authority or other public authorities”. In other words, the TUB does not exclude <i>a priori</i> the possibility for the European Central Bank and the central banks of the Member States to issue electronic money even when “acting in their capacity as monetary authority or other public authorities”. Therefore, in this regard, Article 114-bis(2) of the TUB raises an issue of legal certainty, and can not be considered as conform with Article 1(1)(d) of the Directive.</p> <p>In view of the above, partial conformity is concluded.</p>
Art. 1(1)(e)	(e) Member States or their regional or local authorities when acting in their capacity as public authorities.	e) gli Stati membri o le rispettive autorità regionali e locali ove agiscono in veste di autorità pubbliche.	TUB, Art 114-bis(2) TUB, Art. 114-quinquies.3(1)	TUB, Art 114-bis(2) 2. The following institutions are also allowed to issue electronic money, in accordance with the provisions applicable to them: the European Central Bank, the central banks of the Member States, the Italian State and the other Member States, the national, regional and local public administrations and the	TUB, Art 114-bis(2) 2. Possono emettere moneta elettronica, nel rispetto delle disposizioni ad essi applicabili, la Banca centrale europea, le banche centrali comunitarie, lo Stato italiano e gli altri Stati comunitari, le pubbliche amministrazioni statali, regionali e locali, nonche' Poste Italiane.	CONFORM Article 114-bis(2) of the TUB transposes Article 1(1)(e) of the Directive. In conformity with Article 1(1)(e) of the Directive, Article 114-bis(2) of the TUB allows “the Italian State and the other Member States”, as well as “the national, regional and local public administrations” to issue electronic money. Article 114-bis(2) of the TUB does not make any difference in between the cases where these entities act in their capacity of public

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				<p>Italian Post.</p> <p>TUB, Art. 114-quinquies.3(1)</p> <p>(...) Only Articles 114-ter and 126-novies, as well as, for what regards those provisions, Articles 39 and 40 of Legislative Decree 27 January 2010, n. 11 and following modifications, are applicable to the issuers operating as public authorities.</p>	<p>TUB, Art. 114-quinquies.3(1)</p> <p>(...) Agli emittenti che agiscono in veste di pubblica autorità si applicano solo gli articoli 114-ter e 126-novies nonché, relativamente a queste disposizioni, gli articoli 39 e 40 del decreto legislativo 27 gennaio 2010, n. 11, e successive modificazioni.</p>	<p>authorities and the cases in which they do not. However, a distinction in this sense is contained in Article 114-quinquies.3(1) of the TUB, providing for the application of special provisions to the entities acting in their capacity of public authorities.</p> <p>In view of the above, conformity can be concluded.</p>
Art. 1(2)	2. Title II of this Directive lays down the rules for the taking up, the pursuit and the prudential supervision of the business of electronic money institutions.	2. Il titolo II della presente direttiva fissa altresì le norme in materia di avvio, esercizio e vigilanza prudenziale dell'attività degli istituti di moneta elettronica.	N/A	N/A	N/A	<p>CONFORM</p> <p>No disposition of Italian legislation transposes Article 1(2) of the Directive, as it does not contain any positive obligation for the Member States.</p> <p>The subject matter of Title II is regulated by Articles 114-quinquies to 114-quinquies.2 of the TUB, and by Chapters II, III and V of the RPS.</p>
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	3. Gli Stati membri possono escludere dall'applicazione della totalità o di una parte delle disposizioni del titolo II della presente direttiva gli enti di cui all'articolo 2 della direttiva 2006/48/CE, ad eccezione di quelli di cui al primo e	N/A	N/A	N/A	<p>Article 1(3) of the Directive sets out an option. Owing to this option, Italy decided not to transpose it.</p>

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	indents of that Article.	secondo trattino dello stesso articolo.				
Art. 1(4)	4. This Directive does not apply to monetary value stored on instruments exempted as specified in Article 3(k) of Directive 2007/64/EC.	4. La presente direttiva non si applica al valore monetario memorizzato su strumenti esentati come specificato all'articolo 3, lettera k), della direttiva 2007/64/CE.	TUB, Art. 1(2)(h-ter)(1)	TUB, Art. 1(2)(h-ter)(1) (h-ter) (...) The following notions do not constitute electronic money: 1) the monetary value stored on instruments referred to in Article 2, paragraph 2, letter m) of Legislative Decree 27 January 2010, n. 11;	TUB, Art. 1(2)(h-ter)(1) (h-ter) (...) Non costituisce moneta elettronica: 1) il valore monetario memorizzato sugli strumenti previsti dall'articolo 2, comma 2, lettera m), del decreto legislativo 27 gennaio 2010, n. 11;	CONFORM Article 1(2)(h-ter)(1) of the TUB transposes Article 1(4) of the Directive. Article 1(2)(h-ter)(1) of the TUB excludes from the notion of “electronic money”, and therefore from the applicability of the dispositions of Title V-bis of the TUB, “the instruments referred to in Article 2, paragraph 2, letter m) of Legislative Decree 27 January 2010, n. 11”, literally corresponding to those referred to in Article 3(k) of Directive 2007/64/EC. In view of the above, conformity can be concluded.
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. La presente direttiva non si applica al valore monetario utilizzato per eseguire operazioni di pagamento come specificato all'articolo 3, lettera l), della direttiva 2007/64/CE.	TUB, Art. 1(2)(h-ter)(2)	TUB, Art. 1(2)(h-ter)(2) (h-ter) (...) The following notions do not constitute electronic money: (...) 2) the monetary value used for the payment transactions referred to in Article 2, paragraph 2, letter n) of Legislative Decree 27 January 2010, n. 11.	TUB, Art. 1(2)(h-ter)(2) (h-ter) (...) Non costituisce moneta elettronica: (...) 2) il valore monetario utilizzato per le operazioni di pagamento previste dall'articolo 2, comma 2, lettera n), del decreto legislativo 27 gennaio 2010, n. 11.	CONFORM Article 1(2)(h-ter)(2) of the TUB transposes Article 1(5) of the Directive. Article 1(2)(h-ter)(2) of the TUB excludes from the notion of “electronic money”, and therefore from the applicability of the dispositions of Title V-bis of the TUB, “the payment transactions referred to in Article 2, paragraph 2, letter n) of Legislative Decree 27 January 2010, n. 11”, literally corresponding to those referred to in Article 3(l) of Directive 2007/64/EC. In view of the above, conformity can be

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						concluded.
Art. 2 intr. wording	<i>Article 2</i> Definitions For the purposes of this Directive, the following definitions shall apply:	<i>Articolo 2</i> Definizioni Ai fini della presente direttiva, si intende per:	N/A	N/A	N/A	CONFORM Due to the different structure of Italian legislation, no disposition corresponds to the introductory wording of Article 2 of the Directive, without any effect on conformity.
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) "istituto di moneta elettronica", una persona giuridica che è stata autorizzata ad emettere moneta elettronica conformemente al titolo II;	TUB, Art. 1(2)(h-bis) RPS, Chap. I, Sect. II	TUB, Art. 1(2)(h-bis) (h-bis) "electronic money institutions": enterprises, different from banks, issuing electronic money: RPS, Chap. I, Sect. II (...) - "electronic money institutions": the legal persons other than banks authorised in Italy to issue electronic money in accordance with the provisions of art. 114-d of the TUB; (...)	TUB, Art. 1(2)(h-bis) h-bis) "istituti di moneta elettronica": le imprese, diverse dalle banche, che emettono moneta elettronica; RPS, Cap. I, Sez. II (...) - "istituti di moneta elettronica": le persone giuridiche, diverse dalle banche, autorizzate in Italia ad emettere moneta elettronica, conformemente a quanto previsto dall'art. 114-quinquies del TUB; (...)	CONFORM Article 1(2)(h-bis) of the TUB transposes Article 2, point 1, of the Directive. The wording of the definition of "electronic money institutions" given by Article 1(2)(h-bis) of the TUB is constructed in a different way than the corresponding definition contained in Article 2, point 1 of the Directive. By referring to all "enterprises, different from banks, issuing electronic money", Article 1(2)(h-bis) of the TUB includes all bodies allowed to issue electronic money, apart from those which are not "enterprises", and apart from banks. Therefore, in practice, the notion includes only those legal persons who have been granted authorisation under Article 114-quinquies of the TUB (transposing the general rules on authorisation contained in Title II of the Directive). It is important to remark here that the Italian legislation does not foresee a special procedure for the authorisation for the electronic money

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						<p>institutions benefitting from the waiver under Article 114-quinquies.4 of the TUB (transposing Article 9 of the Directive). Such electronic money institutions are, therefore, generally treated under the same heading of those not benefitting from the waiver.</p> <p>The RPS contains its definition of “electronic money institutions”. The definition given in the RPS is constructed in the same way as the definition given by Article 2, point 1 of the Directive. However, as explained above, the content of the two definitions coincides, in spite of the different wordings used.</p> <p>The combined reading of Articles 1(2)(h-bis) 114-bis and of the TUB leaves no doubts as regards the fact that electronic money institutions are not credit institutions; however credit institutions are allowed to issue electronic money, in conformity with the wording of Recital 25.</p> <p>In view of the above, conformity can be concluded.</p>
Art. 2 pt (2)	2. "electronic money" means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued 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	2) "moneta elettronica", il valore monetario memorizzato elettronicamente, ivi inclusa la memorizzazione magnetica, rappresentato da un credito nei confronti dell'emittente che sia emesso dietro ricevimento di fondi per effettuare operazioni di pagamento ai sensi dell'articolo 4,	TUB, Art. 1(2)(h-ter)(1)	TUB, Art. 1(2)(h-ter) (h-ter) 'electronic money': the monetary value stored electronically, including magnetic storage, represented by a claim on the issuer, which is issued for making payment transactions as defined in Article 1, paragraph 1, letter c) of the Decree	TUB, Art. 1(2)(h-ter) h-ter) 'moneta elettronica': il valore monetario memorizzato elettronicamente, ivi inclusa la memorizzazione magnetica, rappresentato da un credito nei confronti dell'emittente che sia emesso per effettuare operazioni di pagamento	CONFORM Article 1(2)(h-ter) of the TUB transposes Article 2, point 2, of the Directive. All the requirements of Article 2, point 2, of the Directive are literally transposed by Article 1(2)(h-ter) of the TUB. The reference to point 5 of Article 4 of Directive 2007/64/EC is transposed as a reference to Article 1(1)(c) of D. Lgs. 11/2010, literally transposing point 5 of Article 4 of Directive

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	accepted by a natural or legal person other than the electronic money issuer;	punto 5), della direttiva 2007/64/CE e che sia accettato da persone fisiche o giuridiche diverse dall'emittente di moneta elettronica;		legislative January 27, 2010, n. 11, and which is accepted by natural or legal persons other than the issuer.	come definite all'articolo 1, comma 1, lettera c), del decreto legislativo 27 gennaio 2010, n. 11, e che sia accettato da persone fisiche e giuridiche diverse dall'emittente. (...)	2007/64/EC. The definition is technologically neutral and covers electronic money whether it is held on a payment device in the electronic money holder's possession or stored remotely at a server and managed by the electronic money holder through a specific account for electronic money, in conformity with Recitals 7 and 8 of the Directive. In view of the above, conformity can be concluded.
Art. 2 pt (3)	3. "electronic money issuer" means entities referred to in Article 1(1), institutions benefiting from the waiver under Article 1(3) and legal persons benefiting from a waiver under Article 9;	3) "emittente di moneta elettronica", i soggetti di cui all'articolo 1, paragrafo 1, gli istituti che beneficiano della deroga di cui all'articolo 1, paragrafo 3 e le persone giuridiche che beneficiano della deroga di cui all'articolo 9;	TUB, Art 114-bis	TUB, Art 114-bis 1. The issuance of electronic money is reserved to banks and electronic money institutions. 2. The following institutions are also allowed to issue electronic money, in accordance with the provisions applicable to them: the European Central Bank, the central banks of the Member States, the Italian State and the other Member States, the national, regional and local public administrations and Poste Italiane.	TUB, Art 114-bis 1. L'emissione di moneta elettronica e' riservata alle banche e agli istituti di moneta elettronica. 2. Possono emettere moneta elettronica, nel rispetto delle disposizioni ad essi applicabili, la Banca centrale europea, le banche centrali comunitarie, lo Stato italiano e gli altri Stati comunitari, le pubbliche amministrazioni statali, regionali e locali, nonche' Poste Italiane.	CONFORM No disposition of Italian legislation transposes Article 2, point 3, of the Directive. The notion of "electronic money issuer" is used only in two provisions, without being defined. From the context of such dispositions, it can be inferred that the notion of "electronic money issuer" refers to all entities that are allowed to issue electronic money. This means all the entities mentioned in Article 114-bis(1) and (2), transposing Article (1) of the Directive. As explained above (see the observations concerning Article 2, point 1, of the Directive), the notion of "electronic money institutions" has to be understood as including also the legal persons referred to in Article 9 of the Directive. The waiver under Article 1(3) has not been transposed in Italian legislation. In view of the above, conformity can be

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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) "moneta elettronica in circolazione", la media dell'importo totale delle passività finanziarie connesse alla moneta elettronica emessa alla fine di ogni giorno civile nel corso dei sei mesi civili precedenti, calcolata il primo giorno di ogni mese civile e applicato a tale mese.	RPS, Chap. V, Sect. II, Para. 2	RPS, Chap. V, Sect. II, Para. 2 The capital requirement for the issuance of electronic money is equal to 2% of the average outstanding electronic money. The latter is equal to the average of the total amount of financial liabilities in respect of electronic money in issue at the end of each day during the previous six months, calculated on the first day of the month following the end of the semester and applied for that calendar month.	RPS, Cap. V, Sez. II, Par. 2 Il requisito patrimoniale a fronte dell'emissione di moneta elettronica è pari al 2 % della moneta elettronica media in circolazione. Quest'ultima è pari alla media dell'importo totale delle passività finanziarie a fronte della moneta elettronica emessa alla fine di ogni giorno nel corso dei sei mesi precedenti, calcolata il primo giorno del mese successivo alla fine del semestre e applicata a tale mese.	CONFORM Chapter V, Section II, Paragraph 2, of RPS transposes Article 4, point 2, of the Directive. A separate definition of "average outstanding electronic money" does not exist, but the meaning of the notion is given where it first appears. The wording of the Italian definition literally mirrors the wording of Article 4, point 2, of the Directive. In view of the above, conformity can be concluded.
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> General prudential rules 1. Without prejudice to	TITOLO II CONDIZIONI PER L'AVVIO, L'ESERCIZIO E LA VIGILANZA PRUDENZIALE DELL'ATTIVITÀ DEGLI ISTITUTI DI MONETA ELETTRONICA <i>Articolo 3</i> Disposizioni prudenziali	Civil Code, Art. 2409-bis Civil Code, Art. 2220 Civil Code, Art. 2220	Civil Code, Art. 2409-bis Civil Code, Art. 2220 Civil Procedure Code, Art. 100 TUB, Art. 7(1) to (5) TUB, Art. 7(6) 6. The Bank of Italy cooperates by exchanging	Codice Civile, Art. 2409-bis Codice Civile, Art. 2220 Codice di Procedure Civile, Art. 100 TUB, Art. 7 da (1) a (5) TUB, Art. 7(6) 6. La Banca d'Italia	PARTIALLY CONFORM No disposition of Italian legislation transposes Article 3(1) of the Directive as such. In fact, the Italian legislation does not contain a general reference to the dispositions applicable to payment services institutions and transposing Articles 5 and 10 to 15, Article 17(7) and Articles 18 to 25 of Directive 2007/64/EC. The corresponding rules have, therefore, to be found in the

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<p>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>generali</p> <p>1. Fatta salva la presente direttiva, gli articoli 5 e da 10 a 15, l'articolo 17, paragrafo 7 e gli articoli da 18 a 25 della direttiva 2007/64/CE si applicano in quanto compatibili agli istituti di moneta elettronica.</p>	<p>ure Code, Art. 100</p> <p>TUB, Art. 7(1) to (5)</p> <p>TUB, Art. 7(6)</p> <p>TUB, Art. 114-quater(1)</p> <p>TUB, Art. 114-quinquies</p> <p>TUB, Art. 114-quinquies.1(5)</p> <p>TUB, Art. 114-quinquies</p>	<p>information with the competent authorities of the EU Member States, in order to facilitate their functions. The information received by the Bank of Italy may be transmitted to the competent Italian authorities, unless denial of the authority of the member state that provided the information.</p> <p>TUB, Art. 114-quater(1)</p> <p>1. The Bank of Italy registers in a special register the electronic money institutions authorised in Italy and its branches as well as branches in Italy of electronic money institutions having their registered office in an EU or non-EU.</p> <p>TUB, Art. 114-quinquies</p> <p>1. The Bank of Italy shall authorise electronic money institutions where the following conditions are met:</p> <p>a) the form of joint stock companies, limited partnership corporation, limited liability company</p>	<p>collabora, anche mediante scambio di informazioni, con le autorità competenti degli Stati comunitari, al fine di agevolare le rispettive funzioni. Le informazioni ricevute dalla Banca d'Italia possono essere trasmesse alle autorità italiane competenti, salvo diniego dell'autorità dello Stato comunitario che ha fornito le informazioni.</p> <p>TUB, Art. 114-quater(1)</p> <p>1. La Banca d'Italia iscrive in un apposito albo gli istituti di moneta elettronica autorizzati in Italia e le relative succursali nonché le succursali in Italia degli istituti di moneta elettronica con sede legale in uno Stato comunitario o extracomunitario.</p> <p>TUB, Art. 114-quinquies</p> <p>1. La Banca d'Italia autorizza gli istituti di moneta elettronica quando ricorrono le seguenti condizioni:</p> <p>a) sia adottata la forma di società per azioni, di</p>	<p>primary legislation regulating electronic money institutions (and especially in Title V-bis of the TUB) and in the act of secondary legislation regulating both electronic money institutions and payment services institutions (the RPS).</p> <p>The general principle set in Recital 9 (the relevant provisions of Directive 2007/64/EC should apply <i>mutatis mutandis</i> to electronic money institutions without prejudice to the provisions of this Directive) is applied in the Italian legislation.</p> <p>Article 5 of Directive 2007/64/EC is transposed by Chapter II, Section V, Paragraph 1 of the RPS. The RPS is more specific in describing the application requirements, in particular through the reference to the detailed lists contained in Sections III and IV of Chapter II, and in Annex C to Chapter VI. Therefore, the transposing dispositions are to be considered as conform to Article 5 of Directive 2007/64/EC.</p> <p>Article 10(1) of Directive 2007/64/EC is transposed by Article 114-quinquies(1) of the TUB. The transposing disposition is conform to Article 10(1) of Directive 2007/64/EC.</p> <p>Article 10(2) of Directive 2007/64/EC is transposed by Chapter II, Section V, Paragraph 2 of the RPS. The transposing disposition is conform to Article 10(2) of Directive 2007/64/EC.</p> <p>Article 10(3) of Directive 2007/64/EC is</p>

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		<p>uies.2</p> <p>RPS, Cap. II, Sect. V</p> <p>RPS, Cap. II, Sect. VII</p> <p>RPS, Chap. VI, Sect. II</p> <p>RPS, Chap. VI, Ann. B</p> <p>RPS, Chap. VII, Sect. II, Para. 2</p> <p>RPS, Chap. VII, Sect. III, Para.</p>	<p>or a cooperative society is chosen;</p> <p>b) the registered office and the head office are located in the territory of the Republic;</p> <p>c) the paid-up capital amounts to an amount not less than that determined by the Bank of Italy;</p> <p>d) a programme of initial operations and the organisational structure, together with the Constitution and the Statute are submitted;</p> <p>e) holders of investments referred to in Article 19 and the corporate officers possess, respectively, pursuant to the requirements of Articles 25 and 26;</p> <p>f) close ties that prevent the effective exercise of their supervisory functions are not present among the electronic money institutions or individuals of the group and other subjects.</p> <p>2. The Bank of Italy shall refuse authorisation where, after verification of the conditions specified in paragraph 1 the sound and prudent management or the smooth functioning of</p>	<p>società in accomandita per azioni, di società a responsabilità limitata o di società cooperativa;</p> <p>b) la sede legale e la direzione generale siano situate nel territorio della Repubblica;</p> <p>c) il capitale versato sia di ammontare non inferiore a quello determinato dalla Banca d'Italia;</p> <p>d) venga presentato un programma concernente l'attività iniziale e la struttura organizzativa, unitamente all'atto costitutivo e allo statuto;</p> <p>e) i titolari di partecipazioni di cui all'articolo 19 e gli esponenti aziendali possiedano, rispettivamente, i requisiti previsti ai sensi degli articoli 25 e 26;</p> <p>f) non sussistano, tra gli istituti di moneta elettronica o i soggetti del gruppo di appartenenza e altri soggetti, stretti legami che ostacolano l'effettivo esercizio delle funzioni di vigilanza.</p> <p>2. La Banca d'Italia nega l'autorizzazione quando dalla verifica delle condizioni indicate nel</p>	<p>transposed by Article 114-quinquies(1)(b) of the TUB. The transposing disposition is conform to Article 10(3) of Directive 2007/64/EC.</p> <p>Article 10(4) of Directive 2007/64/EC is transposed by Article 114-quinquies(2) of the TUB, read in conjunction with Article 114-quinquies(1)(d) of the TUB. The transposing dispositions are conform to Article 10(4) of Directive 2007/64/EC.</p> <p>Article 10(5) of Directive 2007/64/EC is transposed by Article 114-quinquies(5) of the TUB. The transposing disposition is conform to Article 10(5) of Directive 2007/64/EC.</p> <p>Article 10(6) of Directive 2007/64/EC is transposed by Article 114-quinquies(2) of the TUB, read in conjunction with Article 114-quinquies(1)(e) of the TUB. The transposing dispositions are conform to Article 10(6) of Directive 2007/64/EC.</p> <p>Article 10(7) of Directive 2007/64/EC is transposed by Article 114-quinquies(2) of the TUB, read in conjunction with Article 114-quinquies(1)(f) of the TUB. The transposing dispositions are conform to Article 10(7) of Directive 2007/64/EC.</p> <p>Article 10(8) of Directive 2007/64/EC is transposed by Article 114-quinquies(2) of the TUB, read in conjunction with Article 114-quinquies(1)(f) of the TUB. The transposing dispositions are conform to Article 10(8) of Directive 2007/64/EC.</p>

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		<p>3</p> <p>RPS, Chap. VII, Sect. IV</p> <p>RPS, Chap. VIII, Sect. I</p>	<p>the payment system are not guaranteed.</p> <p>3. The Bank of Italy regulates the authorisation procedure, the cases of revocation and the grounds for lapse when the authorised institution has not commenced operating activity.</p> <p>4. The Bank of Italy authorises firms that carry on other business activities to issue electronic money when:</p> <p>a) the conditions mentioned in paragraph 1, with the exception of the requirements of professionalism of corporate officers, are met;</p> <p>b) for the issuance of electronic money, the provision of payment services and related ancillary activities, a separate patrimony is established in the manner and for the purposes set out in Articles 114-quinquies.1, paragraph 5, and 114-1;</p> <p>c) one or more persons responsible for the assets referred to in point b) are individuated; Article 26 is applicable to them, as regards the requirements</p>	<p>comma 1 non risulti garantita la sana e prudente gestione ovvero il regolare funzionamento del sistema dei pagamenti.</p> <p>3. La Banca d'Italia disciplina la procedura di autorizzazione, i casi di revoca e le ipotesi di decadenza quando l'istituto autorizzato non abbia iniziato l'esercizio dell'attività.</p> <p>4. La Banca d'Italia autorizza all'emissione di moneta elettronica soggetti che esercitino anche altre attività imprenditoriali quando:</p> <p>a) ricorrano le condizioni indicate al comma 1, ad eccezione del possesso dei requisiti di professionalità degli esponenti aziendali;</p> <p>b) per l'attività di emissione di moneta elettronica, la prestazione dei servizi di pagamento e per le relative attività accessorie e strumentali sia costituito un unico patrimonio destinato con le modalità e agli effetti stabiliti dagli articoli 114-quinquies.1, comma 5, e 114-terdecies;</p> <p>c) siano individuati uno o più soggetti responsabili</p>	<p>Article 10(9) of Directive 2007/64/EC is transposed by Article 114-quinquies(6) of the TUB. The transposing disposition is conform to Article 10(9) of Directive 2007/64/EC.</p> <p>Article 11 of Directive 2007/64/EC is transposed by Chapter II, Section V, Paragraph 2 of the RPS. The transposing disposition is conform to Article 11 of Directive 2007/64/EC.</p> <p>Article 12 of Directive 2007/64/EC is transposed by Chapter II, Section VII of the RPS. The transposing dispositions present two issues of partial conformity. First, paragraph 1(b) of Article 12 of Directive 2007/64/EC is not transposed. Second, paragraphs 2 and 3 are only partially transposed: in fact, the corresponding dispositions are applicable only in a few cases, while in the majority of the cases a simplified procedure, not matching the requirements of Article 12 of Directive 2007/64/EC, is applicable.</p> <p>Article 13 of Directive 2007/64/EC is transposed by Article 114-quater(1) of the TUB. The transposing disposition presents an issue of partial conformity. In particular, Article 114-quater(1) of the TUB do not make any specific reference to the establishment, in the register of the electronic money institutions, of a differentiation based either on the range of activities carried out, or on the application of the waiver provided for in Article 9 of the Directive (and transposed by Article 114-quinquies.4 of the TUB). The</p>

