



Conformity Assessment of Directive 2009/110/EC CZECH REPUBLIC

Final Report
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Tipik Communication Agency S.A.
Avenue de Tervueren 270 • B-1150 Brussels
Tel. +32.2.235.56.70 • Fax +32.2.235.56.99 • info@tipik.eu
TVA BE 435.539.007 • RCB 511.105 • Fortis 210-0635550-58
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NATIONAL IMPLEMENTING MEASURES

List of the national implementing measures notified to the European Commission	General observations
<p>Zákon č. 284/2009 Sb., o platebním styku (ve znění zákona č. 139/2011 Sb) Act No 284/2009, Payment System Act (as amended by Act No 139/2011) (hereinafter referred to as Act 284/2009)</p>	<p>Act No 284/2009, Payment System Act is the main act which transposes the majority of the Directive provisions. Act 284/2009 is a new act, which transposes not only Directive 2009/110/EC, but also Directive 98/26/EC, Directive 2007/64/EC, Directive 2009/44/EC, and Directive 2010/78/EC. Therefore, the scope of Act 284/2009 is broader than in the Directive, due to the fact that it contains rules not only for electronic money institutions and small electronic money issuers, but also for payment services providers and small payment services providers. Moreover, it also regulates the payment systems.</p> <p>The provisions transposing the Directive are concentrated in Part II, Title IV (electronic money institutions) and in Title V (small electronic money issuers). Part IV, Title II lays down the rights and obligations in connection with the issuing of electronic money. Some provisions are common also to payment services providers and small electronic money providers, i.e. the provisions laid down in Title VI dealing with the supervision of the Czech National Bank.</p> <p>This act, which was adopted on 22. July 2009, entered into force on 1 November 2009. The provisions implementing Directive 2009/110/EC were introduced into Act 284/2009 by Act No 139/2011, which was adopted on 27 April 2011 and entered into force on the same day.</p> <p>A consolidated version containing all the relevant amendments has been used for the conformity assessment and can be found in Czech on the following website: http://portal.gov.cz/app/zakony/zakon.jsp?page=0&fulltext=&nr=284~2F2009&part=&name=&rpp=15#seznam</p>

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<p>Vyhláška č. 141/2011 Sb., o výkonu činnosti platebních institucí, institucí elektronických peněz, poskytovatelů platebních služeb malého rozsahu a vydavatelů elektronických služeb malého rozsahu</p> <p>Decree No 141/2011 on the Performance of the Activities of Payment Institutions, Electronic Money Institutions, Small Payment Service Providers and Small Electronic Money Issuers</p> <p>(hereinafter referred to as Decree 141/2011)</p>	<p>Decree No 141/2011 on the Performance of the Activities of Payment Institutions, Electronic Money Institutions, Small Payment Service Providers and Small Electronic Money Issuers is a secondary piece of legislation implementing Act 284/2009. It transposes mainly some of the provisions of Title IV of the Directive, i.e. the methods of calculation of the capital adequacy. It also lays down the obligatory elements of the application to operate as an electronic money institution. Together with Act 284/2009 it transposes almost all of the provision of Directive the Directive.</p> <p>This decree, which was adopted on 13 May 2011, entered into force on the same day.</p> <p>A consolidated version containing all the relevant amendments has been used for the conformity assessment and can be found in Czech on the following website:</p> <p>http://portal.gov.cz/app/zakony/zakon.jsp?page=0&fulltext=&nr=141~2F2011&part=&name=&rpp=15#seznam</p>
<p>Vyhláška č. 142/2011 Sb., o předkládání informací platebními institucemi, institucemi elektronických peněz, poskytovateli platebních služeb malého rozsahu a vydavateli elektronických peněz malého rozsahu České národní bance</p> <p>Decree No 142/2011 on the Submission of Information by Payment Institutions, Electronic Money Institutions, Small Payment Service Providers and Small Electronic Money Issuers to the Czech National Bank</p> <p>(hereinafter referred to as Decree 142/2011-</p>	<p>Decree No 142/2011 on the Submission of Information by Payment Institutions, Electronic Money Institutions, Small Payment Service Providers and Small Electronic Money Issuers to the Czech National Bank is a secondary piece of legislation implementing Act 284/209. It transposes Article 9(1)(b) of the Directive.</p> <p>This decree, which was adopted on 13 May 2011, entered into force on the same day.</p> <p>A consolidated version containing all the relevant amendments has been used for the conformity assessment and can be found in Czech on the following website:</p> <p>http://portal.gov.cz/app/zakony/zakon.jsp?page=0&fulltext=&nr=142~2F2011&part=&name=&rpp=15#seznam</p>
<p>Zákon č. 93/2009 Sb., o auditorech a o změně některých zákonů (zákon o auditorech)</p> <p>Act No 93/2009 on Auditors and Amending Certain Laws (Auditors Act)</p> <p>(hereinafter referred to as Act 93/2009)</p>	<p>Act 93/2009 is a national implementing measure transposing Article 15(4) of the Directive 2007/64/EC, as referred to in Article 3(1) of the Directive.</p> <p>This act, which was adopted on 26 March 2009, entered into force on the same day. The provisions implementing Directive 2009/110/EC were introduced into Act 284/2009 by Act No 139/2011, which was adopted on 27 April 2011 and entered into force on the same day.</p> <p>A consolidated version containing all the relevant amendments has been used for the conformity assessment and can be found in Czech on the following website:</p> <p>http://portal.gov.cz/app/zakony/zakon.jsp?page=0&fulltext=&nr=93~2F2009&part=&name=&rpp=15#seznam</p>