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			<p>of integrity and professionalism.</p> <p>5. If the development of the business activities referred to in paragraph 4 is likely to impair the financial soundness of electronic money institutions or the effective exercise of supervision, the Bank of Italy may require the establishment of a company carrying on only the business of issuance of electronic money.</p> <p>6. The Italian electronic money institutions may operate:</p> <p>a) in another EU country, also without establishing branches, in accordance with the procedures laid down by the Bank of Italy;</p> <p>b) in a non-EU country, also without establishing branches, with the authorisation of the Bank of Italy.</p> <p>7. The electronic money institutions having their registered office in another EU country, wishing to operate in Italy, may operate in the territory of the Republic without establishing branches after the Bank of Italy has been</p>	<p>del patrimonio di cui alla lettera b); ad essi si applica l'articolo 26, limitatamente ai requisiti di onorabilità e professionalità.</p> <p>5. Se lo svolgimento delle attività imprenditoriali di cui al comma 4 rischia di danneggiare la solidità finanziaria dell'istituto di moneta elettronica o l'esercizio effettivo della vigilanza, la Banca d'Italia può imporre la costituzione di una società che svolga esclusivamente l'attività di emissione di moneta elettronica.</p> <p>6. Gli istituti di moneta elettronica italiani possono operare:</p> <p>a) in uno Stato comunitario, anche senza stabilirvi succursali, nel rispetto delle procedure fissate dalla Banca d'Italia;</p> <p>b) in uno Stato extracomunitario, anche senza stabilirvi succursali, previa autorizzazione della Banca d'Italia.</p> <p>7. Gli istituti di moneta elettronica con sede legale in un altro Stato comunitario, che intendono operare in Italia,</p>	<p>provisions of the RPS applying Article 114- quater(1) of the TUB and relating to the register of the electronic money institutions do not contain any specification in this sense either. Finally, the register of the electronic money institutions is public and online, but the link seems, at the present time, out of service (see http://siotec.bancaditalia.it/sportelli/jsp/layout/home.jsp?detail=download).</p> <p>Article 14 of Directive 2007/64/EC is transposed by Article 114-quinquies.2(1) of the TUB and by Chapter XI, Paragraph 1 of the RPS. In particular, Article 114-quinquies.2(1) of the TUB generally obliges all electronic money institutions to communicate to the Bank of Italy all requested data, while by Chapter XI, Paragraph 1 of the RPS requests electronic money institutions to transmit the records of the assemblies concerning "events which are of particular relevance for the business activity". Other, more specific, communication obligations are contained in the RPS (see, for example, Chapter II, Section V, Paragraph 3). Therefore, the transposing dispositions are to be considered as conform to Article 14 of Directive 2007/64/EC.</p> <p>The rules on accounting and statutory audit referred to in Article 15 of Directive 2007/64/EC are transposed in the Italian legislation by D. Lgs. 39/2010 (transposing Directive 2006/43/EC), and by Articles 2409-bis to 2409-septies of the Civil Code. These rules are applicable (among others) to all society constituted as holdings, including the</p>

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		<p>informed by the competent authority of the country of origin.</p> <p>8. The issuance of electronic money by an electronic money institution having its registered office in a non-EU country is subject to the opening of a branch in Italy authorised by the Bank of Italy pursuant to this Article under conditions corresponding to those of the paragraph 1, letters c), d), e) and f). The authorisation shall be issued, after consulting the Ministry of Foreign Affairs, also taking into account the condition of reciprocity.</p> <p>9. The Bank of Italy issues the implementing provisions for this Article.</p> <p>TUB, Art. 114-quinquies.1(5)</p> <p>TUB, Art. 114-quinquies.2</p> <p>RPS, Cap. II, Sect. V</p> <p>RPS, Cap. II, Sect. VII</p> <p>The authorisation lapses if the institution:</p>	<p>possono operare nel territorio della Repubblica anche senza stabilirvi succursali dopo che la Banca d'Italia sia stata informata dall'autorità competente dello Stato di appartenenza.</p> <p>8. L'emissione di moneta elettronica da parte di un istituto di moneta elettronica con sede legale in uno Stato extracomunitario è subordinata all'apertura di una succursale in Italia autorizzata dalla Banca d'Italia ai sensi del presente articolo in presenza di condizioni corrispondenti a quelle del comma 1, lettere c), d), e) ed f). L'autorizzazione è rilasciata, sentito il Ministero degli affari esteri, tenendo anche conto della condizione di reciprocità.</p> <p>9. La Banca d'Italia detta disposizioni attuative del presente articolo.</p> <p>TUB, Art. 114-quinquies.1(5)</p> <p>TUB, Art. 114-quinquies.2</p> <p>electronic money institutions. As regards Article 15(3) of the Directive, specific reference must be made to Article 114-quinquies.1(5) of the TUB.</p> <p>Article 17(7) of Directive 2007/64/EC is transposed by Chapter VI, Section II, and Chapter VI, Annex B, of the RPS. The transposing dispositions are conform to Article 17(7) of Directive 2007/64/EC.</p> <p>Article 18(1) of Directive 2007/64/EC is transposed by Chapter VI, Section II, and Chapter VI, Annex B, of the RPS. The transposing dispositions are conform to Article 18(1) of Directive 2007/64/EC.</p> <p>Article 18(2) of Directive 2007/64/EC is not transposed by a specific provision. The applicability of the general provisions of Civil Law (see Article 2049 of the Civil Code for employees and Articles 1742 to 1753 for agents, branches and other entities to which activities are outsourced) is, however, sufficient to ensure conformity.</p> <p>Article 19 of Directive 2007/64/EC is transposed by Articles 2214 to 2220 of the Civil Code, establishing the rules applicable to all firms as regards record-keeping, therefore including electronic money institutions. Such dispositions are in conformity with Article 19 of Directive 2007/64/EC.</p> <p>Article 20 of Directive 2007/64/EC is transposed by Article 114-quinquies.2 of the TUB. The transposing disposition is conform</p>

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		<p>- renounces to the authorisation;</p> <p>- does not make use of the authorisation within 12 months after enrolment. Before the expiry of that period, the institution may apply to the Bank of Italy, in the presence of justified and supervening reasons, to obtain a grace period not normally exceeding 6 months;</p> <p>- has ceased the activity for a continuous period exceeding 12 months. When the authorisation lapses, the Bank of Italy, without further formality, clears the bank from its register. The institute will update the corporate purpose.</p> <p>Outside of the cases described in Article 113-ter of the TUB, the Bank of Italy withdraws the authorisation to the institute and deletes it from the register when the same intermediary no longer fulfils the conditions required for the granting of the authorisation provided for in this Chapter. the withdrawal of the authorisation is executed</p>	<p>RPS, Cap. II, Sez. V</p> <p>RPS, Cap. II, Sez. VII</p> <p>L'istituto decade dall'autorizzazione rilasciata se:</p> <ul style="list-style-type: none"> - rinuncia all'autorizzazione; - non si serve dell'autorizzazione entro 12 mesi dall'iscrizione all'albo. Prima della scadenza di tale termine, l'istituto può chiedere alla Banca d'Italia, in presenza di giustificate e sopravvenute motivazioni, un periodo di proroga di norma non superiore a 6 mesi; - ha cessato la prestazione dell'attività per un periodo continuativo superiore a 12 mesi. <p>Intervenuta la decadenza, la Banca d'Italia, senza ulteriori formalità, cancella l'istituto dal relativo albo. L'istituto provvede alla modifica dell'oggetto sociale. Al di fuori delle ipotesi di cui all'art. 113-ter del TUB, la Banca d'Italia revoca l'autorizzazione a un istituto e lo cancella</p>	<p>to Article 20 of Directive 2007/64/EC.</p> <p>Article 21 of Directive 2007/64/EC is transposed by Article 114-quinquies.2 of the TUB. The transposing disposition is conform to Article 21 of Directive 2007/64/EC.</p> <p>Article 22 of Directive 2007/64/EC is transposed by Article 7(1) to (5) of the TUB. The transposing disposition is conform to Article 22 of Directive 2007/64/EC.</p> <p>In order to assess the transposition of Article 23 of Directive 2007/64/EC it is sufficient to make reference to the dispositions of the Civil Procedure Code concerning the legitimacy to act, and in particular Article 100.</p> <p>Article 24 of Directive 2007/64/EC is transposed by Article 7(6) of the TUB. The transposing disposition is, however, less specific than Article 20 of Directive 2007/64/EC, and has therefore to be considered as partially conform.</p> <p>Article 25(1) and (2) of Directive 2007/64/EC are transposed by Article 114-quinquies(6) to (8) and by Chapter VII, Section II, Paragraph 2, by Chapter VII, Section III, Paragraph 3, by Chapter VII, Section IV, by Chapter VIII, Section I of the RPS. The transposing dispositions are conform to Article 25(1) and (2) of Directive 2007/64/EC.</p> <p>Article 25(3) of Directive 2007/64/EC is transposed by Article 114-quinquies.2(4) and (5) and by Chapters VII and VIII of the RPS. The transposing dispositions are conform to</p>

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		<p>in the manner described in Article 113-ter if there are sums of money received from customers still recorded in the accounts, or payments received in respect of the electronic money issued, as well as income arising from the exercise of granting loans. In the other cases the institution changes its corporate purpose.</p> <p>RPS, Chap. VI, Sect. II</p> <p>RPS, Chap. VI, Ann. B</p> <p>RPS, Chap. VII, Sect. II, Para. 2</p> <p>RPS, Chap. VII, Sect. III, Para. 3</p> <p>RPS, Chap. VII, Sect. IV</p> <p>RPS, Chap. VIII, Sect. I</p>	<p>dall'albo quando lo stesso intermediario non soddisfa più le condizioni previste per la concessione dell'autorizzazione previste nel presente Capitolo.</p> <p>La revoca dell'autorizzazione è effettuata secondo le modalità di cui all'art. 113-ter qualora vi siano somme di denaro ricevute dai clienti ancora registrate nei conti di pagamento ovvero ricevute a fronte della moneta elettronica emessa, nonché attivi derivanti dall'esercizio dell'attività di concessione di finanziamenti. Negli altri casi l'istituto modifica l'oggetto sociale.</p> <p>RPS, Cap. VI, Sez. II</p> <p>RPS, Cap. VI, All. B</p> <p>RPS, Cap. VII, Sez. II, Par. 2</p> <p>RPS, Cap. VII, Sez. III, Par. 3</p> <p>RPS, Cap. VII, Sez. IV</p>	<p>Article 25 of Directive 2007/64/EC.</p> <p>Article 25(4) of Directive 2007/64/EC is transposed by Chapter VIII, Section I, Paragraph 5 of the RPS. The transposing dispositions are conform to Article 25(4) of Directive 2007/64/EC.</p> <p>Article 25(5) of Directive 2007/64/EC is not explicitly transposed. However, the dispositions of Italian law transposing Article 25 do not seem to prejudice the correct application of the provisions referred to by 25(5) of Directive 2007/64/EC. The transposition is, therefore, conform to Article 25(5) of Directive 2007/64/EC.</p> <p>In summary, partial conformity is observed as regards the transposition of Articles 12, 13 and 24 of Directive 2007/64/EC.</p> <p>In view of the above, partial conformity is concluded.</p>

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					RPS, Cap. VIII, Sez. I	
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. Gli istituti di moneta elettronica informano previamente le autorità competenti in merito a qualsiasi cambiamento rilevante delle misure adottate per la tutela dei fondi ricevuti in cambio della moneta elettronica emessa.	N/A	N/A	N/A	<p>NOT CONFORM</p> <p>No disposition in the Italian legislation transposes Article 3(2) of the Directive.</p> <p>No mention of the communication obligation referred to in Article 3(2) (also read in the light of Recital 14) is made in Chapter IV, Section II of the RPS, concerning the safeguarding of the funds received from the clients in exchange for electronic money issued.</p> <p>No mention of the communication obligation referred to in Article 3(2) (also read in the light of Recital 14) is made in Chapter XI of the RPS, concerning in general the communication obligations of the electronic money institutions.</p> <p>In view of the above, non conformity is concluded.</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	3. Qualsiasi persona fisica o giuridica che intenda acquisire o cedere, direttamente o indirettamente, una partecipazione qualificata ai sensi dell'articolo 4, paragrafo 11, della direttiva 2006/48/CE in un	RPS, Chap. III, Sect. I, Para. 1 RPS, Chap.	RPS, Chap. III, Sect. I, Para. 1 An application for authorisation to the Bank of Italy is required from those who - alone or together - want to acquire, directly or indirectly, in	RPS, Cap. III, Sez. I, Par. 1 Sono tenuti a presentare istanza di autorizzazione alla Banca d'Italia i soggetti che – da soli o di concerto – intendono acquisire direttamente o	<p>PARTIALLY CONFORM</p> <p>Chapter III, Section I, Paragraph 1 and Chapter III, Section II, Paragraphs 1.1 and 1.2 of the RPS transpose Article 3(3), first subparagraph of the Directive.</p> <p>In conformity with Article 3(3), first subparagraph of the Directive, Chapter III,</p>

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	<p>electronic money institution, or to further increase or reduce, directly or indirectly, such qualifying holding as a result of which the proportion of the capital or of the voting rights held would reach, exceed or fall below 20 %, 30 % or 50 %, or so that the electronic money institution would become or cease to be its subsidiary, shall inform the competent authorities of their intention in advance of such acquisition, disposal, increase or reduction.</p>	<p>istituto di moneta elettronica o aumentare o ridurre ulteriormente, direttamente o indirettamente, tale partecipazione qualificata, in modo tale che la quota del capitale sociale o dei diritti di voto detenuti raggiunga, superi o scenda al di sotto del 20 %, 30 % o 50 % o che l'istituto di moneta elettronica diventi o cessi di essere una sua impresa figlia, informa previamente le autorità competenti della propria intenzione di procedere a tale acquisizione, cessione, incremento o riduzione.</p>	<p>III, Sect. II, Para. 1.1</p> <p>RPS, Chap. III, Sect. II, Para. 1.2</p>	<p>any capacity, shares of an institution that, together with those already held, result in:</p> <p>a) an participation to more than 10%, or reaching or exceeding the thresholds of 20%, 30% and 50% of the capital or of the voting rights;</p> <p>b) the ability to exercise significant influence⁽²⁾;</p> <p>c) the control, regardless of the entity of the participation.</p> <p>(...)</p> <p>⁽²⁾ The hypothesis of significant influence must be identified on a case by case basis in relation to the ownership and governance of the institution in which the participation to be authorised is acquired, with reference to some indices, such as - for example - the possibility of: designate one or more representatives on the boards of strategic supervision or management; affect strategic decisions of the company, to exercise powers similar to those of an investment that would lead to the requirement of</p>	<p>indirettamente, a qualsiasi titolo, partecipazioni al capitale di un istituto che, tenuto conto di quelle già possedute, danno luogo:</p> <p>a) a una partecipazione superiore al 10%, ovvero al raggiungimento o superamento delle soglie del 20%, 30% e 50% del capitale sociale o dei diritti di voto;</p> <p>b) alla possibilità di esercitare un'influenza notevole⁽²⁾;</p> <p>c) al controllo, indipendentemente dall'entità della partecipazione.</p> <p>(...)</p> <p>⁽²⁾ Le ipotesi di influenza notevole vanno individuate caso per caso in relazione all'assetto proprietario e di governo dell'istituto nel quale è assunta la partecipazione da autorizzare avendo a riferimento alcuni indici, tra i quali - a titolo esemplificativo - la possibilità di: designare uno o più esponenti negli organi di supervisione strategica o di gestione; condizionare scelte strategiche della società;</p>	<p>Section I, Paragraph 1 of the RPS requires a prior authorisation to complete the acquisition (direct or indirect) of a capital quota giving rise to an overall participation to the capital (or to an overall weight in the voting rights) of the firm of more than 10%, 20%, 30% or 50%. Moreover, prior authorisation is requested when the acquisition would put the electronic money institution under the control of the acquirer or under its "considerable influence" (the notion of "considerable influence" is an open notion to be filled on a case by case basis, as specified in footnote 2 of Chapter III, Section I, Paragraph 1 of the RPS).</p> <p>As regards the reduction of the participation in the capital of the electronic money institution, Chapter III, Section II, Paragraphs 1.1 and 1.2 of the RPS foresee only a duty to communicate the operation within ten days after its completion. On the contrary, Article 3(3), first subparagraph of the Directive requires a prior authorisation also in such cases. Partial conformity is, therefore, concluded in this regard.</p> <p>In view of the above, partial conformity is concluded.</p>

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			<p>prior authorisation.</p> <p>RPS, Chap. III, Sect. II, Para. 1.1</p> <p>Individuals who participate directly or indirectly in the capital of the institution are required to communicate, within a period specified in para.1.2, to the Bank of Italy and to the subject participated, the amount of the participation in the following cases:</p> <p>a) completion of the transactions covered by the permit provided for in Section I, or any decision not to conclude the transaction;</p> <p>b) reduction of the amount of the investment below of each of the thresholds relevant for the purposes of the authorisation. (...)</p> <p>RPS, Chap. III, Sect. II, Para. 1.2</p> <p>The notification shall be made within ten days from the conclusion of the operations indicated in para. 1.1, (...)</p>	<p>esercitare poteri analoghi a quelli di una partecipazione che comporterebbe l'obbligo di preventiva autorizzazione.</p> <p>RPS, Cap. III, Sez. II, Par. 1.1</p> <p>I soggetti che partecipano, direttamente o indirettamente, al capitale dell'istituto sono tenuti a comunicare, entro il termine indicato al Par. 1.2, alla Banca d'Italia e al soggetto partecipato l'ammontare della propria partecipazione nei seguenti casi:</p> <p>a) perfezionamento delle operazioni di cui all'autorizzazione prevista dalla Sezione I ovvero eventuale decisione di non concludere l'operazione;</p> <p>b) riduzione dell'ammontare della partecipazione al di sotto di ciascuna delle soglie rilevanti a fini autorizzativi. (...)</p> <p>RPS, Cap. III, Sez. II, Par. 1.2</p>

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					La comunicazione va effettuata entro dieci giorni dalla conclusione delle operazioni indicate nel Par. 1.1; (...)	
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.	Il potenziale acquirente fornisce all'autorità competente le informazioni relative alle dimensioni della partecipazione qualificata e le informazioni rilevanti di cui all'articolo 19 bis, paragrafo 4, della direttiva 2006/48/CE.	RPS, Chap. III, Sect. I, Para. 3	RPS, Chap. III, Sect. I, Para. 3 The request for authorisation, in addition to summarising the purpose of the acquisition, contains the following information: - the identification of the applicants; - an indication of the institution whose participation is sought to acquire or increase, and the corresponding capital share, specifying the number and classes of shares already owned and those that are acquired; - any information on possible amendments to the business programme; - the information and documents specified in Par. 5 and 6 of this Section. (...)	RPS, Cap. III, Sez. I, Par. 3 L'istanza di autorizzazione, oltre a indicare sinteticamente le finalità dell'operazione di acquisizione, contiene i seguenti elementi informativi: - le generalità dei soggetti richiedenti; - l'indicazione dell'istituto di cui si intende acquisire o incrementare la partecipazione e della relativa quota di capitale, specificando il numero e le categorie di azioni eventualmente già possedute e di quelle che si intendono acquisire; - le informazioni sull'eventuale modifica del programma di attività; - le informazioni e la documentazione indicati nei Par. 5 e 6 della presente Sezione. (...)	CONFORM Chapter III, Section I, Paragraph 3 of the RPS transposes Article 3(3), second subparagraph of the Directive. The information requested under Article 3(3), second subparagraph of the Directive is listed under Chapter III, Section I, Paragraph 3 of the RPS, also referring to Paragraphs 5 and 6 of the same Section, containing further relevant information to be provided, in accordance with Article 19a(4) of Directive 2006/48/EC. In view of the above, conformity can be concluded.

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<p>Art. 3(3) 3rd subpar a.</p> <p>Where the influence exercised by the persons referred to in the second subparagraph is likely to operate to the detriment of the prudent and sound management of the institution, the competent authorities shall express their opposition or take other appropriate measures to bring that situation to an end. Such measures may include injunctions, sanctions against directors or managers, or the suspension of the exercise of the voting rights attached to the shares held by the shareholders or members in question.</p>	<p>Qualora l'influenza esercitata dalle persone di cui al secondo comma possa essere di ostacolo a una gestione prudente e sana dell'istituto, le autorità competenti esprimono la loro opposizione o adottano le opportune misure per porre termine a tale situazione. Tali misure possono includere ingiunzioni, sanzioni nei confronti degli amministratori o dei manager o la sospensione dell'esercizio dei diritti di voto inerenti alle azioni o quote detenute dagli azionisti o dai soci in questione.</p>	<p>RPS, Chap. III, Sect. I, Para. 3</p> <p>RPS, Chap. III, Sect. I, Para. 5</p> <p>RPS, Chap. III, Sect. I, Para. 7</p>	<p>RPS, Chap. III, Sect. I, Para. 3</p> <p>(...) The Bank of Italy shall pronounce on the application within 60 working days.</p> <p>RPS, Chap. III, Sect. I, Para. 5</p> <p>The Bank of Italy evaluates, in order to ensure the sound and prudent management of the institution concerned by the proposed acquisition, and the smooth operation of payment systems, also taking into account the likely influence of the proposed acquirer on the institution itself, the quality of the proposed acquirer and the financial soundness of the proposed acquisition.</p> <p>RPS, Chap. III, Sect. I, Para. 7</p> <p>The Bank of Italy may at any time suspend or revoke the authorisation to acquire a qualifying</p>	<p>RPS, Cap. III, Sez. I, Par. 3</p> <p>(...) La banca d'Italia si pronuncia sull'istanza entro sessanta giorni lavorativi.</p> <p>RPS, Cap. III, Sez. I, Par. 5</p> <p>La Banca d'Italia valuta, al fine di garantire la gestione sana e prudente dell'istituto cui si riferisce il progetto di acquisizione e il regolare funzionamento dei sistemi di pagamento nonché tenendo conto della probabile influenza del candidato acquirente sull'istituto medesimo, la qualità del candidato acquirente e la solidità finanziaria della prevista acquisizione.</p> <p>RPS, Cap. III, Sez. I, Par. 7</p> <p>La Banca d'Italia può in ogni momento sospendere o revocare l'autorizzazione ad acquisire partecipazioni</p>	<p>CONFORM</p> <p>Chapter III, Section I, Paragraphs 3, 5 and 7, of the RPS transpose Article 3(3), third subparagraph of the Directive.</p> <p>Chapter III, Section I, Paragraph 5 of the RPS empowers the Bank of Italy to refuse the authorisation needed to proceed with the acquisition referred to in Chapter III, Section I, Paragraph 1 of the RPS (transposing Article 3(3), first subparagraph of the Directive) in the event that such an acquisition would have a detrimental effect on the sound management of the electronic money institution.</p> <p>Chapter III, Section I, Paragraph 7 of the RPS empowers the Bank of Italy to suspend or withdraw the authorisation, for the same reasons, with the consequent suspension of the voting rights.</p> <p>In view of the above, conformity can be concluded.</p>

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				holding in the capital of an institution in case the conditions laid down in this Chapter are not met any more, with the consequence of the suspension or of the revocation of voting rights connected to the participation.	qualificate al capitale di un istituto qualora vengano meno i presupposti e le condizioni previste in questo Capitolo con conseguente sospensione o revoca dei diritti di voto connessi alla partecipazione in questione.	
Art. 3(3) 4th subparagraph a.	Similar measures shall apply to natural or legal persons who fail to comply with the obligation to provide prior information, as laid down in this paragraph.	Misure analoghe si applicano nei confronti delle persone fisiche o giuridiche che non ottemperano all'obbligo d'informazione preventiva stabilito al presente paragrafo.	RPS, Chap. III, Sect. I, Para. 3 RPS, Chap. III, Sect. I, Para. 7	RPS, Chap. III, Sect. I, Para. 3 The request for authorisation, in addition to summarising the purpose of the acquisition, contains the following information: - the identification of the applicants; - an indication of the institution whose participation is sought to acquire or increase, and the corresponding capital share, specifying the number and classes of shares already owned and those that are acquired; - any information on possible amendments to the business programme; - the information and documents specified in Par. 5 and 6 of this Section.	RPS, Cap. III, Sez. I, Par. 3 L'istanza di autorizzazione, oltre a indicare sinteticamente le finalità dell'operazione di acquisizione, contiene i seguenti elementi informativi: - le generalità dei soggetti richiedenti; - l'indicazione dell'istituto di cui si intende acquisire o incrementare la partecipazione e della relativa quota di capitale, specificando il numero e le categorie di azioni eventualmente già possedute e di quelle che si intendono acquisire; - le informazioni sull'eventuale modifica del programma di attività; - le informazioni e la documentazione indicati	CONFORM Chapter III, Section I, Paragraph 3 and 7 of the RPS transpose Article 3(3), fourth subparagraph of the Directive. According to Chapter III, Section I, Paragraph 3 of the RPS, the Bank of Italy authorises the acquisition referred to in Chapter III, Section I, Paragraph 1 of the RPS (transposing Article 3(3), first subparagraph of the Directive) only after having received the relevant application. This entails that such authorisation can be denied in case the application does not meet the requirement set in Chapter III, Section I of the RPS. Chapter III, Section I, Paragraph 7 of the RPS empowers the Bank of Italy to suspend or withdraw the authorisation, for the same reasons, with the consequent suspension of the voting rights. In view of the above, conformity can be concluded.

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				<p>The Bank of Italy shall pronounce on the application within 60 working days.</p> <p>RPS, Chap. III, Sect. I, Para. 7</p> <p>The Bank of Italy may at any time suspend or revoke the authorisation to acquire a qualifying holding in the capital of an institution in case the conditions laid down in this Chapter are not met any more, with the consequence of the suspension or of the revocation of voting rights connected to the participation.</p>	<p>nei Par. 5 e 6 della presente Sezione. La banca d'Italia si pronuncia sull'istanza entro sessanta giorni lavorativi.</p> <p>RPS, Cap. III, Sez. I, Par. 7</p> <p>La Banca d'Italia può in ogni momento sospendere o revocare l'autorizzazione ad acquisire partecipazioni qualificate al capitale di un istituto qualora vengano meno i presupposti e le condizioni previste in questo Capitolo con conseguente sospensione o revoca dei diritti di voto connessi alla partecipazione in questione.</p>	
Art. 3(3) 5th subpar a.	If a holding is acquired despite the opposition of the competent authorities, those authorities shall, regardless of any other sanction to be adopted, provide for the exercise of the voting rights of the acquirer to be suspended, the nullity of votes cast or the possibility of annulling	Per i casi in cui la partecipazione sia acquisita nonostante l'opposizione delle autorità competenti, queste ultime, indipendentemente da eventuali altre sanzioni da adottare, prevedono la sospensione dell'esercizio dei diritti di voto dell'acquirente, la nullità dei voti espressi o la	TUB, Art. 24(1) and (3)	TUB, Art. 24(1) and (3) 1. The voting rights and other rights allowing to affect the company, connected to the shares for which the authorisations referred to in Article 19 have not been obtained or have been suspended or revoked, cannot be exercised. The voting	TUB, Art. 24(1) e (3) 1. Non possono essere esercitati i diritti di voto e gli altri diritti che consentono di influire sulla società inerenti alle partecipazioni per le quali le autorizzazioni previste dall'articolo 19 non siano state ottenute ovvero siano state sospese o revocate. I	CONFORM Article 24(1) and (3) of the TUB transposes Article 3(3), fifth subparagraph of the Directive. Article 24 of the TUB, in principle referring to acquisitions as regards banks, is expressly made applicable, mutatis mutandis, to electronic money institutions by Article 114-quinquies.3 of the TUB.

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	those votes.	possibilità di annullarli.		rights and other rights allowing to influence the society, cannot be also exercised for the participations for which the communications under Article 20 have been omitted. 3. Participations for which the authorisations referred to in Article 19 have not been obtained or have been withdrawn must be sold within the time limits set by the Bank of Italy.	diritti di voto e gli altri diritti, che consentono di influire sulla società, non possono essere altresì esercitati per le partecipazioni per le quali siano state omesse le comunicazioni previste dall'articolo 20. 3. Le partecipazioni per le quali le autorizzazioni previste dall'articolo 19 non sono state ottenute o sono state revocate devono essere alienate entro i termini stabiliti dalla Banca d'Italia.	In conformity with Article 3(3), fifth subparagraph of the Directive, Article 24(1) of the TUB suspends the voting rights connected to the shares acquired without having obtained the appropriate authorisation. Any decision possibly taken on the basis of such votes can be annulled on the basis of the general rules set in the Civil Code (see in particular Article 2377). Moreover, Article 24(3) of the TUB specifies that the shares acquired without having obtained the appropriate authorisation have to be sold without delay. In view of the above, conformity can be concluded.
Art. 3(3) 6th subpara. 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).	Gli Stati membri possono esentare o autorizzare le rispettive autorità competenti ad esentare dall'applicazione di tutti o parte degli obblighi derivanti dal presente paragrafo gli istituti di moneta elettronica che svolgono una o più attività di cui all'articolo 6, paragrafo 1, lettera e).	N/A	N/A	N/A	Article 3(3), sixth subparagraph of the Directive sets out an option. Owing to this option, Italy decided not to transpose it.
Art. 3(4)	4. Member States shall allow electronic money institutions to distribute and redeem electronic money through natural or legal persons which act on	4. Gli Stati membri autorizzano gli istituti di moneta elettronica a distribuire e rimborsare moneta elettronica attraverso persone fisiche	RPS, Chap. VII, Sect. I, Para. 1	RPS, Chap. VII, Sect. I, Para. 1 The electronic money institution can expand its business of issuing	RPS, Cap. VII, Sez. I, Par. 1 L'istituto di moneta elettronica può ampliare la propria attività di	CONFORM Chapter VII, Section I, Paragraph 1 and Chapter VII, Section III, Paragraph 3 of the RPS transpose Article 3(4) of the Directive.

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<p>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.</p>	<p>o giuridiche che agiscono a loro nome. Se un istituto di moneta elettronica intende distribuire moneta elettronica in un altro Stato membro assumendo detta persona fisica o giuridica, esso è tenuto a seguire la procedura di cui all'articolo 25 della direttiva 2007/64/CE.</p>	<p>RPS, Chap. VII, Sect. III, Para. 3</p>	<p>electronic money, in Italy and abroad, through the establishment of branches (Section II), the definition of distribution and redemption agreements with authorised subjects (Section III) or the freedom to provide services in other EU countries (Section IV).</p> <p>RPS, Chap. VII, Sect. III, Para. 3</p> <p>The institution shall notify the Bank of Italy of its intention to make use of an agent in another Member State to provide payment services in that Member State or, in the case of electronic money institutions, of an authorised subject of another Member State for the distribution and redemption of electronic money in that State. (...) The Bank of Italy, within one month from the receipt of the notice, complete with all the necessary information, shall notify the information received to the competent authority of the host State.</p>	<p>emissione di moneta elettronica, nel territorio nazionale e all'estero, attraverso l'istituzione di succursali (Sezione II), la definizione di accordi di distribuzione e rimborso della moneta elettronica con soggetti convenzionati (Sezione III) o la libera prestazione di servizi in altri paesi comunitari (Sezione IV).</p> <p>RPS, Cap. VII, Sez. III, Par. 3</p> <p>L'istituto comunica alla Banca d'Italia l'intenzione di avvalersi di un agente di un altro Stato comunitario per prestare servizi di pagamento in detto Stato comunitario o, nel caso di istituti di moneta elettronica, di un soggetto convenzionato di un altro Stato comunitario per la distribuzione e il rimborso della moneta elettronica in tale Stato. (...) La Banca d'Italia, entro un mese dalla ricezione della citata comunicazione, completa di tutti gli elementi necessari, notifica le informazioni ricevute all'autorità</p>	<p>Chapter VII, Section I, Paragraph 1 of the RPS allows electronic money institutions to “define agreements for distributing and redeeming electronic money with authorised subjects”. This is in conformity with Article 3(4) of the Directive (also read in the light of Recital 10), allowing “electronic money institutions to distribute and redeem electronic money through natural or legal persons which act on their behalf”.</p> <p>Chapter VII, Section III, Paragraph 3 of the RPS obliges the electronic money institution wishing to distribute electronic money in another Member State to communicate such intention to the Bank of Italy, which in turn will notify the competent authority of the host member State. This is conform to the requirements set out in Article 25 of Directive 2007/64/EC.</p> <p>In view of the above, conformity can be concluded.</p>

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				(...)	competente dello Stato ospitante. (...)	
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. Fatto salvo il paragrafo 4, gli istituti di moneta elettronica non emettono moneta elettronica tramite agenti. Gli istituti di moneta elettronica sono autorizzati a fornire servizi di pagamento di cui all'articolo 6, paragrafo 1, lettera a), tramite agenti solo se sono soddisfatte le condizioni di cui all'articolo 17 della direttiva 2007/64/CE.	RPS, Chap. VII, Sect. III, Para. 1	RPS, Chap. VII, Sect. III, Para. 1 The institution shall notify the Bank of Italy its intention to use agents for the provision of payment services ⁽¹⁾ on the Italian territory. (...) ⁽¹⁾ The electronic money institutions can not rely on agents for the issuance of electronic money.	RPS, Cap. VII, Sez. III, Par. 1 L'istituto comunica alla Banca d'Italia l'intenzione di avvalersi di agenti per la prestazione di servizi di pagamento ⁽¹⁾ nel territorio italiano. (...) ⁽¹⁾ Gli istituti di moneta elettronica non possono avvalersi di agenti per l'attività di emissione di moneta elettronica.	CONFORM Chapter VII, Section III, Paragraph 1 of the RPS transposes Article 3(5) of the Directive. Footnote 1 of Chapter VII, Section III, Paragraph 1 of the RPS expressly specifies that electronic money institutions shall not issue electronic money through agents. According to Chapter VII, Section III, Paragraph 1 of the RPS, however, payment institutions and electronic money institutions are allowed to make use of agents, outside the hypothesis excluded in the footnote. Electronic money institutions can, therefore, provide for payment services through agents. The conditions set out in Article 17 of Directive 2007/64/EC are correctly transposed at this regard. In particular: Article 17(1) to (4) and (8) are transposed by Chapter VII, Section III, Paragraph 1 of the RPS; Article 17(5) and (6) are transposed by Chapter VII, Section III, Paragraph 3 of the RPS; Article 17(7) is transposed by Chapter VI, Section II, and Chapter VI, Annex B, of the RPS. In view of the above, conformity can be concluded.
Art. 4	<i>Article 4</i>	<i>Articolo 4</i>	RPS, Chap.	RPS, Chap. II, Sect. II,	RPS, Cap. II, Sez. II,	CONFORM

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	<p>Initial capital</p> <p>Member States shall require electronic money institutions to hold, at the time of authorisation, initial capital, comprised of the items set out in Article 57(a) and (b) of Directive 2006/48/EC, of not less than EUR 350000.</p>	<p>Capitale iniziale</p> <p>Gli Stati membri impongono agli istituti di moneta elettronica l'obbligo di detenere, al momento dell'autorizzazione, un capitale iniziale comprensivo degli elementi di cui all'articolo 57, lettere a) e b), della direttiva 2006/48/CE che non sia inferiore a 350000 EUR.</p>	<p>II, Sect. II, Para. 1</p>	<p>Para. 2</p> <p>The minimum initial capital of electronic money institutions amounts to EUR 350 000.</p>	<p>Par. 2</p> <p>Il capitale minimo iniziale, interamente versato, degli istituti di moneta elettronica è pari a 350 mila euro.</p>	<p>Chapter II, Section II of the RPS transposes Article 4 of the Directive.</p> <p>According to Chapter II, Section II of the RPS, the initial capital of any electronic money institution shall be at least EUR 350 000, in conformity with Article 4 of the Directive. This is also in line with the aim of ensuring “an appropriate level of consumer protection and the sound and prudent operation of electronic money institutions” expressed in Recital 11.</p> <p>The definition of “initial capital” is not given in the RPS. However, in the Italian company law, the capital of the company is intended as the whole amount of the assets conferred by the members to the society (see Article 2247 of the Civil Code). This has to be considered as conform to the one used in Article 4 of the Directive, as such notion includes both the elements referred to in Article 57(a) and (b) of Directive 2006/48/EC.</p> <p>In view of the above, conformity can be concluded.</p>
<p>Art. 5(1)</p>	<p><i>Article 5</i> Own funds</p> <p>1. The electronic money institution's own funds, as set out in Articles 57 to 61, 63, 64 and 66 of Directive 2006/48/EC shall not fall below the amount required under</p>	<p><i>Articolo 5</i> Fondi propri</p> <p>1. I fondi propri degli istituti di moneta elettronica, quali definiti agli articoli da 57 a 61, 63, 64 e 66 della direttiva 2006/48/CE, non sono inferiori all'importo più</p>	<p>RPS, Chap. V, Sect. II, Para. 2</p> <p>RPS, Chap. V, Sect. II, Para. 2</p>	<p>RPS, Chap. V, Sect. II, Para. 2</p> <p>The amount of the supervisory capital must at all times be at least equal to the total capital requirement of Section II. In any case, the amount of supervisory capital should</p>	<p>RPS, Cap. V, Sez. II, Par. 2</p> <p>L'ammontare del patrimonio di vigilanza deve essere in qualsiasi momento almeno pari al requisito patrimoniale complessivo di cui alla Sezione II.</p>	<p>CONFORM</p> <p>Chapter V, Section II, Paragraphs 2 and 5 of the RPS transpose Article 5(1) of the Directive.</p> <p>In conformity with Article 5(1) of the Directive, Chapter V, Section II, Paragraph 5 of the RPS requires electronic money institutions to hold own funds that are at least</p>

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	paragraphs 2 to 5 of this Article or under Article 4 of this Directive, whichever the higher.	elevato indicato ai paragrafi da 2 a 5 del presente articolo o all'articolo 4 della presente direttiva.	<p>V, Sect. II, Para. 5</p> <p>RPS, Chap. V, Sect. II, Para. 5</p> <p>(...) The electronic money institutions shall constantly hold a minimum total capital base (supervisory capital) at least equal to the sum of the capital requirements for payment services (see Par. 1 and 4 of this Section), of the capital requirement for the emission of electronic money (see Par. 2 and 4 of this Section) and of the capital requirement for credit risk (see Par. 3 of this Section).</p>	<p>In ogni caso l'importo del patrimonio di vigilanza non deve mai essere inferiore al livello del capitale iniziale minimo richiesto per la costituzione dell'istituto.</p> <p>RPS, Cap. V, Sez. II, Par. 5</p> <p>(...) Gli istituti di moneta elettronica detengono costantemente una dotazione patrimoniale minima complessiva (patrimonio di vigilanza) almeno pari alla somma del requisito patrimoniale a fronte dei servizi di pagamento prestati (cfr. Par. 1 e 4 della presente Sezione), del requisito patrimoniale a fronte dell'emissione di moneta elettronica (cfr. Par. 2 e 4 della presente Sezione) e del requisito patrimoniale a fronte del rischio di credito (cfr. Par. 3 della presente Sezione).</p>	<p>equal to the sum of the own funds requested in relation to each of the activity carried out (payment services, electronic money emission, credit risk).</p> <p>In conformity with Article 5(1) of the Directive, Chapter V, Section II, Paragraph 2 of the RPS states that the amount of the own funds shall in any case not be lower than the level of the initial capital set out in Chapter II, Section II of the RPS (transposing Article 4 of the Directive).</p> <p>The definition of the wording "prudential capital" ("patrimonio di vigilanza"), corresponding to the notion of "own funds" used in the Directive, is contained in Chapter V, Section I, Paragraph 1 of the RPS, which refers to Circ. 263/2006 of the Bank of Italy, issued in compliance with Directives 2006/48/EC and 2006/49/EC. The notion of "prudential capital" is, therefore, built upon the dispositions transposing Articles 57 to 61, 63, 64 and 66 of Directive 2006/48/EC, in conformity with Article 5(1) of the Directive.</p> <p>The Italian legislation is also in line with the aim of ensuring "an appropriate level of consumer protection and the sound and prudent operation of electronic money institutions" expressed in Recital 11.</p> <p>In view of the above, conformity can be concluded.</p>	
Art. 5(2) 1st subpar	2. In regard to the activities referred to in Article 6(1)(a) that are not	2. Per quanto riguarda le attività di cui all'articolo 6, paragrafo 1, lettera a),	RPS, Chap. V,	RPS, Chap. V, Sect. II, Para. 1.1	RPS, Cap. V, Sez. II, Par. 1.1	<p>CONFORM</p> <p>Chapter V, Section II, Paragraph 1 of the RPS</p>

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a.	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.	che non sono legate all'emissione di moneta elettronica, i requisiti relativi ai fondi propri degli istituti di moneta elettronica sono calcolati conformemente ad uno dei tre metodi (A, B o C) illustrati all'articolo 8, paragrafi 1 e 2, della direttiva 2007/64/CE. Le autorità competenti decidono quale metodo è adeguato secondo la normativa nazionale.	Sect. II, Para. 1.1	For the determination of the capital requirement that the institution must hold against the risks associated with payment services two alternative calculation methods are foreseen: calculation method A, and calculation method B. The institute uses, ordinarily, the calculation method B (see Par. 1.3). Only for the first year it is possible to adopt the method of calculation A (see Par. 1.2), after informing the Bank of Italy. In the event that the institution intends to use in the ordinary method of calculation to notify that intention to the Bank of Italy, indicating the reasons. The Bank of Italy, within sixty days from receipt of the notice, notifies any impediments.	Per la determinazione del requisito patrimoniale che l'istituto deve detenere a fronte dei rischi connessi ai servizi di pagamento prestati sono previsti due metodi di calcolo alternativi: metodo di calcolo A, metodo di calcolo B. L'istituto utilizza, in via ordinaria, il metodo di calcolo B (cfr. Par. 1.3). Limitatamente al primo esercizio è prevista la facoltà di adottare il metodo di calcolo A (cfr. Par. 1.2), dandone comunicazione alla Banca d'Italia. Nel caso in cui l'istituto intenda utilizzare in via ordinaria il metodo di calcolo A comunica tale intenzione alla Banca d'Italia, indicando le motivazioni. La Banca d'Italia, entro sessanta giorni dalla ricezione della comunicazione, comunica eventuali motivi ostativi.	transposes Article 5(2), first subparagraph of the Directive. In conformity with Article 5(2), first subparagraph of the Directive, Chapter V, Section II, Paragraph 1.1 of the RPS establishes that the own funds requirement for institutions carrying out payment services shall be calculated according to the methods described in Paragraphs 1.2 and 1.3. The two methods correspond to methods A and B set out in Article 8(1) and (2) of Directive 2007/64/EC, in conformity with Article 5(2), first subparagraph of the Directive. The choice of not including method C among the choices for calculating the own funds requirements is in conformity with the second part of Article 5(2), first subparagraph of the Directive. In conformity with the second sentence of Article 5(2), first subparagraph of the Directive, Chapter V, Section II, Paragraph 1.1 of the RPS establishes that the method to be used is method B, described in Paragraph 1.3. Method A, described in Paragraph 1.2, can be used only after giving appropriate communication to the Bank of Italy. In view of the above, conformity can be concluded.
Art. 5(2) 2nd subpar	In regard to the activity of issuing electronic money, the own funds requirements of an electronic money	Per quanto riguarda l'attività di emissione di moneta elettronica, i requisiti relativi ai fondi propri degli istituti di	RPS, Chap. V, Sect. II,	RPS, Chap. V, Sect. II, Para. 2 The capital requirement for the issuance of	RPS, Cap. V, Sez. II, Par. 2 Il requisito patrimoniale a fronte dell'emissione di	CONFORM Chapter V, Section II, Paragraph 2 of the RPS transposes Article 5(2), second subparagraph

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a.	institution shall be calculated in accordance with Method D as set out in paragraph 3.	moneta elettronica sono calcolati conformemente al metodo D di cui al paragrafo 3.	Para. 2	electronic money is equal to 2% of the average outstanding electronic money. (...)	moneta elettronica è pari al 2 % della moneta elettronica media in circolazione. (...)	of the Directive. In conformity with Article 5(2), second subparagraph of the Directive, Chapter V, Section II, Paragraph 2 of the RPS requires electronic money institutions to hold own funds related to the activity to issue electronic money, calculated in accordance with a method corresponding to method D as set out in paragraph 3 of Article 5(2), second subparagraph of the Directive. In view of the above, conformity can be concluded.
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.	Gli istituti di moneta elettronica dispongono in ogni momento di fondi propri superiori o uguali alla somma dei requisiti di cui al primo e al secondo comma.	RPS, Chap. V, Sect. II, Para. 5	RPS, Chap. V, Sect. II, Para. 5 (...) The electronic money institutions shall constantly hold a minimum total capital base (supervisory capital) at least equal to the sum of the capital requirements for payment services (see Par. 1 and 4 of this Section), of the capital requirement for the emission of electronic money (see Par. 2 and 4 of this Section) and of the capital requirement for credit risk (see Par. 3 of this Section).	RPS, Cap. V, Sez. II, Par. 5 (...) Gli istituti di moneta elettronica detengono costantemente una dotazione patrimoniale minima complessiva (patrimonio di vigilanza) almeno pari alla somma del requisito patrimoniale a fronte dei servizi di pagamento prestati (cfr. Par. 1 e 4 della presente Sezione), del requisito patrimoniale a fronte dell'emissione di moneta elettronica (cfr. Par. 2 e 4 della presente Sezione) e del requisito patrimoniale a fronte del rischio di credito (cfr. Par. 3 della	CONFORM Chapter V, Section II, Paragraph 5 of the RPS transposes Article 5(2), third subparagraph of the Directive. In conformity with Article 5(2), third subparagraph of the Directive (also read in the light of Recital 11), Chapter V, Section II, Paragraph 5 of the RPS requires electronic money institutions to hold of own funds that are at least equal to the sum of the own funds requested in relation to each of the activity carried out (payment services, electronic money emission, credit risk). In view of the above, conformity can be concluded.

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					presente Sezione).	
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. Metodo D: i fondi propri di un istituto di moneta elettronica per l'attività di emissione della moneta elettronica sono almeno pari al 2 % della moneta elettronica media in circolazione.	RPS, Chap. V, Sect. II, Para. 2	RPS, Chap. V, Sect. II, Para. 2 The capital requirement for the issuance of electronic money is equal to 2% of the average outstanding electronic money. (...)	RPS, Cap. V, Sez. II, Par. 2 Il requisito patrimoniale a fronte dell'emissione di moneta elettronica è pari al 2 % della moneta elettronica media in circolazione. (...)	CONFORM Chapter V, Section II, Paragraph 2 of the RPS almost literally transposes Article 5(3) of the Directive. The differences in the wording are only due to linguistic choices and do not affect conformity. In view of the above, conformity can be concluded.
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	4. Qualora un istituto di moneta elettronica svolga una delle attività di cui all'articolo 6, paragrafo 1, lettera a), che non sono legate all'emissione di moneta elettronica ovvero una delle attività di cui all'articolo 6, paragrafo 1, lettere da b) a e), e l'importo della moneta elettronica in circolazione non sia previamente noto, le autorità competenti consentono a tale istituto di moneta elettronica di calcolare i suoi requisiti relativi ai fondi propri in base ad una percentuale rappresentativa che si presume sia utilizzata per l'emissione di moneta	RPS, Chap. V, Sect. II, Para. 2	RPS, Chap. V, Sect. II, Para. 2 (...) Where an electronic money institution also carries payment services or engages in any activity other than the issuance of electronic money and the amount of outstanding electronic money is unknown in advance, the electronic money institution may calculate the capital requirement in respect of the issued electronic money on the basis of a percentage representing the issuance of electronic money, as long as such a	RPS, Cap. V, Sez. II, Par. 2 (...) Qualora un istituto di moneta elettronica presti anche servizi di pagamento o svolga attività diverse dall'emissione di moneta elettronica e l'importo della moneta elettronica in circolazione non sia previamente noto, l'istituto di moneta elettronica può calcolare il requisito patrimoniale richiesto a fronte dell'emissione di moneta elettronica in base ad una percentuale rappresentativa	CONFORM Chapter V, Section II, Paragraph 2 of the RPS almost literally transposes Article 5(4) of the Directive. Where the Directive refers to electronic money institutions having not completed “a sufficient period of business”, Chapter V, Section II, Paragraph 2 of the RPS specifies that such period has to be intended as “less than 6 months”. For the rest, the differences in the wording are only due to linguistic choices and do not affect conformity. In view of the above, conformity can be concluded.