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<p>Zákon č. 21/1992 Sb., o bankách Act No 21/1992, Bank Act (hereinafter referred to as Act 21/1992)</p>	<p>Act 21/1991 is a national implementing measure transposing Article 1(1)(a), Article 6(2) and Article 6(4) of the Directive.</p> <p>This act, which was adopted on 20. December 1991, entered into force on 1 February 1992. The provisions implementing Directive 2009/110/EC were introduced into Act 284/2009 by Act No 139/2011, which was adopted on 27 April 2011 and entered into force on the same day.</p> <p>A consolidated version containing all the relevant amendments has been used for the conformity assessment and can be found in Czech on the following website:</p> <p>http://portal.gov.cz/app/zakony/zakon.jsp?page=0&fulltext=&nr=21~2F1992&part=&name=&rpp=15#seznam</p>
<p>Zákon č. 6/1993 Sb., o České národní bance Act No 6/1993 on the Czech National Bank (hereinafter referred to as Act 6/1993)</p>	<p>Act No 6/1993 on the Czech National Bank is a national implementing measure transposing Article 20 of Directive 2007/64/EC, which is referred to in Article 3(1) of the Directive.</p> <p>This act, which was adopted on 17 December 1992, entered into force on 1 January 1993. The provisions implementing Directive 2009/110/EC were introduced into Act 284/2009 by Act No 139/2011, which was adopted on 27 April 2011 and entered into force on the same day.</p> <p>A consolidated version containing all the relevant amendments has been used for the conformity assessment and can be found in Czech on the following website:</p> <p>http://portal.gov.cz/app/zakony/zakon.jsp?page=0&fulltext=&nr=6~2F1993&part=&name=&rpp=15#seznam</p>
<p>Zákon č. 229/2002 Sb., o finančním arbitrovi Act No 229/2002, Financial Arbitrator Act (hereinafter referred to as Act 229/2002)</p>	<p>Act No 229/2002, Financial Arbitrator Act is a national implementing measure transposing Article 83 of Directive 2007/64/EC, which is referred to in Article 13 of the Directive.</p> <p>This act, which was adopted on 9 May 2002, entered into force on 1 January 2003.</p> <p>A consolidated version containing all the relevant amendments has been used for the conformity assessment and can be found in Czech on the following website:</p> <p>http://portal.gov.cz/app/zakony/zakon.jsp?page=0&fulltext=&nr=229~2F2002&part=&name=&rpp=15#seznam</p>
<p>Zákon č. 563/1991 Sb., o účetnictví Act No 563/1991 – Accounting Act (hereinafter referred to as Act 563/1991)</p>	<p>Act No 563/1991 – Accounting Act is a national implementing measure transposing Article 15 of Directive 2007/64/EC, which is referred to in Article 3(1) of the Directive.</p> <p>This act, which was adopted on 12 December 1993, entered into force on 1 January 1991.</p> <p>A consolidated version containing all the relevant amendments has been used for the conformity assessment and can be found in Czech on the following website:</p> <p>http://portal.gov.cz/app/zakony/zakon.jsp?page=0&fulltext=&nr=563~2F1991&part=&name=&rpp=15#seznam</p>