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	be reasonably estimated on the basis of historical data and to the satisfaction of the competent authorities. Where an electronic money institution has not completed a sufficient period of business, its own funds requirements shall be calculated on the basis of projected outstanding electronic money evidenced by its business plan subject to any adjustment to that plan having been required by the competent authorities.	elettronica, purch� tale percentuale rappresentativa possa essere ragionevolmente stimata in base a dati storici secondo modalit� giudicate adeguate dalle autorit� competenti. Qualora un istituto di moneta elettronica non abbia concluso un periodo di attivit� sufficiente, i suoi requisiti relativi ai fondi propri sono calcolati sulla base della stima di moneta elettronica in circolazione indicata nel suo piano aziendale nel rispetto di eventuali adeguamenti del piano richiesti dalle autorit� competenti.		representative portion can be reasonably estimated on the basis of historical data in a manner deemed appropriate by the Bank of Italy. Where an electronic money institution has started the business since less than 6 months, the capital requirement is calculated based on the estimate of outstanding electronic money indicated in the estimated budget annexed to the programme of activities.	dell'emissione di moneta elettronica, purch� tale percentuale rappresentativa possa essere ragionevolmente stimata in base a dati storici secondo modalit� giudicate adeguate dalla Banca d'Italia. Qualora un istituto di moneta elettronica abbia avviato l'attivit� da meno di 6 mesi il requisito patrimoniale � calcolato sulla base della stima della moneta elettronica in circolazione indicata nel bilancio previsionale allegato al programma di attivit�.	
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	5. Sulla base di una valutazione dei processi di gestione dei rischi, delle banche dati riguardanti i rischi di perdite e dei meccanismi di controllo interno dell'istituto di moneta elettronica, le autorit� competenti possono imporre all'istituto di moneta elettronica di detenere un importo di fondi propri fino al 20 % superiore all'importo che	RPS, Chap. V, Sect. II, Para. 2	RPS, Chap. V, Sect. II, Para. 2 The Bank of Italy, based on an evaluation of the processes of risk management, on the database concerning the risks of losses, and on the internal control mechanisms of the institute, may prescribe: (...) - to the electronic money institution to hold a capital	RPS, Cap. V, Sez. II, Par. 2 La Banca d'Italia, basandosi su una valutazione dei processi di gestione del rischio, della base dati sui rischi di perdite e dei meccanismi di controllo interno dell'istituto pu� prescrivere: (...) - all'istituto di moneta elettronica di detenere un	CONFORM Chapter V, Section II, Paragraph 4 of the RPS almost literally transposes the option contained in Article 5(5) of the Directive. The differences in the wording are only due to linguistic choices and do not affect conformity. The reference to Paragraph 1 and 2 of Chapter V, Section II of the RPS has to be considered as conform to the reference to paragraph 2 contained in Article 5(5) of the Directive. In view of the above, conformity can be

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	application of the relevant method in accordance with paragraph 2, or permit the electronic money institution to hold an amount of own funds which is up to 20 % lower than the amount which would result from the application of the relevant method in accordance with paragraph 2.	risulterebbe dall'applicazione del pertinente metodo conformemente al paragrafo 2, o autorizzare l'istituto di moneta elettronica a detenere un importo di fondi propri fino al 20 % inferiore all'importo che risulterebbe dall'applicazione del pertinente metodo conformemente al paragrafo 2.		requirement for payment services and electronic money issued up to 20% higher than the amount that would result from application of paragraphs 1 and 2, or allow a capital requirement up to 20% lower than that amount.	requisito patrimoniale a fronte dei servizi di pagamento prestati e della moneta elettronica emessa superiore fino al 20% rispetto all'importo che risulterebbe dall'applicazione dei paragrafi 1 e 2, ovvero consentire di detenere un requisito patrimoniale inferiore fino al 20% rispetto a tale importo.	concluded.
Art. 5(6) intr. wording	6. Member States shall take the necessary measures to prevent the multiple use of elements eligible for own funds:	6. Gli Stati membri adottano le misure necessarie per impedire il computo multiplo degli elementi ammissibili per il calcolo dei fondi propri:	N/A	N/A	N/A	CONFORM Due to the different structure of Italian legislation, no disposition corresponds to the introductory wording of Article 5(6) of the Directive, without any effect on conformity.
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) quando l'istituto di moneta elettronica appartiene allo stesso gruppo di un altro istituto di moneta elettronica, di un ente creditizio, di un istituto di pagamento, di un'impresa di investimento, di una società di gestione patrimoniale o di un'impresa di assicurazione o riassicurazione;	RPS, Chap. V, Sect. II, Para. 1	RPS, Chap. V, Sect. II, Para. 1 (...) The basic capital and the additional one are composed of positive and negative elements whose computability is accepted, with or without limitations, as appropriate, in relation to the patrimonial quality recognised to each of them. The positive	RPS, Cap. V, Sez. I, Par. 1 (...) Il patrimonio di base e quello supplementare sono composti da elementi positivi e negativi la cui computabilità viene ammessa, con o senza limitazioni a seconda dei casi, in relazione alla qualità patrimoniale riconosciuta a ciascuno di essi. Gli elementi positivi	CONFORM Chapter V, Section I, Paragraph 1 of the RPS transposes Article 5(6)(a) of the Directive. Chapter V, Section I, Paragraph 1 of the RPS affirms that the elements taken into consideration for determining the amount of the own funds have to be "completely available" for the electronic money institution. Such elements "are admitted, according to the cases, in relation to the patrimonial quality recognised to each of them". These dispositions, although quite general, seem to be enough to leave to the

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				<p>elements of the capital must be fully available to the institutions, so that they can be used without restriction to cover risks and losses. The amount of these elements is net of any tax charges. (...)</p>	<p>che costituiscono il patrimonio devono essere nella piena disponibilità degli istituti, in modo da poter essere utilizzati senza limitazioni per la copertura dei rischi e delle perdite. L'importo di tali elementi è depurato degli eventuali oneri di natura fiscale. (...)</p>	<p>Bank of Italy enough room to control and sanction any multiple use of elements eligible for own funds.</p> <p>In view of the above, conformity can be concluded.</p>
Art. 5(6)(b)	<p>(b) where an electronic money institution carries out activities other than the issuance of electronic money.</p>	<p>b) quando un istituto di moneta elettronica esercita attività diverse dall'emissione di moneta elettronica.</p>	<p>RPS, Chap. V, Sect. II, Para. 1</p>	<p>RPS, Chap. V, Sect. II, Para. 1</p> <p>(...) The basic capital and the additional one are composed of positive and negative elements whose computability is accepted, with or without limitations, as appropriate, in relation to the patrimonial quality recognised to each of them. The positive elements of the capital must be fully available to the institutions, so that they can be used without restriction to cover risks and losses. The amount of these elements is net of any tax charges. (...)</p>	<p>RPS, Cap. V, Sez. I, Par. 1</p> <p>(...) Il patrimonio di base e quello supplementare sono composti da elementi positivi e negativi la cui computabilità viene ammessa, con o senza limitazioni a seconda dei casi, in relazione alla qualità patrimoniale riconosciuta a ciascuno di essi. Gli elementi positivi che costituiscono il patrimonio devono essere nella piena disponibilità degli istituti, in modo da poter essere utilizzati senza limitazioni per la copertura dei rischi e delle perdite. L'importo di tali elementi è depurato degli eventuali oneri di natura</p>	<p>CONFORM</p> <p>Chapter V, Section I, Paragraph 1 of the RPS transposes Article 5(6)(b) of the Directive.</p> <p>Chapter V, Section I, Paragraph 1 of the RPS affirms that the elements taken into consideration for determining the amount of the own funds have to be “completely available” for the electronic money institution. Such elements “are admitted, according to the cases, in relation to the patrimonial quality recognised to each of them”. These dispositions, although quite general, seem to be enough to leave the Bank of Italy enough room to control and sanction any multiple use of elements eligible for own funds.</p> <p>In view of the above, conformity can be concluded.</p>

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					fiscale. (...)	
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. Qualora siano soddisfatte le condizioni di cui all'articolo 69 della direttiva 2006/48/CE, gli Stati membri o le loro autorità competenti hanno la facoltà di non applicare i paragrafi 2 e 3 del presente articolo agli istituti di moneta elettronica inclusi nella vigilanza su base consolidata degli enti creditizi imprese madri ai sensi della direttiva 2006/48/CE.	N/A	N/A	N/A	Article 5(7) of the Directive sets out an option. Owing to this option, Italy decided not to transpose it.
Art. 6(1) 1st subpara. a.	<i>Article 6 Activities</i> 1. In addition to issuing electronic money, electronic money institutions shall be entitled to engage in any of the following activities:	<i>Articolo 6 Attività</i> 1. Oltre all'emissione di moneta elettronica, gli istituti di moneta elettronica sono autorizzati a esercitare le attività seguenti:	TUB, Art. 114-quater (3), introductory wording	TUB, Art. 114-quater(3), introductory wording 3. Electronic money institutions can:	TUB, Art. 114-quater(3), periodo introduttivo 3. Gli istituti di moneta elettronica possono:	CONFORM Article 114-quater(3), introductory wording of the TUB transposes Article 6(1), first subparagraph, introductory wording of the Directive. The wording of Article 114-quater(3), introductory wording of the TUB corresponds, in general, to that of Article 6(1), first subparagraph, introductory wording of the Directive. The only difference is that the possibility for electronic money institutions to issue electronic money is not referred to in Article 114-quater(3), introductory wording of the TUB. Such possibility is, however, explicitly

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						<p>established in Article 114-quater(2) of the TUB. The fact that the Italian legislator decided not to repeat it in this context does not affect conformity.</p> <p>In view of the above, conformity can be concluded.</p>
Art. 6(1) 1st subpar a. (a)	(a) the provision of payment services listed in the Annex to Directive 2007/64/EC;	a) la prestazione dei servizi di pagamento elencati nell'allegato della direttiva 2007/64/CE;	TUB, Art. 114-quater (3)(a)	TUB, Art. 114-quater(3)(a) a) to provide payment services and related ancillary activities within the meaning of Article 114-octies without the need for a special permit pursuant to Article 114-novies;	TUB, Art. 114-quater(3)(a) a) prestare servizi di pagamento e le relative attività accessorie ai sensi dell'articolo 114-octies senza necessità di apposita autorizzazione ai sensi dell'articolo 114-novies;	<p>CONFORM</p> <p>Article 114-quater(3)(a) of the TUB transposes Article 6(1), first subparagraph, letter (a) of the Directive.</p> <p>The possibility, for electronic money institutions, to provide payment services is established by Article 114-quater(3)(a) of the TUB, in conformity with Article 6(1), first subparagraph, letter (a) of the Directive.</p> <p>Article 114-quater(3)(a) of the TUB refers to “payment services and related ancillary activities within the meaning of Article 114-octies”. Article 1(2)(f)(4) of the TUB and Articles 1(1)(b) and 2(2) of D. Lgs. 11/2010 provide for the definition of “payment services”, mirroring the content of the Annex to Directive 2007/64/EC, in conformity with Article 6(1), first subparagraph, letter (a) of the Directive.</p> <p>In view of the above, conformity can be concluded.</p>
Art. 6(1) 1st subpar	(b) the granting of credit related to payment services referred to in points 4, 5 or 7 of the	b) la concessione di crediti connessi a servizi di pagamento di cui ai punti 4, 5 o 7 dell'allegato della	TUB, Art. 114-quater	TUB, Art. 114-quater(3)(a) a) to provide payment	TUB, Art. 114-quater(3)(a) a) prestare servizi di	<p>CONFORM</p> <p>Article 114-quater(3)(a) and Article 114-octies(1)(a) of the TUB, and Chapter IV,</p>

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a. (b)	Annex to Directive 2007/64/EC, where the conditions laid down in Article 16(3) and (5) of that Directive are met;	direttiva 2007/64/CE, sempre che siano soddisfatte le condizioni di cui all'articolo 16, paragrafi 3 e 5, di tale direttiva;	<p>(3)(a)</p> <p>TUB, Art. 114-octies(1)(a)</p> <p>RPS, Chap. IV, Sect. I, Para. 3</p>	<p>services and related ancillary activities within the meaning of Article 114-octies without the need for a special permit pursuant to Article 114-novies;</p> <p>TUB, Art. 114-octies(1)(a)</p> <p>1. Payment institutions may engage in the following ancillary activities to the provision of payment services:</p> <p>a) grant credit in close relation to payment services provided and to the extent and in the manner established by the Bank of Italy;</p> <p>RPS, Chap. IV, Sect. I, Para. 3</p> <p>These institutions may grant credit related to payment services referred to in points 4, 5 and 7 of Article 1, paragraph 1, lett. b) of Legislative Decree 27 January 2010, n. 11, subject to the following conditions:</p> <p>a) the loan is ancillary and granted exclusively in connection with the</p>	<p>pagamento e le relative attività accessorie ai sensi dell'articolo 114-octies senza necessità di apposita autorizzazione ai sensi dell'articolo 114-novies;</p> <p>TUB, Art. 114-octies(1)(a)</p> <p>1. Gli istituti di pagamento possono esercitare le seguenti attività accessorie alla prestazione di servizi di pagamento:</p> <p>a) concedere crediti in stretta relazione ai servizi di pagamento prestati e nei limiti e con le modalità stabilite dalla Banca d'Italia;</p> <p>RPS, Cap. IV, Sez. I, Par. 3</p> <p>Gli istituti possono concedere finanziamenti relativi ai servizi di pagamento indicati ai punti 4, 5 e 7 dell'articolo 1, comma 1, lett. b) del decreto legislativo 27 gennaio 2010, n. 11, nel rispetto delle seguenti condizioni:</p> <p>a) il finanziamento è accessorio e concesso esclusivamente in</p>	<p>Section I, Paragraph 2 of the RPS transpose Article 6(1), first subparagraph, letter (b) of the Directive.</p> <p>Article 114-quater(3)(a) of the TUB refers to Article 114-octies of the TUB as regards the ancillary activities to the provision of payment services that electronic money institutions can carry out.</p> <p>Among these activities, Article 114-octies(1)(a) of the TUB lists the granting of credit, when in connection with the payment services provided according to the rules set out by the Bank of Italy.</p> <p>The dispositions set out by the Bank of Italy and referred to by Article 114-octies(1)(a) of the TUB are contained in Chapter IV, Section I, Paragraph 3 of the RPS. Such dispositions refer to the conditions set up by Article 6(1), first subparagraph, letter (b) of the Directive, namely the connection with the activities referred to in points 4, 5 or 7 of the Annex to Directive 2007/64/EC, and the conditions laid down in Article 16(3) of that Directive. As regards Article 16(5) of Directive 2007/64/EC, no provision of national legislation seems to prejudice the application of the dispositions it refers to.</p> <p>In view of the above, conformity can be concluded.</p>

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			<p>execution of a payment transaction;</p> <p>b) the loan is of short duration, not exceeding twelve months. It can be longer than 12 months the loan in relation to payments made by credit card;</p> <p>c) funding is not granted from the funds received or held for the purpose of executing a payment transaction;</p> <p>d) in respect of credit risk arising from these funds, the set up are required to maintain the minimum capital levels established in Chapter V.</p>	<p>relazione all'esecuzione di un'operazione di pagamento;</p> <p>b) il finanziamento è di breve durata, non superiore a dodici mesi. Può essere di durata superiore a 12 mesi il finanziamento concesso in relazione ai pagamenti effettuati con carta di credito;</p> <p>c) il finanziamento non è concesso utilizzando fondi ricevuti o detenuti ai fini dell'esecuzione di un'operazione di pagamento;</p> <p>d) a fronte del rischio di credito derivante da tali finanziamenti, gli istituti sono tenuti a mantenere la dotazione patrimoniale minima stabilita nel Capitolo V.</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) la prestazione di servizi operativi e di servizi accessori strettamente connessi all'emissione di moneta elettronica o alla prestazione dei servizi di pagamento di cui alla lettera a);	TUB, Art. 114-quater (3)(a) and (b)	TUB, Art. 114-quater(3)(a) and (b) a) to provide payment services and related ancillary activities within the meaning of Article 114-octies without the need for a special permit pursuant to Article 114-novies; b) to provide operative and	TUB, Art. 114-quater(3)(a) e (b) a) prestare servizi di pagamento e le relative attività accessorie ai sensi dell'articolo 114-octies senza necessità di apposita autorizzazione ai sensi dell'articolo 114-novies; b) prestare servizi operativi e accessori	CONFORM Article 114-quater(3)(a) and (b) of the TUB transposes Article 6(1), first subparagraph, letter (c) of the Directive. In conformity with Article 6(1), first subparagraph, letter (c) of the Directive, Article 114-quater(3)(a) of the TUB allows electronic money institutions to carry out all ancillary services in respect of the provision of payment services, while Article 114-

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				ancillary services strictly connected to the issuance of electronic money.	strettamente connessi all'emissione di moneta elettronica.	<p>quater(3)(b) of the TUB concerns ancillary services in respect of the issuance of electronic money.</p> <p>In view of the above, conformity can be concluded.</p>
Art. 6(1) 1st subpar a. (d)	(d) the operation of payment systems as defined in point 6 of Article 4 of Directive 2007/64/EC and without prejudice to Article 28 of that Directive;	d) la gestione dei sistemi di pagamento di cui alla definizione dell'articolo 4, paragrafo 6, della direttiva 2007/64/CE e fatto salvo l'articolo 28 di tale direttiva;	<p>TUB, Art. 114-quater(3)(a)</p> <p>TUB, Art. 114-octies(1)(c)</p>	<p>TUB, Art. 114-quater(3)(a)</p> <p>a) to provide payment services and related ancillary activities within the meaning of Article 114-octies without the need for a special permit pursuant to Article 114-novies;</p> <p>TUB, Art. 114-octies(1)(c)</p> <p>1. Payment institutions may engage in the following ancillary activities to the provision of payment services: c) manage payment systems.</p>	<p>TUB, Art. 114-quater(3)(a)</p> <p>a) prestare servizi di pagamento e le relative attività accessorie ai sensi dell'articolo 114-octies senza necessità di apposita autorizzazione ai sensi dell'articolo 114-novies;</p> <p>TUB, Art. 114-octies(1)(c)</p> <p>1. Gli istituti di pagamento possono esercitare le seguenti attività accessorie alla prestazione di servizi di pagamento: c) gestire sistemi di pagamento.</p>	<p>CONFORM</p> <p>Article 114-quater(3)(a) and Article 114-octies(1)(c) of the TUB transpose Article 6(1), first subparagraph, letter (d) of the Directive.</p> <p>Article 114-quater(3)(a) of the TUB refers to Article 114-octies of the TUB as regards the ancillary activities to the provision of payment services that electronic money institutions can carry out.</p> <p>Among these activities, Article 114-octies(1)(a) of the TUB lists the operation of payment systems.</p> <p>The definition of “payment systems” is conform with the one given in point 6 of Article 4 of Directive 2007/64/EC (see Article 1(1)(d) of D. Lgs. 11/2010).</p> <p>These dispositions have to be intended as operating without prejudice to the dispositions implementing Article 4 of Directive 2007/64/EC (see Article 30 of D. Lgs. 11/2010).</p> <p>In view of the above, conformity can be concluded.</p>

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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) attività diverse dall'emissione di moneta elettronica, nel rispetto del diritto comunitario e del diritto nazionale applicabile.	TUB, Art. 114-quinquies(4)	TUB, Art. 114-quinquies(4) 4. 4. The Bank of Italy authorises firms that carry on other business activities to issue electronic money when: a) the conditions mentioned in paragraph 1, with the exception of the requirements of professionalism of corporate officers, are met; b) for the issuance of electronic money, the provision of payment services and related ancillary activities, a separate patrimony is established in the manner and for the purposes set out in Articles 114-quinquies.1, paragraph 5, and 114-1; c) one or more persons responsible for the assets referred to in point b) are individuated; Article 26 is applicable to them, as regards the requirements of integrity and professionalism.	TUB, Art. 114-quinquies(4) 4. La Banca d'Italia autorizza all'emissione di moneta elettronica soggetti che esercitino anche altre attività imprenditoriali quando: <i>a)</i> ricorrano le condizioni indicate al comma 1, ad eccezione del possesso dei requisiti di professionalità degli esponenti aziendali; <i>b)</i> per l'attività di emissione di moneta elettronica, la prestazione dei servizi di pagamento e per le relative attività accessorie e strumentali sia costituito un unico patrimonio destinato con le modalità e agli effetti stabiliti dagli articoli 114-quinquies.1, comma 5, e 114-terdecies; <i>c)</i> siano individuati uno o più soggetti responsabili del patrimonio di cui alla lettera <i>b)</i> ; ad essi si applica l'articolo 26, limitatamente ai requisiti di onorabilità e professionalità.	CONFORM Article 114-quinquies(4) of the TUB transposes Article 6(1), first subparagraph, letter (e) of the Directive. The structure of Article 114-quinquies(4) of the TUB is different from that of Article 6(1), first subparagraph, letter (e) of the Directive, as it applies a sort of reversed reasoning. In fact, according to Article 114-quinquies(4) of the TUB, firms carrying out other business activities can seek the authorisation to issue electronic money, when in presence of specific circumstances listed in points (a) to (c). This implies that institutions authorised under Article 114-quinquies(1) of the TUB to issue electronic money can carry out other business activities. This is in conformity with Article 6(1), first subparagraph, letter (e) of the Directive. In view of the above, conformity can be concluded.
Art. 6(1)	Credit referred to in point (b) of the first	I crediti di cui al primo comma, lettera b), non	RPS, Chap.	RPS, Chap. IV, Sect. II, Para. 3	RPS, Cap. IV, Sez. II, Par. 3	CONFORM

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2nd subpar a.	subparagraph shall not be granted from the funds received in exchange of electronic money and held in accordance with Article 7(1).	sono concessi utilizzando i fondi ricevuti in cambio di moneta elettronica e detenuti in conformità dell'articolo 7, paragrafo 1.	IV, Sect. II, Para. 3	The sums of money received from customers and recorded in the accounts of payment by the institution, or those received by electronic money institution in change of the electronic money issued are: - deposited in a bank authorised to operate in Italy in accounts in the name of the institutions depositing the money, with an indication that it the deposited amount is property of a third party; such accounts shall be kept separate from those of the institution; - invested in qualifying debt securities, deposited with enabled custodians; - Invested in shares of the harmonised investment funds whose management regulations provides only for investments in qualified debt securities or money market funds. (...)	Le somme di denaro ricevute dai clienti e registrate nei conti di pagamento dall'istituto ovvero quelle ricevute dall'istituto di moneta elettronica a fronte della moneta elettronica emessa sono: - depositate presso una banca autorizzata ad operare in Italia in conti intestati agli istituti depositanti con l'indicazione che si tratta di beni di terzi; detti conti sono tenuti distinti da quelli dell'istituto; - investite in titoli di debito qualificati, depositati presso depositari abilitati; - investite in quote di fondi comuni di investimento armonizzati il cui regolamento di gestione preveda esclusivamente l'investimento in titoli di debito qualificati o in fondi di mercato monetario. (...)	Chapter IV, Section II, Paragraph 3 of the RPS transposes Article 6(1), second subparagraph of the Directive. Chapter IV, Section II, Paragraph 3 of the RPS, provides (in accordance with Article 7 of the Directive) for the ways in which the funds received in exchange of electronic money have to be kept by the electronic money institution. According to Chapter IV, Section II, Paragraph 3 of the RPS, such funds cannot be used for granting credit in accordance with Chapter IV, Section I, Paragraph 3 of the RPS, transposing Article 6(1), first subparagraph, letter (b) of the Directive. This is in conformity with Article 6(1), second subparagraph of the Directive, and with Recital 13, affirming the separation between the electronic money issuance and the deposit-taking activity. In view of the above, conformity can be concluded.
Art. 6(2)	2. Electronic money institutions shall not take deposits or other repayable	2. Gli istituti di moneta elettronica non effettuano la raccolta di depositi o	TUB, Art. 10	TUB, Art. 10 1. The collection of	TUB, Art. 10 1. La raccolta di risparmio	CONFORM Article 10 of the TUB transposes Article 6(2)

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	funds from the public within the meaning of Article 5 of Directive 2006/48/EC.	altri fondi rimborsabili dal pubblico ai sensi dell'articolo 5 della direttiva 2006/48/CE.		deposits from the public and the provision of credit constitute the banking activity. (...) 2. The exercise of banking is reserved to banks.	tra il pubblico e l'esercizio del credito costituiscono l'attività bancaria. (...) 2. L'esercizio dell'attività bancaria è riservato alle banche.	of the Directive. Article 10 of the TUB only allows banks to carry out the activity of taking deposits or other repayable funds from the public. In conformity with Article 6(2) of the Directive and with Recital 13, electronic money institutions cannot therefore carry out such activities. In view of the above, conformity can be concluded.
Art. 6(3)	3. Any funds received by electronic money institutions from the electronic money holder shall be exchanged for electronic money without delay. Such funds shall not constitute either a deposit or other repayable funds received from the public within the meaning of Article 5 of Directive 2006/48/EC.	3. I fondi che gli istituti di moneta elettronica ricevono dai detentori di moneta elettronica sono scambiati immediatamente in moneta elettronica. Detti fondi non costituiscono depositi o altri fondi rimborsabili ricevuti dal pubblico ai sensi dell'articolo 5 della direttiva 2006/48/CE.	TUB, Art. 114-quater (2) TUB, Art. 10	TUB, Art. 114-quater(2) 2. The electronic money institutions transform without delay the funds received by the applicant in electronic money; (...) TUB, Art. 10 1. The collection of deposits from the public and the provision of credit constitute the banking activity. (...) 2. The exercise of banking is reserved to banks.	TUB, Art. 114-quater(2) 2. Gli istituti di moneta elettronica trasformano immediatamente in moneta elettronica i fondi ricevuti dal richiedente; (...) TUB, Art. 10 1. La raccolta di risparmio tra il pubblico e l'esercizio del credito costituiscono l'attività bancaria. (...) 2. L'esercizio dell'attività bancaria è riservato alle banche.	CONFORM Article 114-quater(2) and Article 10 of the TUB transpose Article 6(3) of the Directive. In conformity with the first period of Article 6(3) of the Directive, Article 114-quater(2) of the TUB obliges electronic money institutions to exchange without delay any funds received from the clients. Article 10 of the TUB only allows banks to carry out the activity of taking deposits or other repayable funds from the public. In conformity with the second period of Article 6(3) of the Directive, funds received by electronic money institutions from the electronic money holder cannot therefore be considered as deposits from the public within the meaning of Article 5 of Directive 2006/48/EC. In view of the above, conformity can be concluded.