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<p>Zákon č. 513/1991 Sb., Obchodní zákoník Act No 513/1991, Commercial Code (hereinafter referred to as Act 513/1991)</p>	<p>Act No 513/1991, Commercial Code is a national implementing measure transposing Article 18 of Directive 2007/64/EC, which is referred to in Article 3(1) of the Directive.</p> <p>This act, which was adopted on 5 November 1991, entered into force on 1 January 1992.</p> <p>A consolidated version containing all the relevant amendments has been used for the conformity assessment and can be found in Czech on the following website: http://portal.gov.cz/app/zakony/zakon.jsp?page=0&fulltext=&nr=513~2F1991&part=&name=&rpp=15#seznam</p>
<p>Zákon č. 40/1964 Sb., Občanský zákoník Act No 40/1964, Civil Code (hereinafter referred to as Act 40/1964)</p>	<p>Act No 40/1964, Civil Code is a national implementing measure transposing Article 18 of Directive 2007/64/EC, which is referred to in Article 3(1) of the Directive.</p> <p>This act, which was adopted on 26 February 1964, entered into force on 1 April 1964. The provisions implementing Directive 2009/110/EC were introduced into Act 284/2009 by Act No 139/2011, which was adopted on 27 April 2011 and entered into force on the same day.</p> <p>A consolidated version containing all the relevant amendments has been used for the conformity assessment and can be found in Czech on the following website: http://portal.gov.cz/app/zakony/zakon.jsp?page=0&fulltext=&nr=40~2F1964&part=&name=&rpp=15#seznam</p>
<p>Usnesení č. 2/1993 Sb., o vyhlášení Listiny základních práv a svobod jako součásti ústavního pořádku České republiky Resolution No 2/1993 on the Promulgation of the Charter of Fundamental Rights and Freedoms as part of the Constitutional Order of the Czech Republic (hereinafter referred to as Resolution 2/1993)</p>	<p>Resolution 2/1993 is a part of the Czech constitutional order. It was utilised in order to implement Article 23(1) of Directive 2007/64/EC, which is referred to in Article 3(1) of the Directive, and Article 9(1), introductory wording of the Directive. It enshrines the right to a court review of a legality of a decision rendered by the public authority.</p> <p>This resolution, which was adopted on 16 December 1992, entered into force on 1 January 1993.</p> <p>A consolidated version containing all the relevant amendments has been used for the conformity assessment and can be found in Czech on the following website: http://portal.gov.cz/app/zakony/zakon.jsp?page=0&fulltext=&nr=2~2F1993&part=&name=&rpp=15#seznam</p>

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Zákon č. 150/2002 Sb., – Soudní řád správní

Act No 150/2002 – Judicial Rules of Administrative Procedure

(hereinafter referred to as Act 150/2002)

Act No 150/2002 – Judicial Rules of Administrative Procedure is a national implementing measure transposing Article 23 of Directive 2007/64/EC, which is referred to in Article 3(1) of the Directive.

This act, which was adopted on 21 March 2002, entered into force on 1 January 2003.

A consolidated version containing all the relevant amendments has been used for the conformity assessment and can be found in Czech on the following website:

<http://portal.gov.cz/app/zakony/zakon.jsp?page=0&fulltext=&nr=150~2F2002&part=&name=&rpp=15#seznam>

SUMMARY

1. Executive summary

Directive 2009/110/EC (hereinafter referred to as ‘the Directive’) by two main acts: Act 284/2009, which transposes almost the totality of the Directive provisions, and Decree 141/2011, a secondary piece of legislation, which further implements Act 284/2011. Act 284/2009 is a new act, which transposes not only Directive 2009/110/EC, but also Directive 98/26/EC, Directive 2007/64/EC, Directive 2009/44/EC, and Directive 2010/78/EC. Therefore, the scope of Act 284/2009 is broader than in the Directive, due to the fact that it contains rules not only for electronic money institutions and small electronic money issuers, but also for payment services providers and small payment services providers and it regulates also the payment systems.