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Art. 6(4)	4. Article 16(2) and (4) of Directive 2007/64/EC shall apply to funds received for the activities referred to in paragraph 1(a) of this Article that are not linked to the activity of issuing electronic money.	4. L'articolo 16, paragrafi 2 e 4, della direttiva 2007/64/CE si applica ai fondi ricevuti per le attività di cui al paragrafo 1, lettera a), del presente articolo che non sono legate alle attività di emissione di moneta elettronica.	TUB, Art. 10 RPS, Chap. IV, Sect. II, Para. 2	TUB, Art. 10 1. The collection of deposits from the public and the provision of credit constitute the banking activity. (...) 2. The exercise of banking is reserved to banks. RPS, Chap. IV, Sect. II, Para. 2 (...)The budgetary evidences relating to electronic money issued are kept separate from those relating to money held for the provision of payment services.	TUB, Art. 10 1. La raccolta di risparmio tra il pubblico e l'esercizio del credito costituiscono l'attività bancaria.(...) 2. L'esercizio dell'attività bancaria è riservato alle banche. RPS, Cap. IV, Sez. II, Par. 2 (...) Le evidenze contabili relative alla moneta elettronica emessa sono tenute distinte rispetto a quelle relative alle somme di denaro detenute per la prestazione dei servizi di pagamento.	CONFORM Article 10 of the TUB and Chapter IV, Section II, Paragraph 2 of the RPS transpose Article 6(2) of the Directive. The applicability of Article 16(2) of Directive 2007/64/EC to funds received in relation to the provision of payment services is granted by Chapter IV, Section II, Paragraph 2 of the RPS, obliging electronic money institutions to consider funds received for the issuance of electronic money as distinguished from those received for the carrying out of payment services, and by Article 10 of the TUB, which only allows banks to carry out the activity of taking deposits or other repayable funds from the public. As regards the applicability of Article 16(4) of Directive 2007/64/EC to funds received in relation to the provision of payment services, it is sufficient to refer to Article 10 of the TUB. In view of the above, conformity can be concluded.
Art. 7(1)	<i>Article 7 Safeguarding requirements</i> 1. Member States shall require an electronic money institution to safeguard funds that have been received in exchange	<i>Articolo 7 Requisiti di tutela</i> 1. Gli Stati membri impongono agli istituti di moneta elettronica di tutelare i fondi ricevuti in cambio della moneta elettronica emessa,	TUB, Art. 114-quinquies.1(1) and (2) RPS,	TUB, Art. 114-quinquies.1(1) and (2) 1. The electronic money institutions shall record for each customer, in the liability items, and in accordance with the rules laid down by the Bank of	TUB, Art. 114-quinquies.1(1) e (2) 1. Gli istituti di moneta elettronica registrano per ciascun cliente in poste del passivo, nel rispetto delle modalità stabilite dalla Banca d'Italia, le somme	CONFORM Article 114-quinquies.1(1) and (2) of the TUB and Chapter IV, Section II, Paragraphs 3 and 4 of the RPS transpose Article 7(1) of the Directive. In conformity with the first sentence of Article 7(1) of the Directive, Article 114-

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	<p>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>conformemente all'articolo 9, paragrafi 1 e 2 della direttiva 2007/64/CE. I fondi ricevuti in forma di pagamento da uno strumento di pagamento non devono essere tutelati fintantoché non sono accreditati nel conto di pagamento degli istituti di moneta elettronica o messi altrimenti a loro disposizione in conformità dei requisiti relativi ai tempi di esecuzione di cui alla direttiva 2007/64/CE, ove applicabile. In ogni caso detti fondi sono tutelati al più tardi entro le cinque giornate operative, ai sensi dell'articolo 4, punto 27), di tale direttiva, successive all'emissione della moneta elettronica.</p>	<p>Chap. IV, Sect. II, Para. 3</p> <p>RPS, Chap. IV, Sect. II, Para. 4</p> <p>Italy, the sums of money received by the customers for the issuance of electronic money.</p> <p>2. The amounts referred to in paragraph 1 shall be invested in accordance with the rules laid down by the Bank of Italy, in activities constituting a separate patrimony in all respects from that of the electronic money institution. On such assets, the actions of the creditors of the electronic money institution or in their interest are not allowed, nor those of the creditors of the subject with whom the sums are deposited.</p> <p>(...)</p> <p>RPS, Chap. IV, Sect. II, Para. 3</p> <p>(...)</p> <p>The institution applies the protection requirements referred to in this paragraph to amounts received from customers and recorded in the accounts of payment that are not delivered to the payee or transferred to another payment service provider within the first</p>	<p>di denaro ricevute dalla clientela per l'emissione di moneta elettronica.</p> <p>2. Le somme di cui al comma 1 sono investite, nel rispetto delle modalità stabilite dalla Banca d'Italia, in attività che costituiscono patrimonio distinto a tutti gli effetti da quello dell'istituto di moneta elettronica. Su tale patrimonio distinto non sono ammesse azioni dei creditori dell'istituto di moneta elettronica o nell'interesse degli stessi, né quelle dei creditori dell'eventuale soggetto presso il quale le somme di denaro sono depositate.</p> <p>(...)</p> <p>RPS, Cap. IV, Sez. II, Par. 3</p> <p>(...)</p> <p>L'istituto applica i requisiti di tutela di cui al presente paragrafo alle somme ricevute dai clienti e registrate nei conti di pagamento che non siano consegnate al beneficiario o trasferite ad un altro prestatore di servizi di pagamento entro la prima giornata operativa</p>	<p>quinquies.1 of the TUB transposes Article 9(1) of Directive 2007/64/EC and makes its requirements applicable to electronic money institutions. In particular, the funds received by each client are kept separate among them, deposited in low-risk assets and protected against the claims of the creditors of the electronic money institutions. As for payment institutions, the option of Article 9(1)(c) is not transposed. The dispositions of Article 114-quinquies.1 of the TUB are specified along the whole Chapter IV, Section II of the RPS.</p> <p>Article 9(1) of Directive 2007/64/EC only concerns payment institutions “engaged in other business activities referred to in Article 16(1)(c)”. The quoted transposing discipline is, however, applicable to all electronic money institutions, in line with the requirements of Article 7(1) of the Directive.</p> <p>In conformity with the first sentence of Article 7(1) of the Directive, Chapter IV, Section II, Paragraph 4 of the RPS almost literally transposes Article 9(2) of Directive 2007/64/EC and makes its requirements applicable to electronic money institutions. The differences in the wording are only due to linguistic choices and do not affect conformity.</p> <p>Chapter, IV, Section II, Paragraph 3 of the RPS almost literally transposes the second sentence of Article 7(1) of the Directive. The differences in the wording are only due to linguistic choices and do not affect</p>

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			<p>business day following the day on which the funds have been received.</p> <p>The electronic money institution shall apply the provisions of this paragraph to sums received from customers - in exchange for electronic money issued – through payment instruments from the day in which it acquires the availability of such sums and in any event within five days issuance of electronic money.</p> <p>(...)</p> <p>RPS, Chap. IV, Sect. II, Para. 4</p> <p>In the event that the sums of money received by the customers and recorded in the accounts of payment are used for both payment transactions for services other than payment, the form of protection of the sums of money mentioned in paragraphs 2 and 3 shall apply only the percentage of money to be used for future payment transactions.</p> <p>If this percentage is variable or unknown in</p>	<p>successiva al giorno in cui i fondi sono stati ricevuti.</p> <p>L'istituto di moneta elettronica applica le disposizioni previste dal presente paragrafo alle somme ricevute dalla clientela - a fronte della moneta elettronica emessa - mediante strumenti di pagamento a partire dal giorno in cui acquisisce la disponibilità di tali somme e in ogni caso, entro cinque giorni dall'emissione della moneta elettronica.</p> <p>(...)</p> <p>RPS, Cap. IV, Sez. II, Par. 4</p> <p>Nel caso in cui le somme di denaro ricevute dalla clientela e registrate nei conti di pagamento siano utilizzabili sia per operazioni di pagamento sia per servizi diversi dai servizi di pagamento, le modalità di tutela delle somme di denaro indicate nei paragrafi 2 e 3 si applicano solo alla percentuale delle somme di denaro da utilizzare per future operazioni di pagamento.</p>	<p>conformity.</p> <p>Chapter, IV, Section II, Paragraph 3 of the RPS also sets a time limit of five business days, in conformity with the third sentence of Article 7(1) of the Directive.</p> <p>In view of the above, conformity can be concluded.</p>

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				<p>advance, institutes estimate a representative portion assumed to be used for payment services, provided that such a representative portion can be reasonably estimated based on historical data periodically; institutions verify the adequacy of such percentage in respect to the actual use of the money made by customers. (...) The provisions of this paragraph shall also apply to electronic money institutions, where the sums of money received in respect of the electronic money issued are also used for payment transactions related to electronic money or for different services.</p>	<p>Se tale percentuale è variabile o non conosciuta in anticipo, gli istituti stimano una percentuale rappresentativa che si presume sia utilizzata per i servizi di pagamento, sempre che tale percentuale rappresentativa possa essere ragionevolmente stimata in base a dati storici; periodicamente, gli istituti verificano la congruità di tale percentuale rispetto all'effettivo utilizzo delle somme di denaro effettuato dai clienti. (...) Le disposizioni di cui al presente paragrafo si applicano anche agli istituti di moneta elettronica, nel caso in cui le somme di denaro ricevute a fronte della moneta elettronica emessa siano utilizzabili anche per operazioni di pagamento non connesse con la moneta elettronica o per servizi diversi.</p>	
Art. 7(2) 1st subpar	2. For the purposes of paragraph 1, secure, low-risk assets are asset items falling into one of the	2. Ai fini del paragrafo 1, le attività sicure e a basso rischio sono voci dell'attivo rientranti in una	RPS, Chap. IV, Sect.	RPS, Chap. IV, Sect. II, Para. 3 The sums of money	RPS, Cap. IV, Sez. II, Par. 3 Le somme di denaro	PARTIALLY CONFORM Chapter IV, Section II, Paragraph 3 of the RPS transposes Article 7(2), first

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a.	categories set out in Table 1 of point 14 of Annex I to Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions for which the specific risk capital charge is no higher than 1,6 %, but excluding other qualifying items as defined in point 15 of that Annex.	delle categorie di cui all'allegato I, punto 14), tabella 1, della direttiva 2006/49/CE del Parlamento europeo e del Consiglio, del 14 giugno 2006, relativa all'adeguatezza patrimoniale delle imprese di investimento e degli enti creditizi, per le quali la copertura patrimoniale del rischio specifico non supera l'1,6 %, escluse tuttavia le altre voci qualificate definite al punto 15) di tale allegato.	II, Para. 3	received from customers and recorded in the accounts of payment by the institution, or those received by electronic money institution in change of the electronic money issued are: - deposited in a bank authorised to operate in Italy in accounts in the name of the institutions depositing the money, with an indication that it the deposited amount is property of a third party; such accounts shall be kept separate from those of the institution; - invested in qualifying debt securities, deposited with enabled custodians; - invested in shares of the harmonised investment funds whose management regulations provides only for investments in qualified debt securities or money market funds. (...)	ricevute dai clienti e registrate nei conti di pagamento dall'istituto ovvero quelle ricevute dall'istituto di moneta elettronica a fronte della moneta elettronica emessa sono: - depositate presso una banca autorizzata ad operare in Italia in conti intestati agli istituti depositanti con l'indicazione che si tratta di beni di terzi; detti conti sono tenuti distinti da quelli dell'istituto; - investite in titoli di debito qualificati, depositati presso depositari abilitati; - investite in quote di fondi comuni di investimento armonizzati il cui regolamento di gestione preveda esclusivamente l'investimento in titoli di debito qualificati o in fondi di mercato monetario. (...)	subparagraph of the Directive. Chapter IV, Section II, Paragraph 3 of the RPS lists the possible assets in which the funds received by electronic money institutions may be invested. It lists three options, leaving the choice of the instrument to the discretion of each electronic money institution. These three options only partially correspond to those set out in Table 1 of point 14 of Annex I to Directive 2006/49/EC, which contains a broader set of secure, low-risk assets. Moreover, as regards the first option, Chapter IV, Section II, Paragraph 3 of the RPS does not make reference to the credit quality of the credit institution concerned, contrary to the specific dispositions of Table 1 of point 14 of Annex I to Directive 2006/49/EC. In view of the above, partial conformity is concluded.
Art. 7(2) 2nd subpar	For the purposes of paragraph 1, secure, low-risk assets are also units in an undertaking for collective investment in	Ai fini del paragrafo 1, le attività sicure e a basso rischio sono altresì costituite da quote in un organismo d'investimento	RPS, Chap. IV, Sect. II,	RPS, Chap. IV, Sect. II, Para. 3 The sums of money received from customers	RPS, Cap. IV, Sez. II, Par. 3 Le somme di denaro ricevute dai clienti e	CONFORM Chapter IV, Section II, Paragraph 3 of the RPS transposes Article 7(2), second

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a.	transferable securities (UCITS) which invests solely in assets as specified in the first subparagraph.	collettivo in valori mobiliari (OICVM) che investe esclusivamente nelle attività indicate al primo comma.	Para. 3	and recorded in the accounts of payment by the institution, or those received by electronic money institution in change of the electronic money issued are: - invested in shares of the harmonised investment funds whose management regulations provides only for investments in qualified debt securities or money market funds. (...)	registrate nei conti di pagamento dall'istituto ovvero quelle ricevute dall'istituto di moneta elettronica a fronte della moneta elettronica emessa sono: - investite in quote di fondi comuni di investimento armonizzati il cui regolamento di gestione preveda esclusivamente l'investimento in titoli di debito qualificati o in fondi di mercato monetario. (...)	subparagraph of the Directive. In conformity with Article 7(2), second subparagraph of the Directive, Chapter IV, Section II, Paragraph 3 of the RPS allows the electronic money institutions to safeguard the funds that have been received in exchange for electronic money by investing them "in shares of the harmonised investment funds whose management regulations provides only for investments in qualified debt securities or money market funds". In view of the above, conformity is concluded.
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.	In casi eccezionali debitamente giustificati, le autorità competenti, sulla base di una valutazione della sicurezza, della maturità, del valore o di altri elementi di rischio delle attività di cui al primo e al secondo comma, possono stabilire quali delle suddette attività non costituiscono attività sicure e a basso rischio ai fini del paragrafo 1.	N/A	N/A	N/A	Article 7(2), third subparagraph of the Directive sets out an option. Owing to this option, Italy decided not to transpose it.
Art. 7(3)	3. Article 9 of Directive 2007/64/EC shall apply to electronic money	3. L'articolo 9 della direttiva 2007/64/CE si applica agli istituti di	TUB, Art. 114-	TUB, Art. 114-quinquies.1(4)	TUB, Art. 114-quinquies.1(4)	CONFORM Article 114-quinquies.1(4) and Article 114-

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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.	moneta elettronica per le attività di cui all'articolo 6, paragrafo 1, lettera a), della presente direttiva che non sono legate alle attività di emissione di moneta elettronica.	<p>quinquies.1(4)</p> <p>TUB, Art. 114-duodecimes(1) e (2)</p> <p>RPS, Chap. IV, Sect. II, Para. 4</p>	<p>4. For the provision of payment services by electronic money institutions Article 114-duodecimes is applicable.</p> <p>TUB, Art. 114-duodecimes(1) e (2)</p> <p>1. Payment institutions shall record for each customer in the liability items, in accordance with the rules laid down by the Bank of Italy, the sums of money in the payment accounts of the customers used exclusively for the provision of payment services.</p> <p>2. The sums of money are invested in accordance with the rules laid down by the Bank of Italy, in activities that constitute a patrimony that is separate in all respects from that of the payment institution. On such assets actions of creditors of the payment institution or in their interest are not allowed, nor those of the creditors of the subject with whom the sums are deposited. (...)</p>	<p>4. Per la prestazione dei servizi di pagamento da parte degli istituti di moneta elettronica si applica l'articolo 114-duodecimes.</p> <p>TUB, Art. 114-duodecimes(1) e (2)</p> <p>1. Gli istituti di pagamento registrano per ciascun cliente in poste del passivo, nel rispetto delle modalità stabilite dalla Banca d'Italia, le somme di denaro della clientela in conti di pagamento utilizzati esclusivamente per la prestazione dei servizi di pagamento.</p> <p>2. Le somme di denaro sono investite, nel rispetto delle modalità stabilite dalla Banca d'Italia, in attività che costituiscono patrimonio distinto a tutti gli effetti da quello dell'istituto di pagamento. Su tale patrimonio distinto non sono ammesse azioni dei creditori dell'istituto di pagamento o nell'interesse degli stessi, né quelle dei creditori dell'eventuale soggetto presso il quale le somme sono depositate.</p>	<p>duodecimes(1) and (2) of the TUB, and Chapter IV, Section II, Paragraph 4 of the RPS transpose Article 7(3) of the Directive.</p> <p>Article 114-quinquies(4) makes the dispositions of Article 114-duodecimes applicable to the electronic money institutions carrying out payment services.</p> <p>Article 114-duodecimes(1) and (2) transposes Article 9(1) of Directive 2007/64/EC. In particular, the funds received by each client are kept separate among them, deposited in low-risk assets and protected against the claims of the creditors of the electronic money institutions. The option of Article 9(1)(c) of Directive 2007/64/EC is not transposed.</p> <p>Chapter IV, Section II, Paragraph 4 of the RPS almost literally transposes Article 9(2) of Directive 2007/64/EC. The differences in the wording are only due to linguistic choices and do not affect conformity.</p> <p>In application of the option contained in Article 9(3), the quoted transposing dispositions are applicable to all electronic money institutions and to all payment institutions.</p> <p>The option contained in Article 9(4) of Directive 2007/64/EC is not transposed.</p> <p>In view of the above, conformity can be concluded.</p>

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			<p>RPS, Chap. IV, Sect. II, Para. 4</p> <p>In the event that the sums of money received by the customers and recorded in the accounts of payment are used for both payment transactions for services other than payment, the form of protection of the sums of money mentioned in paragraphs 2 and 3 shall apply only the percentage of money to be used for future payment transactions.</p> <p>If this percentage is variable or unknown in advance, institutes estimate a representative portion assumed to be used for payment services, provided that such a representative portion can be reasonably estimated based on historical data periodically; institutions verify the adequacy of such percentage in respect to the actual use of the money made by customers.</p> <p>(...)</p>	<p>(...)</p> <p>RPS, Cap. IV, Sez. II, Par. 4</p> <p>Nel caso in cui le somme di denaro ricevute dalla clientela e registrate nei conti di pagamento siano utilizzabili sia per operazioni di pagamento sia per servizi diversi dai servizi di pagamento, le modalità di tutela delle somme di denaro indicate nei paragrafi 2 e 3 si applicano solo alla percentuale delle somme di denaro da utilizzare per future operazioni di pagamento.</p> <p>Se tale percentuale è variabile o non conosciuta in anticipo, gli istituti stimano una percentuale rappresentativa che si presume sia utilizzata per i servizi di pagamento, sempre che tale percentuale rappresentativa possa essere ragionevolmente stimata in base a dati storici; periodicamente, gli istituti verificano la congruità di tale percentuale rispetto all'effettivo utilizzo delle</p>	

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					somme di denaro effettuato dai clienti. (...)	
Art. 7(4)	4. For the purposes of paragraphs 1 and 3, Member States or their competent authorities may determine, in accordance with national legislation, which method shall be used by the electronic money institutions to safeguard funds.	4. Ai fini dei paragrafi 1 e 3, gli Stati membri o le loro autorità competenti possono stabilire, conformemente al diritto nazionale, quale metodo deve essere utilizzato dagli istituti di moneta elettronica per tutelare i fondi.	N/A	N/A	N/A	Article 7(4) of the Directive sets out an option. Owing to this option, Italy decided not to transpose it.
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>Articolo 8</i> Relazioni con i paesi terzi</p> <p>1. Gli Stati membri non applicano alle succursali di istituti di moneta elettronica aventi la loro sede sociale al di fuori della Comunità, relativamente all'avvio e l'esercizio della loro attività, disposizioni da cui risulti un trattamento più favorevole di quello accordato agli istituti di moneta elettronica aventi la loro sede sociale all'interno della Comunità.</p>	TUB, Art. 114-quinquies(1) and (8)	TUB, Art. 114-quinquies(1) and (8) 1. The Bank of Italy shall authorise electronic money institutions where the following conditions are met: a) the form of joint stock companies, limited partnership corporation, limited liability company or a cooperative society is chosen; b) the registered office and the head office are located in the territory of the Republic; c) the paid-up capital amounts to an amount not less than that determined by the Bank of Italy; d) a programme of initial	TUB, Art. 114-quinquies(1) e (8) 1. La Banca d'Italia autorizza gli istituti di moneta elettronica quando ricorrono le seguenti condizioni: a) sia adottata la forma di società per azioni, di società in accomandita per azioni, di società a responsabilità limitata o di società cooperativa; b) la sede legale e la direzione generale siano situate nel territorio della Repubblica; c) il capitale versato sia di ammontare non inferiore a quello determinato dalla Banca d'Italia; d) venga presentato un	CONFORM Article 114-quinquies(8) of the TUB transposes Article 8(1) of the Directive. In conformity with Article 8(1) of the Directive (also read in the light of Recital 15), Article 114-quinquies(8) of the TUB allows electronic money institutions having their head office outside the Community to open a branch in the Italian territory, referring to the same general conditions required to all electronic money institutions for obtaining the authorisation. The general provision contained in Article 114-quinquies(8) of the TUB is specified in Chapter VIII, Section III of the RPS. The framework resulting from the reading of those dispositions does not contain dispositions that are more favourable for electronic money institutions having their

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			<p>operations and the organisational structure, together with the Constitution and the Statute are submitted;</p> <p>e) holders of investments referred to in Article 19 and the corporate officers possess, respectively, pursuant to the requirements of Articles 25 and 26;</p> <p>f) close ties that prevent the effective exercise of their supervisory functions are not present among the electronic money institutions or individuals of the group and other subjects.</p> <p>(...)</p> <p>8. The issuance of electronic money by an electronic money institution having its registered office in a non-EU country is subject to the opening of a branch in Italy authorised by the Bank of Italy pursuant to this Article under conditions corresponding to those of the paragraph 1, letters c), d), e) and f). The authorisation shall be issued, after consulting the Ministry of Foreign Affairs, also taking into</p>	<p>programma concernente l'attività iniziale e la struttura organizzativa, unitamente all'atto costitutivo e allo statuto;</p> <p>e) i titolari di partecipazioni di cui all'articolo 19 e gli esponenti aziendali possiedano, rispettivamente, i requisiti previsti ai sensi degli articoli 25 e 26;</p> <p>f) non sussistano, tra gli istituti di moneta elettronica o i soggetti del gruppo di appartenenza e altri soggetti, stretti legami che ostacolano l'effettivo esercizio delle funzioni di vigilanza.</p> <p>(...)</p> <p>8. L'emissione di moneta elettronica da parte di un istituto di moneta elettronica con sede legale in uno Stato extracomunitario è subordinata all'apertura di una succursale in Italia autorizzata dalla Banca d'Italia ai sensi del presente articolo in presenza di condizioni corrispondenti a quelle del comma 1, lettere c), d), e) ed f). L'autorizzazione è rilasciata, sentito il</p>	<p>head office outside the EU than for those established in a Member State, in conformity with Article 8(1) of the Directive.</p> <p>In view of the above, conformity can be concluded.</p>