However, the Directive is transposed in a streamlined manner, and the transposing provisions are concentrated in its Part II, Title IV (electronic money institutions) and in Title V (small electronic money issuers). Part IV, Title II lays down the rights and obligations in connection with the issuing of electronic money. Some provisions are common also to payment services providers and small electronic money providers, i.e. the provisions laid down in Title VI dealing with the supervision of the Czech National Bank.

The provisions of Directive 2007/64/EC referred to in the Directive, and which apply mutatis mutandis to electronic money institutions and small electronic money issuers, were transposed separately without referring to the relevant provisions of payment services providers or small electronic money issuers.

In general, Act 284/2009 together with Decree 141/2011 were correctly transposed, although only rarely a literal transposition is used. In some cases, the wording is more general and requires inferences with regard to some of the Directive requirements.

2. The implementation of Directive 2009/110/EC

2.1. Scope

In general, the scope of the relevant parts of Act 284/2009 corresponds to the scope of the Directive, however Act 284/2009 does not recognise Member States or their regional or local authorities when acting in their capacity as public authorities as a category of electronic money issuers Act 284/2009 further omits to mention the European Central Bank and national central banks when not acting in their capacity as monetary authority or other public authorities as a category of electronic money issuers.

2.2. Terminology

The NIMs do not always use the same terms as Directive but this does not cause problems with understanding their meaning. When necessary, more explanations are provided in the conclusions. For example, the term used in the NIMs for the ‘own funds’ is ‘capital’.

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

In general, the transposition of Title I 1 of the Directive was done in a conform manner, with the exception of Article 1(1)(e) of the Directive for which no transposing provision could be located, and with the exception of two issues of partial conformity in Article 2, point 3 and in Article 2, point 4.

2.4.1.1. Article 1 - Subject

The main implementing measures are Act 284/2009 together with Degree 141/2011. However, the scope of the NIM is broader than in the Directive because they regulate not only electronic money institutions and small electronic money institutions, but also payment services providers and small payment services provides.

Title IV of Act 284/2009 deals with electronic money institutions and recognises the similar categories of electronic money institutions, with the exception of explicit mentioning of Member States or their regional or local authorities when acting in their capacity as public authorities. Post office giro institutions are banks according to the Czech law.

The Czech Republic has not applied the option provided for in Article 1(3) of the Directive.

2.4.1.2. Article 2 – Definitions

The definition of electronic money institution and the definition of electronic money satisfy all the requirements of the Directive. With regard to Article 2(3), Act 284/2009 lists the entities entitled to issue electronic money. These include also legal persons that were granted the waiver under Article 9 of the Directive. The Czech Republic is not concerned by Article 1(3) of the Directive.

The provision transposing Article 2, point (4) of the Directive regarding the definition of ‘average outstanding electronic money’ is only partially conform, because, although the wording of the definition of average outstanding electronic money is very similar to that in the Directive, the NIM does not specify that the arithmetic average of the liabilities is to be calculated on the first calendar day of each calendar month and applied for that calendar month. It is not clear from the wording of the NIM at which moment the calculation is to be done.

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

In general, the provisions transposing Title II of the Directive were transposed in a conform manner, however there is an issue with conformity in Article 5 of Directive 2007/64/EC referred to in Article 3(1) of the Directive, in Article 3(4), Article 9(2), and Article 9(3) of the Directive, where the NIMs are only partially conform. No transposing provisions were identified for Article 8(2) and Article 9(9) of the Directive, which results in a non-conformity of the NIMs.

2.4.2.1. Article 3 – General prudential rules

In general, Article 3 of the Directive, according to which 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

mutatis mutandis, has been transposed in a conform manner, with the exception of Article 5 of Directive 2007/64/EC regarding applications for authorisation, the transposition of which is only partially conform, because the NIM does not specify that a part of the application is also document containing the description of the outsourcing arrangements. In addition, the provision transposing Article 5, first subparagraph, point (k) of Directive 2007/64/EC has not been located in the NIMs.

Article 10 of Directive 2007/64/EC laying down the rules granting the authorisation is correctly transposed by Act 284/2009. All the requirements of Article 10 of Directive 2007/64/EC are laid down in Act 284/2009.

Articles 11 to 15, 17(7), 18 to 22 of Directive 2007/64/EC are also correctly transposed.