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				account the condition of reciprocity.	Ministero degli affari esteri, tenendo anche conto della condizione di reciprocità.	
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. Le autorità competenti notificano alla Commissione tutte le autorizzazioni per le succursali di istituti di moneta elettronica aventi la sede sociale al di fuori della Comunità.	N/A	N/A	N/A	<p>CONFORM</p> <p>No disposition of Italian legislation transposes Article 8(2) of the Directive.</p> <p>The absence, in the national legislation, of a binding disposition requiring the Bank of Italy to notify the Commission of the authorisations conceded on the basis of Article 114-quinquies(8) does not prevent that the Bank of Italy being bound by the same Article 8(2) to provide such information.</p> <p>No information has been found as regards the actual notification of the data requested in Article 8(2) of the Directive to the Commission.</p> <p>In view of the above, conformity can be concluded.</p>
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	3. Fatto salvo quanto disposto dal paragrafo 1, la Comunità può, mediante accordi conclusi con uno o più paesi terzi, stabilire l'applicazione di disposizioni intese a garantire che le succursali di un istituto di moneta elettronica avente la sede sociale al di fuori della	N/A	N/A	N/A	<p>CONFORM</p> <p>No disposition of Italian legislation transposes Article 8(3) of the Directive, as it does not contain any positive obligation for the Member States.</p>

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	identically throughout the Community.	Comunità ricevano il medesimo trattamento in tutta la Comunità.				
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>Articolo 9</i> Deroghe facoltative</p> <p>1. Gli Stati membri possono derogare o autorizzare le loro autorità competenti a derogare all'applicazione di tutte o parte delle procedure e delle condizioni fissate dagli articoli 3, 4, 5 e 7 della presente direttiva, fatti salvi gli articoli 20, 22, 23 e 24 della direttiva 2007/64/CE, e autorizzare le persone giuridiche a essere iscritte nel registro degli istituti di moneta elettronica, se sono soddisfatte entrambe le condizioni seguenti:</p>	<p>TUB, Art. 114-quinquies.4(1), introductory wording</p> <p>RPS, Chap. IX, Para. 2</p>	<p>TUB, Art. 114-quinquies.4(1), introductory wording</p> <p>1. The Bank of Italy may exempt electronic money institutions from the application of the provisions of this title, when all the following conditions occur:</p> <p>RPS, Chap. IX, Para. 2</p> <p>The provisions of this Act also apply to payment institutions and electronic money institutions of limited operation, with the exception of the rules on:</p> <p>a) prudential regulations, laid down in Chapter V; remains still the rule by which the capital shall not be, at any point, below the level of the minimum initial capital required for the establishment of the payment;</p> <p>b) in the case of the provision of payment services, requirements relating to the protection of the funds received from</p>	<p>TUB, Art. 114-quinquies.4(1), periodo introduttivo</p> <p>1. La Banca d'Italia può esentare gli istituti di moneta elettronica dall'applicazione di disposizioni previste dal presente titolo, quando ricorrono congiuntamente le seguenti condizioni:</p> <p>RPS, Cap. IX, Par. 2</p> <p>Agli istituti di pagamento e agli istituti di moneta elettronica a operatività limitata si applicano le presenti Disposizioni, ad eccezione della disciplina in materia di:</p> <p>a) disciplina prudenziale, prevista nel Capitolo V; resta ferma la regola in base alla quale il patrimonio di vigilanza non può essere, in nessun momento, inferiore al livello del capitale iniziale minimo richiesto per la costituzione dell'istituto di pagamento;</p> <p>b) nel caso di prestazione</p>	<p>CONFORM</p> <p>Article 114-quinquies.4(1), introductory wording of the TUB and Chapter IX, Paragraph 2 of the RPS transpose Article 9(1), first subparagraph, introductory wording of the Directive.</p> <p>Article 114-quinquies.4(1), introductory wording of the TUB allows the Bank of Italy to waive the application of the dispositions of Title IV-bis, dedicated to electronic money institutions, in presence of the conditions set out in points (a) and (b) (corresponding to points (a) and (b) of Article 9(1), first subparagraph of the Directive).</p> <p>Chapter IX, Paragraph 2 of the RPS specifies the provision of Article 114-quinquies.4(1), introductory wording of the TUB, and lists the sections of the RPS whose application is waived for the institutions referred to in Paragraph 1 (indicated as "electronic money institutions of limited operation").</p> <p>The RPS waives, at the conditions set in its Chapter IX, Paragraph II, the application of some of the dispositions implementing Article 7 of the Directive. Moreover, a certain margin is left to the Bank of Italy as regards the surveillance on the structure of the electronic money institutions benefitting of the waiver.</p>

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			customers, provided for in Chapter IV, Section II. The Bank of Italy, in evaluating organisational solutions proposed by payment institutions and electronic money institutions of limited operation, shall take into account the lower level of complexity of the activity of these agents, without prejudice to the need to preserve conditions which ensure the sound and prudent management of the institution and the proper provision of payment services and of the activity of issuing electronic money, as well as the proper fulfilment of obligations relating to money laundering and terrorist financing.	di servizi di pagamento, requisiti in materia di tutela dei fondi ricevuti dai clienti, previsti nel Capitolo IV, Sezione II. La Banca d'Italia, inoltre, nella valutazione delle soluzioni organizzative prospettate dagli istituti di pagamento e dagli istituti di moneta elettronica a operatività limitata, tiene conto del minor livello di complessità dell'attività svolta da tali soggetti, ferma restando l'esigenza di preservare condizioni atte ad assicurare la sana e prudente gestione dell'istituto nonché la corretta prestazione dei servizi di pagamento e dell'attività di emissione di moneta elettronica, nonché il corretto adempimento degli obblighi in materia di riciclaggio e finanziamento al terrorismo.	<p>Therefore, the option contained in Article 9(1), first subparagraph, introductory wording of the Directive is only partially transposed. As the waiver is optional, this does not affect conformity.</p> <p>The dispositions corresponding to Articles 20, 22, 23 and 24 of Directive 2007/64/EC, excluded from the waiver, are not affected, in conformity with Article 9(1), first subparagraph, introductory wording of the Directive.</p> <p>The Italian legislation is also in conformity with recital 16, outlining the general features of the waiver provided for in Article 9 of the Directive.</p> <p>In view of the above, conformity can be concluded.</p>	
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	a) le attività commerciali complessive generano una moneta elettronica media in circolazione non superiore ad un limite stabilito dallo Stato membro che, in ogni caso,	TUB, Art. 114-quinquies.4(1)(a)	TUB, Art. 114-quinquies.4(1)(a) a) the overall activities generate an average outstanding electronic money not exceeding the	TUB, Art. 114-quinquies.4(1)(a) a) le attività complessive generano una moneta elettronica media in circolazione non superiore	CONFORM Article 114-quinquies.4(1)(a) of the TUB almost literally transposes Article 9(1), first subparagraph, letter (a) of the Directive. The differences in the wording are only due

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	no more than EUR 5000000; and	non supera i 5000000 EUR; e		limit set by the Bank of Italy in accordance with the business plan the electronic money institution: the limit cannot in any case exceed EUR 5 million;	al limite stabilito dalla Banca d'Italia in base al piano aziendale dell'istituto di moneta elettronica; tale limite in ogni caso non supera i 5 milioni di euro;	to linguistic choices and do not affect conformity. The Bank of Italy is allowed to set a limit that is different (and lower) from the one of 5 million euro set by Article 114-quinquies.4(1)(a) of the TUB. However, such limit is confirmed and adopted in general by Chapter IX, Paragraph 1 of the RPS. In view of the above, conformity can be concluded.
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) nessuna delle persone fisiche responsabili della gestione o dell'esercizio dell'attività è stata condannata per reati connessi al riciclaggio dei proventi di attività criminose o al finanziamento del terrorismo o per qualunque altro reato finanziario.	TUB, Art. 114-quinquies.4(1)(b)	TUB, Art. 114-quinquies.4(1)(b) b) the persons performing administrative, management and control in the electronic money have not been convicted of money laundering or terrorist financing or other financial crimes.	TUB, Art. 114-quinquies.4(1)(b) <i>b)</i> coloro che svolgono funzioni di amministrazione, direzione e controllo nell'istituto di moneta elettronica non hanno subito condanne per riciclaggio di denaro o finanziamento del terrorismo o altri reati finanziari.	CONFORM Article 114-quinquies.4(1)(b) of the TUB almost literally transposes Article 9(1), first subparagraph, letter (b) of the Directive. The differences in the wording are only due to linguistic choices and do not affect conformity. In view of the above, conformity can be concluded.
Art. 9(1) 2nd subpar a,	Where an electronic money institution carries out any of the activities referred to in Article 6(1)(a) that are not linked to the issuance of electronic money or any of the activities referred to in Article 6(1)(b) to (e) and the amount of outstanding	Qualora un istituto di moneta elettronica svolga una delle attività di cui all'articolo 6, paragrafo 1, lettera a), che non sono legate all'emissione di moneta elettronica ovvero una delle attività di cui all'articolo 6, paragrafo 1, lettere da b) a e), e	RPS, Chap. IX, Para. 1	RPS, Chap. IX, Para. 1 Are subject to the provisions of this Chapter: (...) - the electronic money institutions (hereinafter "electronic money institutions of limited operation") whose average	RPS, Cap. IX, Par. 1 Sono soggetti alle disposizioni di cui al presente Capitolo: (...) - gli istituti di moneta elettronica (di seguito "istituti di moneta elettronica a operatività	PARTIALLY CONFORM Chapter IX, Paragraph 1 of the RPS transposes Article 9(1), second subparagraph of the Directive. In particular, footnote (3) specifies that, during the authorisation process, the outstanding electronic money is calculated on the basis of the business plan, in conformity

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	<p>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>l'importo della moneta elettronica in circolazione non sia previamente noto, le autorità competenti consentono a tale istituto di moneta elettronica di applicare il primo comma, lettera a), in base ad una percentuale rappresentativa che si presume sia utilizzata per l'emissione di moneta elettronica, purché tale percentuale rappresentativa possa essere ragionevolmente stimata in base a dati storici secondo modalità giudicate adeguate dalle autorità competenti. Qualora un istituto di moneta elettronica non abbia concluso un periodo di attività sufficiente, detto requisito è valutato sulla base della stima di moneta elettronica in circolazione indicata nel suo piano aziendale nel rispetto di eventuali adeguamenti del piano richiesti dalle autorità competenti.</p>		<p>outstanding electronic money does not exceed EUR 5 million⁽³⁾. (...)</p> <p>⁽³⁾ During the process of authorisation of the electronic money institution, that condition is verified on the basis of the total amount of outstanding electronic money provided in the budget attached to the programme of activities.</p>	<p>limitata”) la cui moneta elettronica media in circolazione non superi i 5 milioni di euro⁽³⁾. (...)</p> <p>⁽³⁾ In fase di autorizzazione dell'istituto di moneta elettronica tale condizione è verificata sulla base dell'importo complessivo della moneta elettronica in circolazione prevista nel bilancio di previsione allegato al programma di attività.</p>	<p>with the second sentence of Article 9(1), second subparagraph of the Directive.</p> <p>However, this is possible only “during the authorisation process”.</p> <p>Moreover, the first sentence of Article 9(1), second subparagraph of the Directive is not transposed.</p> <p>Therefore, partial conformity is concluded.</p>
Art. 9(1) 3rd subpar	<p>Member States may also provide for the granting of the optional exemptions under this Article to be subject to an additional</p>	<p>Gli Stati membri possono altresì prevedere che la concessione di deroghe facoltative ai sensi del presente articolo sia</p>	RPS, Chap. IX, Para.	RPS, Chap. IX, Para. 2 (...) The electronic money institutions of limited	RPS, Cap. IX, Par. 2 (...) Gli istituti di moneta elettronica a operatività	CONFORM Chapter IX, Paragraph 2 of the RPS transposes Article 9(1), third subparagraph of

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a.	requirement of a maximum storage amount on the payment instrument or payment account of the consumer where the electronic money is stored.	subordinata al requisito supplementare di un importo massimo di memorizzazione nello strumento di pagamento o di un conto di pagamento del consumatore dove è memorizzata la moneta elettronica.	2	operation issue electronic money with a maximum storage amount of EUR 150 per customer.	limitata emettono moneta elettronica con un limite di avvolgimento per cliente di 150 euro.	the Directive. Transposing the option contained in Article 9(1), third subparagraph of the Directive, Chapter IX, Paragraph 2 of the RPS fixes a maximum storage amount of EUR 150 per client as a condition for electronic money institution to benefit from the waiver. In view of the above, conformity can be concluded.
Art. 9(1) 4th subpara. a.	A legal person registered in accordance with this paragraph may provide payment services not related to electronic money issued in accordance with this Article only if conditions set out in Article 26 of Directive 2007/64/EC are met.	Una persona giuridica registrata conformemente al presente paragrafo può fornire servizi di pagamento che non sono legati alla moneta elettronica emessa ai sensi del presente articolo unicamente qualora le condizioni di cui all'articolo 26 della direttiva 2007/64/CE siano soddisfatte.	TUB, Art. 114-quinquies.4(5) TUB, Art. 114-sexiesdecies RPS, Chap. IX, Para. 1	TUB, Art. 114-quinquies.4(5) 5. The electronic money institutions exempted under paragraph 1 may provide payment services only if the conditions laid down in Article 114-sexiesdecies are met. TUB, Art. 114-sexiesdecies 1. The Bank of Italy may exempt registered institutions from the payment of some of the provisions of this title, when all the following conditions occur: a) the monthly average, calculated on the preceding twelve months, of the total amount of payment transactions	TUB, Art. 114-quinquies.4(5) 5. Gli istituti di moneta elettronica esentati ai sensi del comma 1 possono prestare servizi di pagamento soltanto ove ricorrano le condizioni previste dall'articolo 114-sexiesdecies. TUB, Art. 114-sexiesdecies 1. La Banca d'Italia può esentare i soggetti iscritti nell'albo degli istituti di pagamento dall'applicazione di alcune delle disposizioni previste dal presente titolo, quando ricorrono congiuntamente le seguenti condizioni: a) la media mensile, calcolata sui precedenti	CONFORM Article 114-quinquies.4(4) of the TUB and Chapter IX, Paragraph 1 of the RPS transpose Article 9(1), fourth subparagraph of the Directive. Article 114-quinquies.4(4) of the TUB RPS refers to the conditions set (Article 114-sexiesdecies of the TUB) for payment institutions in order to benefit from the waiver and clarifies that these conditions must be fulfilled by electronic money institutions intending to provide payment services. Such conditions are in conformity with those set by Article 26 of Directive 2007/64/EC. In particular, Article 114-sexiesdecies of the TUB refers: to the limit of EUR 3 million as regards the total yearly amount of payment transactions (referred to in Article 26(1)(a)); the absence of criminal records concerning the offences referred to in Article 26(1)(b); and to the non applicability of the freedom of establishment and of the freedom to provide

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		<p>executed by the person concerned, including any agent for which it is responsible, does not exceed EUR 3 million; the Bank of Italy shall evaluate this condition according to the business plan produced by the person concerned;</p> <p>b) none of the individuals responsible for the management or operation of the business has been convicted of money laundering or terrorist financing or other financial crimes.</p> <p>2. The Bank of Italy shall determine which of the payment services referred to in Article 1, paragraph 2, letter f), may be provided by the person referred to in paragraph 1.</p> <p>3. Article 114-decies shall not apply to all subjects exempted, pursuant to paragraph 1.</p> <p>4. The Bank of Italy sets out the procedures that the person referred to in paragraph 1 must follow to communicate any change in the terms referred to in paragraphs 1, 2 and 3.</p>	<p>dodici mesi, dell'importo complessivo delle operazioni di pagamento eseguite dal soggetto interessato, compreso qualsiasi agente di cui è responsabile, non superi i 3 milioni di euro; la Banca d'Italia valuta tale condizione in base al piano aziendale prodotto dal soggetto interessato;</p> <p>b) nessuna delle persone fisiche responsabili della gestione o del funzionamento dell'impresa abbia subito condanne per riciclaggio di denaro o finanziamento del terrorismo o altri reati finanziari.</p> <p>2. La Banca d'Italia stabilisce quali tra i servizi di pagamento di cui all'articolo 1, comma 2, lettera f), possono essere prestati dai soggetti di cui al comma 1.</p> <p>3. Ai soggetti esentati ai sensi del comma 1 non si applica l'articolo 114-decies.</p> <p>4. La Banca d'Italia stabilisce le procedure che i soggetti di cui al comma 1 devono seguire per comunicare ogni variazione delle condizioni</p>	<p>services clauses (referred to in Article 26(2)).</p> <p>Chapter IX, Paragraph 1 of the RPS refers to the conditions set (in the same paragraph) for payment institutions in order to benefit from the waiver and clarifies that these conditions must be fulfilled by electronic money institutions intending to provide payment services.</p> <p>Such conditions are in conformity with those set by Article 26 of Directive 2007/64/EC. In particular, Chapter IX, Paragraph 1 of the RPS limits the activities that electronic money institutions benefitting of the waiver can carry out, in conformity with Article 26(4).</p> <p>The communication obligations referred to in Article 26(5) are made obligatory for all electronic money institutions by Chapter IX, Paragraph 2 of the RPS.</p> <p>As regards the compliance with the provisions concerning money-laundering (in compliance with Directive 2005/60/EC, referred to by Article 26(6)), such provisions are not waived by Chapter IX of the RPS. On the contrary, it is explicitly referred to in Chapter IX, Paragraph 2 of the RPS.</p> <p>In view of the above, conformity can be concluded.</p>

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			<p>RPS, Chap. IX, Para. 1</p> <p>Are subject to the provisions of this Chapter:</p> <p>- Payment institutions (hereinafter "payment institutions of limited operation") whose monthly average of payment transactions, calculated on the preceding twelve months, does not exceed EUR 3 million. The payment institutions of limited operation: i) can only provide the payment services listed in paragraphs 6 and 7 of Article 1, paragraph 1, lett. b) of Legislative Decree 27 January 2010, n. 11; ii) may not work in other countries through the establishment of branches, the use of an agent or under the freedom to provide services; iii) may not grant credit related to payment services;</p> <p>- (...) The electronic money institutions of limited operation: (...) ii) if they intend to provide payment services not related to the issuance of electronic money, shall</p>	<p>di cui al commi 1, 2 e 3.</p> <p>RPS, Cap. IX, Par. 1</p> <p>Sono soggetti alle disposizioni di cui al presente Capitolo:</p> <p>- gli istituti di pagamento (di seguito "istituti di pagamento a operatività limitata") la cui media mensile, calcolata sui precedenti dodici mesi, dell'importo complessivo delle operazioni di pagamento eseguite dall'istituto di pagamento, non superi i 3 milioni di euro. L' istituto di pagamento a operatività limitata: i) può prestare esclusivamente i servizi di pagamento previsti nei punti 6 e 7 dell'articolo 1, comma 1, lett. b) del decreto legislativo 27 gennaio 2010, n. 11; ii) non può operare in altri paesi mediante lo stabilimento di succursali, l'impiego di un agente o in regime di libera prestazione di servizi; iii) non può concedere finanziamenti in relazione ai servizi di pagamento prestati;</p> <p>- (...) L' istituto di moneta</p>	

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				comply with the conditions stipulated in the preceding paragraph.	elettronica a operatività limitata: (...) ii) se intende prestare servizi di pagamento non connessi con l'emissione di moneta elettronica, rispetta le condizioni indicate nel precedente alinea.	
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. Una persona giuridica registrata conformemente al paragrafo 1 deve avere la propria sede sociale nello Stato membro in cui esercita effettivamente la propria attività.	RPS, Chap. IX, Para. 1	RPS, Chap. IX, Para. 1 (...) The electronic money institutions of limited operation: i) cannot work in other countries through the establishment of branches, the use of authorised persons or under the freedom to provide services; (...)	RPS, Cap. IX, Par. 1 (...) L' istituto di moneta elettronica a operatività limitata: i) non può operare in altri paesi mediante lo stabilimento di succursali, l'impiego di soggetti convenzionati o in regime di libera prestazione di servizi; (...)	CONFORM Chapter IX, Paragraph 1 of the RPS transposes Article 9(2) of the Directive. In conformity with Article 9(2) of the Directive, Chapter IX, Paragraph 1 of the RPS excludes the electronic money institutions benefitting of the waiver from the exercising the freedom of establishment and the freedom to provide services clauses under the Directive. In view of the above, conformity can be concluded.
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. Una persona giuridica registrata conformemente al paragrafo 1 è trattata quale istituto di moneta elettronica. Tuttavia, ad essa non si applicano l'articolo 10, paragrafo 9, e l'articolo 25 della direttiva 2007/64/CE.	N/A	N/A	N/A	CONFORM No disposition of Italian legislation transposes Article 9(3) of the Directive. The structure of the Italian legislation as regards the waiver referred to in Article 9(1) of the Directive, is different from that of the Directive itself. In fact, according to Chapter IX of the RPS the firms who benefit from the waiver are not exempted from the duty to be registered in the register of the electronic money institutions, and have, therefore, to be

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						<p>considered electronic money institutions in all respects, apart from the inapplicability of the dispositions expressly waived by Chapter IX, Paragraph 2 of the RPS.</p> <p>A disposition mirroring Article 9(3) of the Directive would, therefore, be illogical in the described context.</p> <p>As stated above (see the observations concerning Article 9(2) of the Directive), Article 10(9) and Article 25 of Directive 2007/64/EC are not applicable to the electronic money institutions benefitting of the waiver, in accordance with Article 9(3) of the Directive.</p> <p>In view of the above, conformity can be concluded.</p>
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. Gli Stati membri possono disporre che una persona giuridica registrata conformemente al paragrafo 1 possa esercitare soltanto alcune attività di cui all'articolo 6, paragrafo 1.	RPS, Chap. IX, Para. 1	RPS, Chap. IX, Para. 1 (...) - (...) The payment institutions of limited operation: i) can only provide the payment services listed in paragraphs 6 and 7 of Article 1, paragraph 1, lett. b) of Legislative Decree 27 January 2010, n. 11; (...) iii) may not grant credit related to payment services; - (...) The electronic money institutions of limited operation: (...) ii) if	RPS, Cap. IX, Par. 1 (...) - (...) L' istituto di pagamento a operatività limitata: i) può prestare esclusivamente i servizi di pagamento previsti nei punti 6 e 7 dell'articolo 1, comma 1, lett. b) del decreto legislativo 27 gennaio 2010, n. 11 ; (...) iii) non può concedere finanziamenti in relazione ai servizi di pagamento prestati; - (...) L' istituto di moneta elettronica a operatività	CONFORM Chapter IX, Paragraph 1 of the RPS transposes Article 9(4) of the Directive. According to Chapter IX, Paragraph 1 of the RPS, and in conformity with Article 9(4) of the Directive, the electronic money institutions benefitting of the waiver cannot carry out the activities referred to in Article 6(1)(b) of the Directive. However, such electronic money institutions can carry out only some of the activities referred to in Article 6(1)(a) of the Directive (those listed in Article 1(1)(b)(6) and (7) of D. Lgs. 11/2010, namely: money remittance and execution of payment transactions where the consent of the payer is given by means of a

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				they intend to provide payment services not related to the issuance of electronic money, shall comply with the conditions stipulated in the preceding paragraph.	limitata: (...) ii) se intende prestare servizi di pagamento non connessi con l'emissione di moneta elettronica, rispetta le condizioni indicate nel precedente alinea.	telecommunication device). Chapter IX, Paragraph 1 of the RPS limits therefore, the activities that can be performed by the electronic money institutions benefitting from the waiver, in accordance with the option contained in Article 9(4) of the Directive. In view of the above, conformity can be concluded.
Art. 9(5) intr. wording	5. A legal person referred to in paragraph 1 shall:	5. La persona giuridica di cui al paragrafo 1:	N/A	N/A	N/A	CONFORM Due to the different structure of Italian legislation, no disposition corresponds to the introductory wording of Article 9(5) of the Directive, without any effect on conformity.
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) informa le autorità competenti di ogni cambiamento della propria situazione che possa incidere sulle condizioni enunciate al paragrafo 1; e	RPS, Chap. IX, Para. 2	RPS, Chap. IX, Para. 2 (...) Payment institutions of limited operation and electronic money institutions shall notify the Bank of Italy in the event that they exceed the amount of the payment operations or the amount of average outstanding electronic money foreseen in Par. 1, within thirty days of the occurrence of such circumstance. (...)	RPS, Cap. IX, Par. 2 (...) Gli istituti di pagamento e di moneta elettronica a operatività limitata comunicano alla Banca d'Italia il superamento dell'importo delle operazioni di pagamento o dell'ammontare di moneta elettronica media in circolazione previsti nel Par. 1, entro trenta giorni dal verificarsi di tale circostanza. (...)	CONFORM Chapter IX, Paragraph 2 of the RPS transposes Article 9(5)(a) of the Directive. In conformity with Article 9(5)(a) of the Directive, Chapter IX, Paragraph 2 of the RPS obliges the electronic money institutions benefitting of the waiver to communicate to the Bank of Italy of any change in their situation which is relevant as regards the applicability of the waiver itself. In view of the above, conformity can be concluded.
Art.	(b) at least annually, on date specified by the	b) almeno una volta all'anno, alla data	RPS, Chap.	RPS, Chap. XI, Para. 2	RPS, Cap. XI, Par. 2	CONFORM