With regard to Article 23 of Directive 2007/64/EC regarding the right to apply to the courts, there is no provision directly transposing it; however the right to contest the decisions taken by the competent authorities is enshrined in Article 36(2) of Resolution 2/1993, which is the Charter of fundamental rights of the Czech Republic. This Article is implemented by Act 150/2002 containing judicial rules of administrative procedure.

Articles 24 and 25 of Directive 2007/64/EC are also transposed in a conform manner by Act 284/2009.

Article 3(2), Article 3(3), first, second and fourth subparagraph of the Directive, which regulate the notification duty in the case of a change in measures taken for safeguarding of funds that have been received in exchange for electronic money issued, and in connection with the acquisition, increase or reduction of the qualifying holding are transposed in a conform manner. The authority to be notified in these situations is the Czech National Bank. Article 3(3), third subparagraph of the Directive is also complied with by Act 284/2009. The measure to be imposed by the Czech National Bank is the prohibition to exercise the voting rights linked to the holding in the electronic money institution to the extent in which the holding was acquired or increased. With regard to Article 3(3), fifth subparagraph of the Directive, the measure to be imposed by the Czech National Bank is also the prohibition of the exercise of voting rights, although the wording of the NIM is more general than in the Directive provision.

The Czech Republic did not apply the option provided for in Article 3(4) of the Directive.

There is an issue with the transposition of Article 3(4) of the Directive regarding the distribution and redemption of electronic money by natural and legal persons on behalf of an electronic money institution, because the NIM mentions only issuing electronic money and does not mention redeeming electronic money, which might hamper its conformity.

Article 3(5) of the Directive is correctly transposed by prohibiting in general issuing electronic money by a person than acts on behalf of an electronic money institution, with the exception of its employees and proxies. The conditions set out for the commercial agents, under which commercial agents may provide payment services, are in compliance with Article 17 of Directive 2007/64/EC.

2.4.2.2. Article 4 – Initial capital

In line with Article 4 of the Directive, Act 284/2009 sets out the initial capital of the electronic money institution at the amount corresponding at least to EUR 350 000.

2.4.2.3. Article 5 – Own funds

The minimum amount of the own funds as set out in Article 5(1) of the Directive is correctly transposed in Act 284/2009 by stipulating that the electronic money institution shall regularly maintain the capital adequacy, which may not fall under the amount of the initial capital as set out in the provisions which follow. The term ‘capital adequacy’ is defined as ‘capital at an amount at least equivalent to the capital requirement to cover risks’. With regard to the activities of electronic money institutions which are not linked to the issuance of the electronic money, the methods A, B and C for the calculation of the own funds as laid down in Directive 2007/64/EC are correctly transposed, as well as the method D for the activity of issuing electronic money. Act 284/2009 together with Decree 141/2011 also comply with the requirement, in the case the electronic money institution carries out activities not linked to the issuance of electronic money, and the amount of outstanding electronic money is unknown in advance, to calculate its own funds requirements on the basis of a representative portion, or, if necessary, on the basis of projected outstanding electronic money evidenced by its business plan. Act 284/2009 applies the option provided for in Article 5(5) of the Directive and entitles the Czech National Bank to oblige the electronic money institution to regularly maintain the capital adequacy at a level up to 20 % higher or up to 20 % lower.

Decree 141/2011 transposes the requirements laid down in Article 5(6) of the Directive that prevent the multiple use of elements eligible for own funds. As regards the transposition of Article 5(6)(b), the NIM refers to the term hybrid institutions.

The Czech Republic has not applied the option provided for in Article 5(7) of the Directive.

2.4.2.4. Article 6 - Activities

Article 6 of the Directive is transposed in a conform manner. Apart from issuing the electronic money, electronic money institutions are entitled to carry out the same activities as those referred to in Article 6(1) of the Directive. With regard to the granting of credit, this activity may be carried out by the electronic money institution under the same conditions as in Article 6(1)(b) and in Article 6(1), second subparagraph of the Directive. Although there is no provision directly stating that the credit must be ancillary, this can be inferred from the fact that granting of credit has to be related to the provision of a payment service. In line with Article 6(2) of the Directive, no person without a licence may accept deposits from the public, including the electronic money institutions. Also the obligation to exchange without delay for electronic money any funds received by the electronic money institution from the electronic money holder is correctly transposed. Finally, the safeguarding requirements funds received for the activities not linked to the activity of issuing electronic money are transposed in line with Article 16(2) and (4) of Directive 2007/64/EC.

2.4.2.5. Article 7 – Safeguarding requirements

The safeguarding requirements of the electronic money institutions for the funds that have been received in exchange for electronic money that has been issued, as well as for the funds that were entrusted to the electronic money institution to execute a payment transaction comply with Article 9(1) and 9(2) of Directive 2007/64/EC. With regard to funds received in the form of payment by payment instrument, the NIM correctly stipulates that the electronic money institution shall safeguard these funds only after they have been credited on its payment account or made available to it, but at the latest after 5 working days after issuing of electronic money. Low-risk assets are defined in Decree 141/2011 and such definition is in line with Article 7(2), first and second subparagraph. In compliance with Article 7(2), third subparagraph, the Czech National Bank may, for the reasons worthy of special consideration, temporarily prohibit to the electronic money institution, by a measure of a general nature, to invest funds at the exchange of which the electronic money was issued, in the low-risk assets.

The Czech Republic has not applied the option provided for in Article 7(4) of the Directive.

2.4.2.6. Article 8 – Relations with third countries

Article 8 of the Directive is transposed in a conform manner. However, there is an issue with Article 8(2), because the transposing provision has not been identified throughout the NIMs. Section 47(2) of Act 284/2009, which transposes Article 8(3), transposes also Article 8(1) of the Directive. Thus, there is not a separate provision for Article 8(1), but this does not affect the conformity, because the wording “under conditions similar to those of persons established in the Czech Republic” implies that the applicant from a country which is not a Member State cannot have a more favourable treatment when taking up or pursuing its business, in line with the Directive provision.

2.4.2.7. Article 9 – Optional exemptions

In general, Article 9 of the Directive is correctly transposed, however, there are some issues with conformity – namely Article 9(2), Article 9(3), and Article 9(6) are partially conform and Article 9(9) of the Directive is not conform as no provision transposing it has been located.

The Czech Republic has applied the option provided for in Article 9(1), points (a) and (b) and Act 284/2009 created another entity entitled to issue electronic money – a small electronic money issuer, which may carry out the same activities as an electronic money issuer. Only some of the provisions regulating electronic money issuers apply to a small electronic money issuer – rules for the safeguarding requirements of the funds, information duty requirements, and the provisions on keeping of documents or records.

The provisions on the supervision by the Czech National Bank professional secrecy and exchange of information, apply as well; the right to apply to the courts results from the application of Article 36(2) of Resolution 2/1993 – the Charter of fundamental rights of the Czech Republic. The average of the electronic money issued by the small electronic money issuer and that are in circulation in the Czech Republic is limited to an amount corresponding to EUR 5 000 000 and the requirement of the non-conviction of certain financial or terrorist financing crimes of the natural persons responsible for the management or operation of the business is also complied with.

In line with Article 9(1), second subparagraph, if it is not possible to determine, which portion of the funds transferred by the holder to the small electronic money issuer is designated for payment transaction that concern electronic money, the average of the outstanding electronic money shall be determined from such a portion of these funds that corresponds to the estimation on the basis of data from the previous periods. If the small electronic money issuer issues electronic money for a period shorter than 6 months, the average of outstanding electronic money issued by him shall be determined from his business plan.

The option provided for in Article 9(1), fourth subparagraph has not been applied by the Czech Republic.

With regard to the case where a small electronic money issuer provides payment services not related to electronic money issued, the NIMs comply with the conditions set out in Article 26 of Directive 2007/64/EC.

Article 9(2) and 9(3) of the Directive are transposed only in a partially conform manner, because of the extra requirement that the Czech National Bank shall enter into the register of small electronic money issuers also an applicant that has a branch in the Czech Republic.

The Czech Republic has not applied the option provided for in Article 9(4) of the Directive.

The notification requirements set out in Article 9(5) of the Directive are correctly transposed by Act 284/2009.

As regards Article 9(6) of the Directive, the possibility of a small electronic money issuer to apply for the authorisation for the payment institution, authorisation for electronic money institution or for the entry into the register of small payment services provider is limited only to the situation where the average of the outstanding electronic money issued by the electronic money issuer exceeds the amount corresponding to EUR 5 000 000. In other situations where the registration of the electronic money issuer either ceases to exist or is cancelled, the small electronic money issuer may no longer carry out its activities.