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9(5)(b)	competent authorities, report on the average outstanding electronic money.	specificata dalle autorità competenti, riferisce in merito alla moneta elettronica media in circolazione.	XI, Para. 2	The institution shall transmit to the Bank of Italy the financial statements and the minutes of the assembly approving it. (...)	L'istituto trasmette alla Banca d'Italia il bilancio d'esercizio e il relativo verbale assembleare di approvazione. (...)	<p>Chapter XI, Paragraph 2 of the RPS transposes Article 9(5)(b) of the Directive.</p> <p>Chapter XI, Paragraph 2 of the RPS obliges all electronic money institutions to notify their financial statements to the Bank of Italy at the end of every year.</p> <p>This disposition is not waived by Chapter IX, Paragraph 2 of the RPS, and it is therefore applicable also to the electronic money institutions benefitting of the waiver, in conformity with Article 9(5)(b) of the Directive.</p> <p>In view of the above, conformity can be concluded.</p>
Art. 9(6)	6. Member States shall take the necessary steps to ensure that where the conditions set out in paragraphs 1, 2 and 4 are no longer met, the legal person concerned shall seek authorisation within 30 calendar days in accordance with Article 3. Any such person that has not sought authorisation within that period shall be prohibited, in accordance with Article 10, from issuing electronic money.	6. Gli Stati membri adottano le misure necessarie per assicurare che, qualora le condizioni enunciate ai paragrafi 1, 2 e 4 non siano più soddisfatte, la persona giuridica interessata presenti domanda di autorizzazione entro trenta giorni civili conformemente all'articolo 3. Alle persone che non abbiano presentato domanda di autorizzazione entro il predetto termine è fatto divieto di emettere moneta elettronica conformemente	RPS, Chap. IX, Para. 2	RPS, Chap. IX, Para. 2 (...) Payment institutions of limited operation and electronic money institutions shall notify the Bank of Italy in the event that they exceed the amount of the payment operations or the amount of average outstanding electronic money foreseen in Par. 1, within thirty days of the occurrence of such circumstance. They comply with the full provisions for payment institutions and electronic	RPS, Cap. IX, Par. 2 (...) Gli istituti di pagamento e di moneta elettronica a operatività limitata comunicano alla Banca d'Italia il superamento dell'importo delle operazioni di pagamento o dell'ammontare di moneta elettronica media in circolazione previsti nel Par. 1, entro trenta giorni dal verificarsi di tale circostanza. Essi si adeguano alle disposizioni degli istituti di pagamento e degli istituti di moneta	PARTIALLY CONFORM Chapter IX, Paragraph 2 of the RPS transposes Article 9(6) of the Directive. Chapter IX, Paragraph 2 of the RPS obliges the electronic money institutions benefitting of the waiver to communicate to the Bank of Italy that the conditions for the application of the waiver are not met anymore, within 30 days from the verification of such circumstance. The electronic money institutions concerned will then have 60 days to comply with all the obligations set in general for all electronic money institutions, or they shall cease their activity. Such framework does not match the one set up in Article 9(6) of the Directive. The reason

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		all'articolo 10.		money institutions or interrupt their activity within the next sixty days. (...)	elettronica ad operatività completa o dismettono l'attività entro i successivi sessanta giorni. (...)	<p>is that, according to the Italian legislation, the electronic money institutions benefitting of the waiver have already received the authorisation according to Article 114-quinquies of the TUB (transposing Article 3 of the Directive).</p> <p>However, the time allowed to the electronic money institutions concerned to regularise their position ends up to amount to 90 days (a 30 days term for the communication, plus a 60 days term for the regularisation itself), against the 30 days foreseen by Article 9(6) of the Directive to seek authorisation.</p> <p>In view of the above, partial conformity is concluded.</p>
Art. 9(7)	7. Member States shall ensure that their competent authorities are sufficiently empowered to verify continued compliance with the requirements laid down in this Article.	7. Gli Stati membri garantiscono che le loro autorità competenti godano di sufficienti poteri per verificare il rispetto continuativo dei requisiti di cui al presente articolo.	N/A	N/A	N/A	<p>CONFORM</p> <p>No disposition of Italian legislation transposes Article 9(3) of the Directive.</p> <p>However, Chapter IX of the RPS, transposing Article 9 of the Directive, provides for the powers of the Bank of Italy as regards the application of its dispositions. Moreover, Chapters XI and XII concerning communication obligations and inspection powers of the Bank of Italy are also applicable to the electronic money institutions benefitting from the waiver.</p> <p>In view of the above, conformity can be concluded.</p>
Art.	8. This Article shall not apply in respect of the	8. Il presente articolo non si applica in relazione alle	N/A	N/A	N/A	CONFORM

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9(8)	provisions of Directive 2005/60/EC or national anti-money-laundering provisions.	disposizioni della direttiva 2005/60/CE o alle norme nazionali antiriciclaggio.				<p>No disposition of Italian legislation transposes Article 9(3) of the Directive.</p> <p>However, the provisions concerning money-laundering (in compliance with Directive 2005/60/EC, referred to by Article 9(8) of the Directive) are not waived by Chapter IX of the RPS. On the contrary, the dispositions on money laundering are explicitly referred to in Chapter IX, Paragraph 2 of the RPS.</p> <p>In view of the above, conformity can be concluded.</p>
Art. 9(9)	9. Where a Member State avails itself of the waiver provided for in paragraph 1, it shall notify the Commission accordingly by 30 April 2011. The Member State shall notify the Commission forthwith of any subsequent change. In addition, the Member State shall inform the Commission of the number of legal persons concerned and, on an annual basis, of the total amount of outstanding electronic money issued at 31 December of each calendar year, as referred to in paragraph 1.	9. Se uno Stato membro si avvale della deroga di cui al paragrafo 1, esso lo notifica alla Commissione entro il 30 aprile 2011. Lo Stato membro comunica immediatamente alla Commissione qualsiasi cambiamento successivo. Lo Stato membro informa inoltre la Commissione del numero di persone giuridiche interessate e, su base annua, dell'importo complessivo della moneta elettronica in circolazione emessa al 31 dicembre di ogni anno civile di cui al paragrafo 1.	N/A	N/A	N/A	<p>CONFORM</p> <p>No disposition of Italian legislation transposes Article 9(3) of the Directive.</p> <p>The dispositions of the TUB and of the RPS applying the waiver referred to in Article 9(1) have been correctly notified to the Commission.</p> <p>The absence, in the national legislation, of a binding disposition requiring the Bank of Italy to notify the Commission of the number of legal persons benefitting of the waiver and, of the total amount of outstanding electronic money issued does not prevent that the Bank of Italy is bound by the same Article 9(9) to provide such information.</p> <p>No information has been found as regards the actual notification of the data requested in Article 9(9) of the Directive to the Commission.</p>

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						In view of the above, conformity can be concluded.
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>TITOLO III EMISSIONE E RIMBORSABILITÀ DELLA MONETA ELETTRONICA</p> <p><i>Articolo 10</i> Divieto di emettere moneta elettronica</p> <p>Fatto salvo l'articolo 18, gli Stati membri vietano l'emissione di moneta elettronica alle persone fisiche o giuridiche che non sono emittenti di moneta elettronica.</p>	TUB, Art 114- bis(1)	TUB, Art 114-bis(1) 1. The issuance of electronic money is reserved to banks and electronic money institutions.	TUB, Art. 114-bis(1) 1. L'emissione di moneta elettronica è riservata alle banche e agli istituti di moneta elettronica.	<p>CONFORM</p> <p>Article 114-bis(1) of the TUB transposes Article 10 of the Directive.</p> <p>In conformity with Article 10 of the Directive, Article 114-bis(1) of the TUB excludes that subjects other than those foreseen by Title V-bis of the TUB can issue electronic money.</p> <p>In view of the above, conformity can be concluded.</p>
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>Articolo 11</i> Emissione e rimborsabilità</p> <p>1. Gli Stati membri garantiscono che gli emittenti di moneta elettronica emettano moneta elettronica al valore nominale dietro ricevimento di fondi.</p>	TUB, Art. 114- ter(1)	TUB, Art. 114-ter(1) 1. The electronic money issuers will reimburse, upon request of the holder, electronic money at any time and at par value, according to the terms and conditions specified in the contract of issuance in accordance with Article 126-novies. (...)	TUB, Art. 114-ter(1) 1. L'emittente di moneta elettronica rimborsa, su richiesta del detentore, la moneta elettronica in ogni momento e al valore nominale, secondo le modalità e le condizioni indicate nel contratto di emissione in conformità dell'articolo 126 - <i>novies</i> . (...)	<p>PARTIALLY CONFORM</p> <p>Article 114-ter(1) of the TUB transposes Article 11(1) of the Directive.</p> <p>No disposition of the Italian legislation expressly refers to the obligation, for the electronic money institution, to issue electronic money at par value on the receipt of funds. The obligation can be implied from Article 114-ter(1) of the TUB as this Article requires, upon the request of the client, the reimbursement of the electronic money, in principle, at par value. This is, however, not sufficient for ensuring conformity with Article 11(1) of the Directive.</p>

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						<p>In general, the Italian legislation has to be considered as conform with the general coordinates and the goals concerning redeemability set out by Recital 18.</p> <p>In view of the above, partial conformity is concluded.</p>
Art. 11(2)	2. Member States shall ensure that, upon request by the electronic money holder, electronic money issuers redeem, at any moment and at par value, the monetary value of the electronic money held.	2. Gli Stati membri assicurano che, su richiesta del detentore di moneta elettronica, gli emittenti di moneta elettronica rimborsino, in qualsiasi momento e al valore nominale, il valore monetario della moneta elettronica detenuta.	TUB, Art. 114-ter(1)	TUB, Art. 114-ter(1) 1. The electronic money issuers will reimburse, upon request of the holder, electronic money at any time and at par value, according to the terms and conditions specified in the contract of issuance in accordance with Article 126-novies. The right to reimbursement expires in the ordinary terms of prescription provided for in Article 2946 of the Civil Code.	TUB, Art. 114-ter(1) 1. L'emittente di moneta elettronica rimborsa, su richiesta del detentore, la moneta elettronica in ogni momento e al valore nominale, secondo le modalità e le condizioni indicate nel contratto di emissione in conformità dell'articolo 126 -novies. Il diritto al rimborso si estingue per prescrizione nei termini ordinari di cui all'articolo 2946 del codice civile.	<p>CONFORM</p> <p>Article 114-ter(1) of the TUB transposes Article 11(2) of the Directive.</p> <p>Article 114-ter(1) of the TUB literally transposes Article 11(1) of the Directive, adding that the redeemability is subject to the conditions indicated in the contract. Such conditions shall, however, be in conformity with Article 126-novies of the TUB, which transposes the conditions set out in paragraphs 3, 4 and 7 of Article 11.</p> <p>It is worth noticing that Article 114-ter(1) of the TUB limits the redeemability of the electronic money to the ordinary term of prescription of the obligation (10 years), as set out in Article 2946 of the Civil Code.</p> <p>In view of the above, conformity can be concluded.</p>
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,	3. Il contratto tra l'emittente di moneta elettronica e il detentore di moneta elettronica indica chiaramente ed esplicitamente le	TUB, Art. 126-novies(3) and (4)	TUB, Art. 126-novies(3) and (4) 3. The electronic money issuer provides the holder, before he is bound by any	TUB, Art. 126-novies(3) e (4) 3. L'emittente di moneta elettronica fornisce al detentore, prima che egli	<p>CONFORM</p> <p>Article 126-novies(3) and (4) of the TUB transposes Article 11(3) of the Directive.</p> <p>In conformity with Article 11(3) of the</p>

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	including any fees relating thereto, and the electronic money holder shall be informed of those conditions before being bound by any contract or offer.	condizioni del rimborso, comprese le relative spese e il detentore di moneta elettronica è informato di tali condizioni prima della sottoscrizione di qualsiasi contratto od offerta.		contract or offer, with all relevant information about the terms and conditions of redemption, according to the dispositions issued by the Bank of Italy. 4. The contract between the issuer and the holder of electronic money shall indicate clearly and explicitly the terms and conditions of redemption.	sia vincolato da un contratto o da un'offerta, le informazioni relative alle modalità e alle condizioni del rimborso, secondo quanto stabilito dalla Banca d'Italia. 4. Il contratto tra l'emittente e il detentore di moneta elettronica indica chiaramente ed esplicitamente le modalità e le condizioni del rimborso.	Directive, Article 126-novies(4) of the TUB states that the all conditions for redeemability (without exceptions) must be made clear in the contract between the electronic money holder and the issuer. In conformity with Article 11(3) of the Directive, Article 126-novies(3) of the TUB obliges the electronic money issuer to make such conditions clear already at the stage preceding the conclusion of the contract with the holder. In view of the above, conformity can be concluded.
Art. 11(4) 1st subpara. intr. wording	4. Redemption may be subject to a fee only if stated in the contract in accordance with paragraph 3 and only in any of the following cases:	4. Il rimborso può essere soggetto al pagamento di una commissione soltanto se previsto dal contratto conformemente al paragrafo 3 e soltanto in uno dei seguenti casi:	TUB, Art. 126-novies(1), introductory wording	TUB, Art. 126-novies(1), introductory wording 1. The redemption of electronic money in accordance with Article 114-ter may be subject to payment of an appropriate fee and in accordance with the actual costs incurred by the issuer, only if required by the contract and any of the following cases:	TUB, Art. 126-novies(1), periodo introduttivo 1. Il rimborso della moneta elettronica previsto dall'articolo 114-ter può essere soggetto al pagamento di una commissione adeguata e conforme ai costi effettivamente sostenuti dall'emittente, solo se previsto dal contratto e in uno dei seguenti casi:	CONFORM Article 126-novies(1), introductory wording of the TUB transposes Article 11(4), first subparagraph, introductory wording of the Directive. In conformity with Article 11(4), first subparagraph, introductory wording of the Directive, Article 126-novies(1), introductory wording of the TUB states that the fee is applicable only in presence of the conditions listed below, and only when this is specified in the contract. Moreover, Article 126-novies(1), introductory wording of the TUB contains the clause of proportionality. In view of the above, conformity can be concluded.

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Art.11 (4) 1st subpar a. (a)	(a) where redemption is requested before the termination of the contract;	a) se il rimborso è richiesto prima della scadenza del contratto;	TUB, Art. 126-novies(1)(a)	TUB, Art. 126-novies(1)(a) a) redemption is requested before the termination of the contract;	TUB, Art. 126-novies(1)(a) a) il rimborso è chiesto prima della scadenza del contratto;	CONFORM Article 126-novies(1)(a) of the TUB literally transposes Article 11(4), first subparagraph, letter (a) of the Directive.
Art. 11(4) 1st subpar a. (b)	(b) where the contract provides for a termination date and the electronic money holder terminates the contract before that date; or	b) se il contratto prevede una data di scadenza e il detentore di moneta elettronica recede dal contratto prima di tale scadenza; o	TUB, Art. 126-novies(1)(b)	TUB, Art. 126-novies(1)(b) b) the electronic money holder terminates the contract before its termination;	TUB, Art. 126-novies(1)(b) b) il detentore di moneta elettronica recede dal contratto prima della sua scadenza;	CONFORM Article 126-novies(1)(b) of the TUB almost literally transposes Article 11(4), first subparagraph, letter (b) of the Directive. The differences in the wording do not affect conformity. In view of the above, conformity can be concluded.
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) se il rimborso è richiesto più di un anno dopo la data di scadenza del contratto.	TUB, Art. 126-novies(1)(c)	TUB, Art. 126-novies(1)(c) c) redemption is requested more than one year after the date of termination of the contract.	TUB, Art. 126-novies(1)(c) c) il rimborso è chiesto più di un anno dopo la data di scadenza del contratto.	CONFORM Article 126-novies(1)(c) of the TUB literally transposes Article 11(4), first subparagraph, letter (c) of the Directive. In view of the above, conformity can be concluded.
Art. 11(4) 2nd subpar a.	Any such fee shall be proportionate and commensurate with the actual costs incurred by the electronic money issuer.	Tale commissione deve essere proporzionata e commisurata ai costi reali sostenuti dall'emittente di moneta elettronica.	TUB, Art. 126-novies(1), introductory wording	TUB, Art. 126-novies(1), introductory wording 1. The redemption of electronic money in accordance with Article 114-ter may be subject to payment of an appropriate fee and in accordance with	TUB, Art. 126-novies(1), periodo introduttivo 1. Il rimborso della moneta elettronica previsto dall'articolo 114-ter può essere soggetto al pagamento di una commissione adeguata e	CONFORM Article 126-novies(1), introductory wording of the TUB transposes Article 11(4), second subparagraph of the Directive. The requirement contained in Article 11(4), second subparagraph of the Directive is literally transposed in the introductory

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				the actual costs incurred by the issuer, only if required by the contract and any of the following cases:	conforme ai costi effettivamente sostenuti dall'emittente, solo se previsto dal contratto e in uno dei seguenti casi:	wording of Article 126-novies(1) of the TUB. In view of the above, conformity can be concluded.
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. Qualora il rimborso sia richiesto prima della scadenza del contratto, il detentore di moneta elettronica può richiedere il rimborso della moneta elettronica in tutto o in parte.	TUB, Art. 114-ter(2)(a)	TUB, Art. 114-ter(2)(a) 2. The holder may request redemption: a) before the expiry of the contract, to the extent required;	TUB, Art. 114-ter(2)(a) 2. Il detentore può chiedere il rimborso: a) prima della scadenza del contratto, nella misura richiesta;	CONFORM Article 114-ter(2)(a) of the TUB transposes Article 11(5) of the Directive. Although using a slightly different wording, Article 114-ter(2)(a) of the TUB mirrors Article 11(5) of the Directive. In view of the above, conformity can be concluded.
Art. 11(6) intr. wording	6. Where redemption is requested by the electronic money holder on or up to one year after the date of the termination of the contract:	6. Qualora il rimborso sia richiesto dal detentore di moneta elettronica alla data di scadenza del contratto o fino a un anno dopo tale data:	TUB, Art. 114-ter(2)(b), introductory wording	TUB, Art. 114-ter(2)(b), introductory wording 2. The holder may request redemption: b) at the termination of the contract or later:	TUB, Art. 114-ter(2)(b), periodo introduttivo 2. Il detentore può chiedere il rimborso: b) alla scadenza del contratto o successivamente:	CONFORM Article 114-ter(2)(b), introductory wording of the TUB transposes Article 11(6), introductory wording of the Directive. Article 114-ter(2)(b), introductory wording of the TUB is applicable to the period after the termination of the contract, without mentioning the limit of one year. This makes the obligation of redeeming the total monetary value of the electronic money held after the termination of the contract applicable also after one year from the termination of the contract. However, Article 126-novies(1)(c) of the TUB allows electronic money institutions to apply a fee in this case, in conformity with Article 11(4) and at the conditions set therein. Therefore, the combined reading of Article 114-ter(2)(b),

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						<p>introductory wording and of Article 126-novies(1)(c) of the TUB does not contradict the combined reading of paragraphs 4 and 6 of Article 11 of the Directive.</p> <p>However, and on the other hand, Article 114-ter(2)(b) of the TUB also forbids the electronic money holder to request a partial redemption of the value held (apart form the case foreseen in letter (b)). Such limitation mirrors that contained in Article 11(6) of the Directive, but it is, again, intended after one year from the termination of the contract. Although this discrepancy raises some doubts, a preference is still given to conformity, as from the Directive provision it is not clear if, after one year, partial redemption would be again admitted.</p> <p>For the rest, although using a slightly different wording, Article 114-ter(2)(b), introductory wording of the TUB mirrors Article 11(6), introductory wording of the Directive.</p> <p>In view of the above, conformity can be concluded.</p>
Art. 11(6)(a))	a) the total monetary value of the electronic money held shall be redeemed; or	a) è rimborsato il valore monetario totale della moneta elettronica detenuta; o	TUB, Art. 114-ter(2)(b)(1)	TUB, Art. 114-ter(2)(b)(1) 1) for the total monetary value of the electronic money held;	TUB, Art. 114-ter(2)(b)(1) 1) per il valore monetario totale della moneta elettronica detenuta;	CONFORM Article 114-ter(2)(b)(1) of the TUB almost literally transposes Article 11(6)(a) of the Directive. The differences in the wording are only due to the structure of Article 114-ter(2) of the TUB.

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						In view of the above, conformity can be concluded.
Art. 11(6)(b)	(b) where the electronic money institution carries out one or more of the activities listed in Article 6(1)(e) and it is unknown in advance what proportion of funds is to be used as electronic money, all funds requested by the electronic money holder shall be redeemed.	b) se l'istituto di moneta elettronica svolge una o più attività di cui all'articolo 6, paragrafo 1, lettera e), e non si conosce in anticipo quale quota dei fondi debba essere utilizzata come moneta elettronica, sono rimborsati tutti i fondi di cui il detentore di moneta elettronica ha chiesto il rimborso.	TUB, Art. 114-ter(2)(b)(2)	TUB, Art. 114-ter(2)(b)(2) 2) to the extent requested, where the issuer is an electronic money institution authorised according to Article 114-quinquies(4), and the funds pertaining to the same holder can be used for services different from the issuance of electronic money, without being known in advance what proportion of funds is to be used as electronic money.	TUB, Art. 114-ter(2)(b)(2) 2) nella misura richiesta, se l'emittente è un istituto di moneta elettronica autorizzato ai sensi dell'articolo 114-quinquies, comma 4, e i fondi di pertinenza del medesimo detentore possono essere impiegati per finalità diverse dall'utilizzo di moneta elettronica, senza che sia predeterminata la quota utilizzabile come moneta elettronica.	CONFORM Article 114-ter(2)(b)(2) of the TUB almost literally transposes Article 11(6)(b) of the Directive. The reference to Article 6(1)(e) is transposed as a reference to Article 114-quinquies(4), transposing it. For the rest, the differences in the wording are only due to the structure of Article 114-ter(2) of the TUB. In view of the above, conformity can be concluded.
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. In deroga ai paragrafi 4, 5 e 6, il diritto al rimborso di un soggetto che non sia un consumatore e accetti moneta elettronica è subordinato a un accordo contrattuale tra l'emittente di moneta elettronica e tale soggetto.	TUB, Art. 114-ter(3)	TUB, Art. 114-ter(3) 3. Subjects other than a consumer, accepting electronic money as a form of payment, can regulate by contract with the electronic money issuer the right to reimbursement they are entitled to, notwithstanding paragraph 2.	TUB, Art. 114-ter(3) 3. I soggetti, diversi da un consumatore, che accettino in pagamento moneta elettronica possono regolare in via contrattuale con l'emittente di moneta elettronica il diritto al rimborso loro spettante nei suoi confronti, anche in deroga al comma 2.	CONFORM Article 114-ter(3) of the TUB almost literally transposes Article 11(7) of the Directive. The reference to "paragraphs 4, 5 and 6" is substituted by a reference to "paragraph 2" of Article 114-ter of the TUB. For the rest, the differences in the wording are only due to linguistic choices and do not affect conformity. In view of the above, conformity can be concluded.