In compliance with Article 9(7) of the Directive, the small electronic money issuer is subject to the supervision of the Czech National Bank.

2.4.3. Title III – Issuance and redeemability of electronic money

Overall, Title III of the Directive is transposed in a conform manner. However, with regard to Article 81(2) of Directive 2007/64/EC, as referred to in Article 13 of the Directive, it was not possible to determine whether the Directive provision was followed by the Czech Republic or not because no such provision was found in the NIMs.

2.4.3.1. Article 10 – Prohibition from issuing electronic money

Article 10 of the Directive is correctly transposed using the positive approach and listing the persons that are entitled to issue electronic money as their business activity.

2.4.3.2. Article 11 – Issuance and redeemability

Although Act 284/2009 has a different structure, all the requirements set out in Article 11 are correctly transposed.

In general, Article 11 of the Directive is transposed in a conform manner. With regard to Article 11(3), the NIM is less specific than the Directive, because it does not explicitly mention the obligation to inform about any fees relating to the redemption; however this does not affect the conformity. Article 11(4) is almost literally transposed.

2.4.3.3. Article 12 – Prohibition of interest

Article 12 of the Directive is almost literally transposed by Act 28/2009.

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

Chapter 5 of Title IV of Directive 2007/64/EC referred to in Article 13 of the Directive is correctly transposed.

The competent body for receiving complaints for infringements of the provisions of the Czech law transposing the Directive is the Czech National Bank. It is also a competent body for hearing the administrative infractions and administrative offences laid down in Act 284/2009. Consumer associations and other interested parties can take action according to Act 500/2004 which contains rules of the administrative procedure. Act 284/2009 provide for sanctions for all of the persons, legal or moral, addressed by this act for committing the offences described in these provisions, which can be considered effective, proportionate and dissuasive. The body competent for the out-of-court settlement of the disputes between the electronic money issuers and electronic money holders is the financial arbitrator.

2.4.4. Title IV – Final provisions and implementing measures

In general, Title IV of the Directive is correctly transposed.

2.4.4.1. Article 16 – Full harmonisation

Article 16(1) of the Directive is correctly transposed. There are no provision which extend the scope of the Directive provisions (with the exceptions of those listed in this Directive provision), or that would introduce provisions other than those laid down in the Directive. Article 18 – Transitional provisions

2.4.4.2. Article 18 – Transitional provisions

Act 139/2011 (which is the act amending Act 284/2009) correctly transposes Article 18(1) of the Directive by enabling the electronic money institutions or foreign electronic money institutions which, by 27 April 2011, were entitled to issue electronic money on the basis of their authorisation, to issue electronic money on the basis of their existing provision until 30 October 2011. Article 18(1), second and third subparagraph of the Directive is transposed in a more general manner by stipulating that the application for the authorisation to operate as an electronic money institution submitted before the entry into force of this act, or not decided by that date, shall be considered an application to operate as an electronic money institution under this act.

The Czech Republic has not applied the option provided for in Article 18(2) of the Directive.

In compliance with Article 18(3), Article II(2) of Act 139/2011 stipulates that a small electronic money issuer, that was on the day of entry into force of this act, entitled to issue electronic money according to the existing legislation, may as from the entry into force of this Act to 30 April 2012 issue electronic money on the basis of its existing registration of the small electronic money issuer. At the same time it shall proceed according to the existing legislation.

3. Conclusions on conformity

3.1. Cases of partial conformity

Article 2, point (3) of the Directive regarding the definition of ‘electronic money issuers’ – the NIM is partially conform because it does not list Member States or their regional or local authorities when acting in their capacity as public authorities as one of the electronic money issuers.

Article 2, point (4) of the Directive regarding the definition of ‘average outstanding electronic money’ – the NIM is partially conform because it does not specify that the arithmetic average of the liabilities is to be calculated on the first calendar day of each calendar month and applied for that calendar month.

Article 5 of Directive 2007/64/EC regarding authorisation of applications which is referred to in **Article 3(1) of the Directive** – the NIM is partially conform because it does not specify that a part of the application is also document containing the description of the outsourcing arrangements.