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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>Articolo 12</i> Divieto di interessi</p> <p>Gli Stati membri vietano la concessione di interessi o di qualsiasi altro beneficio legato alla durata di detenzione della moneta elettronica da parte del detentore della stessa.</p>	TUB, Art. 114-bis(3)	<p>TUB, Art. 114-bis(3)</p> <p>3. The issuer of electronic money does not grant interest or any other benefit commensurate with the storage of electronic money.</p>	<p>TUB, Art. 114-bis(3)</p> <p>3. L'emittente di moneta elettronica non concede interessi o qualsiasi altro beneficio commisurato alla giacenza della moneta elettronica.</p>	<p>CONFORM</p> <p>Article 114-bis(3) of the TUB transposes Article 12 of the Directive.</p> <p>Article 114-bis(3) of the TUB faithfully mirrors Article 12 of the Directive. Although it does not refer expressly to “the length of time during which an electronic money holder holds the electronic money”, it uses a more general wording, comprehending “all benefits related to the holding of the electronic money”, that can be considered as equivalent.</p> <p>This is also in conformity with Recital 13, affirming the separation between the electronic money issuance and the deposit-taking activity.</p> <p>In view of the above, conformity can be concluded.</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>Articolo 13</i> Procedura di reclamo e di ricorso extragiudiziali per la risoluzione delle controversie</p> <p>Fatta salva la presente direttiva, il titolo IV, capo 5, della direttiva 2007/64/CE si applica in quanto compatibile agli emittenti di moneta elettronica relativamente agli obblighi loro imposti dal presente titolo.</p>	TUB, Art. 114-quinquies.3(1)	<p>TUB, Art. 114-quinquies.3(1)</p> <p>1. To electronic money institutions shall apply, mutatis mutandis, the provisions of Articles 19, 20, 21, 22, 23, 24, 25, 26, 52, 139 and 140 and in Title VI. Issuers acting as a public authority only apply Articles 114-ter and 126-novies, as well as, and in relation to these provisions, Articles 39 and</p>	<p>TUB, Art. 114-quinquies.3(1)</p> <p>1. Agli istituti di moneta elettronica si applicano, in quanto compatibili, le disposizioni contenute negli articoli 19, 20, 21, 22, 23, 24, 25, 26, 52, 139 e 140 nonché nel Titolo VI. Agli emittenti che agiscono in veste di pubblica autorità si applicano solo gli articoli 114-ter e 126-novies</p>	<p>NOT CONFORM</p> <p>Article 114-quinquies.3(1) of the TUB transposes Article 13 of the Directive.</p> <p>Article 114-quinquies.3(1) of the TUB makes express reference to Articles 39 and 40 of D. Lgs. 11/2010, transposing Articles 80 and 84 of Directive 2007/64/EC, as regards the application of Articles 114-ter and 126-novies of the TUB (transposing Articles 10 and 11 of the Directive). However, Article 114-quinquies.3(1) of the TUB only refers to the electronic money issuers acting as public authorities. This narrows the scope of</p>

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				40 of Legislative Decree 27 January 2010, n. 11, as amended.	nonché, relativamente a queste disposizioni, gli articoli 39 e 40 del decreto legislativo 27 gennaio 2010, n. 11, e successive modificazioni.	application of the referred dispositions in a way which is not conform to Article 13 of the Directive, also read in the light of Recital 19. In view of the above, non conformity is concluded.
Art. 16(1)	<p style="text-align: center;">TITLE IV FINAL PROVISIONS AND IMPLEMENTING MEASURES</p> <p style="text-align: center;"><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 style="text-align: center;">TITOLO IV DISPOSIZIONI FINALI E MISURE DI ATTUAZIONE</p> <p style="text-align: center;"><i>Articolo 16</i> Armonizzazione piena</p> <p>1. Fatti salvi l'articolo 1, paragrafo 3, l'articolo 3, paragrafo 3, sesto comma, l'articolo 5, paragrafo 7, l'articolo 7, paragrafo 4, l'articolo 9 e l'articolo 18, paragrafo 2, e nella misura in cui la presente direttiva contiene disposizioni di armonizzazione, gli Stati membri non mantengono né introducono disposizioni diverse da quelle stabilite nella presente direttiva.</p>	N/A	N/A	N/A	<p>CONFORM</p> <p>No disposition of Italian legislation transposes Article 16(1) of the Directive.</p> <p>However, the provisions contained in Title V-bis of the TUB and in the RPS respect the clause of full harmonisation contained in Article 16(1) of the Directive.</p> <p>The fact that the RPS provides for a detailed set of provisions implementing the requirements of the Directive does not contradict this finding.</p> <p>In view of the above, conformity can be concluded.</p>
Art. 16(2)	2. Member States shall ensure that an electronic money issuer does not derogate, to the detriment of an electronic money holder, from the provisions of national law	2. Gli Stati membri assicurano che gli emittenti di moneta elettronica non derogano, a discapito dei detentori di moneta elettronica, alle disposizioni di diritto	N/A	N/A	N/A	<p>CONFORM</p> <p>No disposition of Italian legislation transposes Article 16(2) of the Directive.</p> <p>However, Title V-bis of the TUB and the RPS confer significant powers to the Bank of</p>

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	implementing or corresponding to provisions of this Directive except where explicitly provided for therein.	nazionale che attuano le disposizioni della presente direttiva o che corrispondono a tali disposizioni, salvo qualora esplicitamente previsto dalla direttiva.				Italy as regards the supervision of the activity of the electronic money institutions and their respect of the rules set in compliance with the Directive (see, in particular, Chapter XII of the RPS).
Art. 18(1) 1st subpar a.	<p><i>Article 18</i> Transitional provisions</p> <p>1. Member States shall allow electronic money institutions that have taken up, before 30 April 2011, activities in accordance with national law transposing Directive 2000/46/EC in the Member State in which their head office is located, to continue those activities in that Member State or in another Member State in accordance with the mutual recognition arrangements provided for in Directive 2000/46/EC without being required to seek authorisation in accordance with Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive.</p>	<p><i>Articolo 18</i> Disposizioni transitorie</p> <p>1. Gli Stati membri autorizzano gli istituti di moneta elettronica che abbiano avviato prima del 30 aprile 2011 attività in conformità del diritto interno di recepimento della direttiva 2000/46/CE nello Stato membro in cui è situata la loro sede sociale, a proseguire tali attività in quello Stato membro o in un altro Stato membro in virtù degli accordi di riconoscimento reciproco di cui alla direttiva 2000/46/CE senza essere tenute a chiedere l'autorizzazione ai sensi dell'articolo 3 della presente direttiva o a rispettare le altre disposizioni di cui al titolo II della presente direttiva.</p>	<p>D. Lgs. 45/2012, Art. 4(1)</p> <p>D. Lgs. 45/2012, Art. 4(4)</p>	<p>D. Lgs. 45/2012, Art. 4(1)</p> <p>1. The electronic money institutions registered before 30 April 2011 in the register set by the previously in force Article 114-bis of Legislative Decree 1 September 1993, n. 385, may continue their activities up to sixty days after the date of entry into force of the implementing provisions of this Decree, in accordance with the previously applicable laws and regulations; (...)</p> <p>D. Lgs. 45/2012, Art. 4(4)</p> <p>4. The electronic money institutions registered after 30 April 2011 in the list referred to in the previously in force Article 114-bis of Legislative Decree 1 September 1993, n. 385, shall present, within sixty days from the date of entry into force of</p>	<p>D. Lgs. 45/2012, Art. 4(1)</p> <p>1. Gli istituti di moneta elettronica iscritti prima del 30 aprile 2011 all'albo di cui al previgente articolo 114-bis del decreto legislativo 1° settembre 1993, n. 385, possono proseguire la propria attività fino a sessanta giorni dopo la data di entrata in vigore delle disposizioni di attuazione del presente decreto secondo le previgenti disposizioni legislative e regolamentari; (...)</p> <p>D. Lgs. 45/2012, Art. 4(4)</p> <p>4. Gli istituti di moneta elettronica iscritti dopo il 30 aprile 2011 all'albo di cui al previgente articolo 114-bis del decreto legislativo 1° settembre 1993, n. 385, presentano entro sessanta giorni dalla</p>	<p>PARTIALLY CONFORM</p> <p>Article 4(1) of D. Lgs. 45/2012 transposes Article 18(1), first subparagraph of the Directive.</p> <p>In conformity with Article 18(1), first subparagraph of the Directive (in the light of the interests of legal certainty recognised by Recital 23), Article 4(1) of D. Lgs. 45/2012 allows electronic money institutions that have taken up, before 30 April 2011, activities in accordance with the provisions transposing Directive 2000/46/EC, to continue their activity without being required to seek authorisation.</p> <p>The possibility to continue benefitting of the mutual recognition arrangements is not specified, but it has to be considered as implied as it is not expressly denied.</p> <p>For electronic money institutions registered after 30 April 2012 in conformity with the previous legal framework, Article 4(4) of D. Lgs. 45/2012 sets out specific provisions. In particular, such institutions are also allowed to continue their activity without seeking authorisation until 60 days after the entry into force of the new discipline implementing the</p>

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			<p>the dispositions implementing this decree, an application to obtain an authorisation pursuant to Article 114-quinquies, introduced in Legislative Decree 1 September 1993, n. 385, by Article 1, paragraph 3, of this decree; the application is only accompanied by the documentation needed to certify the compliance with the provisions of article 114-quinquies.1, introduced into the Legislative Decree 1 September 1993, n. 385, by Article 1, paragraph 3, of this decree, as well as, should they intend to rely on the exception provided for in Article 114-quinquies.4 introduced into the Legislative Decree 1 September 1993, n. 385, article 1, paragraph 3 of this decree, of the documentation attesting the existence of the conditions for exemption provided for in that Article. In the absence of such requirements, or in case the application for authorisation is not presented, they can continue their activities up</p>	<p>data di entrata in vigore delle disposizioni di attuazione del presente decreto istanza di autorizzazione ai sensi dell'articolo 114-quinquies introdotto nel decreto legislativo 1° settembre 1993, n. 385, dall'articolo 1, comma 3, del presente decreto; l'istanza e' corredata della sola documentazione necessaria ad attestare il rispetto delle previsioni di cui all'articolo 114-quinquies.1 introdotto nel decreto legislativo 1° settembre 1993, n. 385, dall'articolo 1, comma 3, del presente decreto nonche', ove intendano avvalersi della deroga prevista dall'articolo 114-quinquies.4 introdotto nel decreto legislativo 1° settembre 1993, n. 385, dall'articolo 1, comma 3, del presente decreto, di quella attestante la sussistenza dei requisiti per l'esenzione prevista dal medesimo articolo. In difetto dei requisiti, o in caso di mancata presentazione dell'istanza di autorizzazione, essi possono proseguire la</p>	<p>Directive. After that term, they will be obliged to seek authorisation through the ordinary procedure. Although this seems reasonable enough to give such electronic money institutions the time to comply with the new rules, this goes beyond the wording of Article 18(1) of the Directive.</p> <p>In view of the above, partial conformity is concluded.</p>

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				to sixty days after the date of entry into force of the implementing provisions of this Decree in accordance with the previously applicable laws and regulations; after this date, they shall cease their activity, unless the authorisation procedure is pending.	propria attivita' fino a sessanta giorni dopo la data di entrata in vigore delle disposizioni di attuazione del presente decreto secondo le previgenti disposizioni legislative e regolamentari; decorso tale termine cessano l'attivita', a meno che non sia in corso il procedimento di autorizzazione.	
Art. 18(1) 2nd subpar a.	Member States shall require such electronic money institutions to submit all relevant information to the competent authorities in order to allow the latter to assess, by 30 October 2011, whether the electronic money institutions comply with the requirements laid down in this Directive and, if not, which measures need to be taken in order to ensure compliance or whether a withdrawal of authorisation is appropriate.	Gli Stati membri impongono a tali istituti di moneta elettronica di presentare alle autorità competenti tutte le informazioni pertinenti per permettere loro di valutare, entro il 30 ottobre 2011, se gli istituti di moneta elettronica soddisfano i requisiti fissati dalla presente direttiva e, in caso contrario, di stabilire le misure da adottare per garantire tale rispetto o se sia opportuno revocare l'autorizzazione.	D. Lgs. 45/2012, Art. 4(2)	D. Lgs. 45/2012, Art. 4(2) 2. The Bank of Italy registers in the register referred to by Article 114-quater, introduced in Legislative Decree 1 September 1993, n. 385, by this decree, the electronic money institutions that: a) are enrolled before 30 April 2011 in the register referred to in the pre-existing Article 114-bis of Legislative Decree 1 September 1993, n. 385; b) submit to the Bank of Italy, within sixty days from the date of entry into force of the implementing provisions of this Decree, a report showing	D. Lgs. 45/2012, Art. 4(2) 2. La Banca d'Italia iscrive nell'albo di cui all'articolo 114-quater, introdotto nel decreto legislativo 1° settembre 1993, n. 385, dal presente decreto, gli istituti di moneta elettronica che: a) risultano iscritti prima del 30 aprile 2011 nell'albo di cui al previgente articolo 114-bis del decreto legislativo 1° settembre 1993, n. 385; b) presentino alla Banca d'Italia entro sessanta giorni dalla data di entrata in vigore delle disposizioni di attuazione del presente decreto un'apposita relazione da	PARTIALLY CONFORM Article 4(2) of D. Lgs. 45/2012 transposes Article 18(1), second subparagraph of the Directive. In conformity with Article 18(1), second subparagraph of the Directive, Article 4(2) of D. Lgs. 45/2012 states that only those electronic money institutions that have taken up, before 30 April 2011, activities in accordance with the discipline transposing Directive 2000/46/EC, and that have submitted to the Bank of Italy all relevant information in order to allow them to assess their compliance with the new rules will be allowed to be automatically registered in the new register of the electronic money institutions. Article 4(2) of D. Lgs. 45/2012 does not oblige electronic money institutions that have taken up, before 30 April 2011, activities in

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			<p>compliance with the provisions of article 114-quinquies.1 introduced into the Legislative Decree 1 September 1993, n. 385, by article 1, paragraph 3, of this decree, and a programme of activities prepared in accordance with the provisions issued by the Bank of Italy.</p>	<p>cui risulti il rispetto delle previsioni di cui all'articolo 114-quinquies.1 introdotto nel decreto legislativo 1° settembre 1993, n. 385, dall'articolo 1, comma 3, del presente decreto e un programma di attività redatto in conformità alle disposizioni emanate dalla Banca d'Italia.</p>	<p>accordance with the legislation transposing Directive 2000/46/EC, to submit to the Bank of Italy the information it refers to. Such communication is, in fact, only a condition for the automatic registration in the new register. As it will be shown below (see observations concerning Article 18(1), third subparagraph of the Directive), electronic money institutions not complying with such requirement will still have the possibility to ask for the registration using the ordinary procedure, or they will have to cease their activity. Such possibility to apply for the registration using the ordinary procedure does not seem, however, to raise any issue of conformity.</p> <p>Article 4(2) of D. Lgs. 45/2012 does not refer to the possibility, for the Bank of Italy, to indicate which measures need to be taken in order to ensure compliance, but only to the possibility to register, or not, the applicant in the register of the electronic money institutions according to the new rules (and in particular Article 114-quater of the TUB). As regards this requirement, however minor, conformity cannot therefore be observed.</p> <p>While Article 18(1), second subparagraph of the Directive sets the deadline of 30 October 2011 for submitting the above mentioned information, Article 4(2) of D. Lgs. 45/2012 links the deadline to the issuance of the dispositions implementing Title V-bis of the TUB by the Bank of Italy. The deadline of 60 days after the entry into force of such provisions expired on 20 August 2012. Consequently, conformity cannot be</p>

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						observed. In view of the above, partial conformity is concluded.
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.	Gli istituti di moneta elettronica che soddisfano i requisiti sono autorizzati e iscritti nel registro e sono tenuti a rispettare i requisiti di cui al titolo II. Agli istituti di moneta elettronica che non soddisfano i requisiti fissati dalla presente direttiva entro il 30 ottobre 2011 è fatto divieto di emettere moneta elettronica.	D. Lgs. 45/2012, Art. 4(1) and (2)	D. Lgs. 45/2012, Art. 4(1) and (2) 1. The electronic money institutions registered before 30 April 2011 in the register set by the previously in force Article 114-bis of Legislative Decree 1 September 1993, n. 385, may continue their activities up to sixty days after the date of entry into force of the implementing provisions of this Decree, in accordance with the previously applicable laws and regulations; once this term has expired, they cease their activity, unless they have been registered or they are in the process of registration, pursuant to paragraph 2, in the register referred to in Article 114-quater, introduced in legislative Decree 1 September 1993, n. 385, by article 1, paragraph 3, of this Decree. 2. The Bank of Italy registers in the register referred to by Article 114-	D. Lgs. 45/2012, Art. 4(1) and (2) 1. Gli istituti di moneta elettronica iscritti prima del 30 aprile 2011 all'albo di cui al previgente articolo 114-bis del decreto legislativo 1° settembre 1993, n. 385, possono proseguire la propria attività fino a sessanta giorni dopo la data di entrata in vigore delle disposizioni di attuazione del presente decreto secondo le previgenti disposizioni legislative e regolamentari; decorso tale termine cessano l'attività, a meno che non siano stati iscritti ovvero siano in corso di iscrizione, ai sensi del comma 2, nell'albo di cui all'articolo 114-quater, introdotto nel decreto legislativo 1° settembre 1993, n. 385, dall'articolo 1, comma 3, del presente decreto. 2. La Banca d'Italia iscrive	PARTIALLY CONFORM Article 4(1) and (2) of D. Lgs. 45/2012 transposes Article 18(1), third subparagraph of the Directive. The provisions resulting from the combined reading of paragraphs 1 and 2 of Article 4 of D. Lgs. 45/2012 leave a triple choice to electronic money institutions that have taken up, before 30 April 2011, activities in accordance with the legislation transposing Directive 2000/46/EC, after the end of the tolerance period of 60 days following the entry into force of the dispositions implementing Title V-bis of the TUB issued by the Bank of Italy. First, the electronic money institutions already operating can seek authorisation in the ordinary way. Second, they can provide to the Bank of Italy the information requested by paragraph 2 (transposing Article 18(1), second subparagraph of the Directive), and ask for the consequent registration. Third, and in any case they do not comply with the requirement of the new rules, they must cease their activity. This is conform with the requirements of Article 18(1), third subparagraph of the Directive. However, while Article 18(1), third subparagraph of the Directive sets the deadline of 30 October 2011 for submitting

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				<p>quater, introduced in Legislative Decree 1 September 1993, n. 385, by this decree, the electronic money institutions that:</p> <p>a) are enrolled before 30 April 2011 in the register referred to in the pre-existing Article 114-bis of Legislative Decree 1 September 1993, n. 385;</p> <p>b) submit to the Bank of Italy, within sixty days from the date of entry into force of the implementing provisions of this Decree, a report showing compliance with the provisions of article 114-quinquies.1 introduced into the Legislative Decree 1 September 1993, n. 385, by article 1, paragraph 3, of this decree, and a programme of activities prepared in accordance with the provisions issued by the Bank of Italy.</p>	<p>nell'albo di cui all'articolo 114-quater, introdotto nel decreto legislativo 1° settembre 1993, n. 385, dal presente decreto, gli istituti di moneta elettronica che:</p> <p>a) risultano iscritti prima del 30 aprile 2011 nell'albo di cui al previgente articolo 114-bis del decreto legislativo 1° settembre 1993, n. 385;</p> <p>b) presentino alla Banca d'Italia entro sessanta giorni dalla data di entrata in vigore delle disposizioni di attuazione del presente decreto un'apposita relazione da cui risulti il rispetto delle previsioni di cui all'articolo 114-quinquies.1 introdotto nel decreto legislativo 1° settembre 1993, n. 385, dall'articolo 1, comma 3, del presente decreto e un programma di attivita' redatto in conformita' alle disposizioni emanate dalla Banca d'Italia.</p>	<p>the above mentioned information, Article 4(2) of D. Lgs. 45/2012 links the deadline to the issuance of the dispositions implementing Title V-bis of the TUB. The deadline of 60 days after the entry into force of such provisions expired on 20 August 2012. At this regards, conformity cannot therefore be observed.</p> <p>In view of the above, partial conformity is concluded.</p>
Art. 18(2)	2. Member States may provide for an electronic money institution to be automatically granted authorisation and entered	2. Gli Stati membri possono prevedere il riconoscimento e l'iscrizione automatici nel registro di cui all'articolo	N/A	N/A	N/A	Article 18(2) of the Directive sets out an option. Owing to this option, Italy decided not to transpose it.

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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.	3 degli istituti di moneta elettronica se le autorità competenti dispongono già di elementi che comprovino il rispetto dei requisiti fissati agli articoli 3, 4 e 5 da parte degli istituti di moneta elettronica in questione. Le autorità competenti informano gli istituti di moneta elettronica interessati prima del rilascio dell'autorizzazione.			
Art. 18(3)	3. Member States shall allow electronic money institutions that have taken up, before 30 April 2011, activities in accordance with national law transposing Article 8 of Directive 2000/46/EC, to continue those activities within the Member State concerned in accordance with Directive 2000/46/EC until 30 April 2012, without being required to seek authorisation under Article 3 of this Directive 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	3. Gli Stati membri autorizzano gli istituti di moneta elettronica che abbiano avviato prima del 30 aprile 2011 attività conformemente alle disposizioni nazionali di recepimento dell'articolo 8 della direttiva 2000/46/CE, a proseguire tali attività nello Stato membro interessato in conformità della direttiva 2000/46/CE fino al 30 aprile 2012 senza essere tenute a chiedere l'autorizzazione di cui all'articolo 3 della presente direttiva o a rispettare le altre disposizioni di cui al titolo II della presente direttiva.	D. Lgs. 45/2012, Art. 4(3)	D. Lgs. 45/2012, Art. 4(3)	D. Lgs. 45/2012, Art. 4(3)
			3. Notwithstanding paragraph 1, the electronic money institutions, registered before April 30, 2011 in the register referred to in the previously in force Article 114-bis of Legislative Decree 1 September 1993, n. 385, and benefiting from the derogation provided under the former Article 114-quinquies of the Legislative Decree 1 September 1993, n. 385, may continue to carry out such activities according to the previously applicable laws and regulations, until 30 April	3. In deroga al comma 1, gli istituti di moneta elettronica, iscritti prima del 30 aprile 2011 all'albo di cui al previgente articolo 114-bis del decreto legislativo 1° settembre 1993, n. 385, che beneficino della deroga prevista dal previgente articolo 114-quinquies del decreto legislativo 1° settembre 1993, n. 385, possono proseguire l'attività fino al 30 aprile 2012 ovvero, se posteriore, fino a sessanta giorni dopo la data di entrata in vigore delle disposizioni di attuazione	PARTIALLY CONFORM Article 4(3) of D. Lgs. 45/2012 transposes Article 18(3) of the Directive. In conformity with Article 18(3) of the Directive, Article 4(3) of D. Lgs. 45/2012 allows 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. In conformity with Article 18(3) of the Directive, Article 4(3) of D. Lgs. 45/2012 states that, at the end of the tolerance period, the above mentioned electronic money institutions will have to seek an authorisation following the ordinary procedure (and possibly asking for the waiver under Article 114-quinquies.4 of the TUB), or they will

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	<p>been neither authorised nor waived within the meaning of Article 9 of this Directive, shall be prohibited from issuing electronic money.</p>	<p>Agli istituti di moneta elettronica che nel corso di tale periodo non vengono né autorizzati né esentati ai sensi dell'articolo 9 della presente direttiva è fatto divieto di emettere moneta elettronica.</p>	<p>2012 or, if later, until sixty days after the date of entry into force of the implementing provisions of this Decree. After that period, they cease their activities, unless they have been registered in the register referred to in the previously in force Article 114-quater, introduced in Legislative Decree 1 September 1993, n. 385, by article 1, paragraph 3, of this decree, or unless the procedure for authorisation is pursuant to Article 114-quinquies introduced in Legislative Decree 1 September 1993, n. 385, by article 1, paragraph 3, of this decree, is ongoing, also with a view to use the derogation provided for in Article 114-quinquies.4 introduced into the Legislative Decree 1 September 1993, n. 385, by article 1, paragraph 3, of this Decree.</p>	<p>del presente decreto, secondo le previgenti disposizioni legislative e regolamentari. Decorso tale termine cessano la propria attività', a meno che non siano stati iscritti nell'albo di cui all'articolo 114-quater, introdotto nel decreto legislativo 1° settembre 1993, n. 385, dall'articolo 1, comma 3, del presente decreto, ovvero sia in corso un procedimento di autorizzazione ai sensi dell'articolo 114-quinquies introdotto nel decreto legislativo 1° settembre 1993, n. 385, dall'articolo 1, comma 3, del presente decreto, anche al fine di avvalersi della deroga prevista dall'articolo 114-quinquies.4 introdotto nel decreto legislativo 1° settembre 1993, n. 385, dall'articolo 1, comma 3, del presente decreto.</p>	<p>have to cease their activity.</p> <p>However, while Article 18(3) of the Directive sets the deadline of 30 April 2012 for ceasing the activities or seeking a new authorisation, Article 4(3) of D. Lgs. 45/2012 links the deadline to the issuance of the dispositions implementing Title V-bis of the TUB. The deadline of 60 days after the entry into force of such provisions expired on 20 August 2012. At this regards, conformity can not therefore be observed.</p> <p>In view of the above, partial conformity is concluded.</p>