Article 3(4) of the Directive regarding the distribution and redemption of electronic money by natural and legal persons on behalf of an electronic money institution – the NIM is partially conform because it deals only with issuing electronic money and does not mention redeeming electronic money.

Article 9(2) of the Directive regarding the head office of a legal person benefiting from waiver under Article 9(1) – the NIM is partially conform because it allows also for the applicant that has a branch in the Czech Republic, although according to Article 9(3) of the Directive Article 10(9) and Article 25 of Directive 2007/64/EC shall not apply to it.

Article 9(3) of the Directive regarding small electronic money institutions being treated as an electronic money institution– the NIM is partially conform because it allows for entering in to the register of small electronic money issuers an applicant that is established in the Member State where is actually pursues its business, and that has a branch in the Czech Republic, which is contrary to the Directive provision.

3.2. Cases of non-conformity

Article 1(1)(e) of the Directive regarding Member States or their regional or local authorities when acting in their capacity as public authorities as one of the categories of the electronic money issuers –the corresponding national transposing measure could not be found.

3.3. Option ('May' clause)

3.3.1. The Czech Republic has chosen to transpose the following options:

Article 1(3) of the Directive including into the electronic money issuers institutions benefiting from the waiver under Article 1(3) and legal persons benefiting from a waiver under Article 9.

Article 5(5) of the Directive enabling the competent authorities to require to hold funds up to 20 % higher or up to 20 % lower which would result from the application of the relevant method in accordance with paragraph 2.

Article 7(1) of the Directive according to which funds received in the form of payment need not be safeguarded until they are made available to the electronic money institution.

Article 7(2), third subparagraph of the Directive according to which the relevant authorities may determine which of those assets do not constitute secure, low-risk assets.

Article 9(1), first subparagraph allowing the Member States to 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 institution under certain conditions.

3.3.2. The Czech Republic has chosen not to transpose the following options:

Article 3(3), sixth subparagraph of the Directive allowing the Member States to waive the application of certain obligations in respect of electronic money institutions that carry out one or more of the activities listed in Article 6(1)(e).

Article 5(7) of the Directive, which allows the Member States 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.

Article 7(3) of the Directive providing for the application or Article 9 of Directive 2007/64/EC.

Article 9(4) of the Directive allowing legal persons benefiting from waiver under paragraph 1 to engage only in some of the activities listed in Article 6(1).

Article 18(2) of the Directive providing for automatic granting of the authorisation to electronic money institutions that have taken up their activities before 30 April 2011.

4. List of acronyms

Art. – Article

The Directive – Directive 2009/110/EC of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC

NIM – National implementing measure

Para. – Paragraph

Subpara. – Subparagraph

S. – Section

Act 284/2009 - Zákon č. 284/2009 Sb., o platebním styku (Act No 284/2009, Payment System Act)

Decree 141/2011 - Vyhláška č. 141/2011 Sb., o výkonu činnosti platebních institucí, institucí elektronických peněz, poskytovatelů platebních služeb malého rozsahu a vydavatelů elektronických služeb malého rozsahu (Decree No 141/2011 on the Performance of the Activities of Payment Institutions, Electronic Money Institutions, Small Payment Service Providers and Small Electronic Money Issuers)

Decree 142/2011 - Vyhláška č. 142/2011 Sb., o předkládání informací platebními institucemi, institucemi elektronických peněz, poskytovateli platebních služeb malého rozsahu a vydavateli elektronických peněz malého rozsahu České národní bance (Decree No 142/2011 on the Submission of Information by Payment Institutions, Electronic Money Institutions, Small Payment Service Providers and Small Electronic Money Issuers to the Czech National Bank)

Act 93/2009 - Zákon č. 93/2009 Sb., o auditorech a o změně některých zákonů (zákon o auditorech) (Act No 93/2009 on Auditors and Amending Certain Laws (Auditors Act))

Act 21/1992 - Zákon č. 21/1992 Sb., o bankách (Act No 21/1992, Bank Act)

Act 6/1993 - Zákon č. 6/1993 Sb., o České národní bance (Act No 6/1993 on the Czech National Bank)

Act 229/2002 - Zákon č. 229/2002 Sb., o finančním arbitrovi (Act No 229/2002, Financial Arbitrator Act)

Act 563/1991 - Zákon č. 563/1991 Sb., o účetnictví (Act No 563/1991 – Accounting Act)

Act 513/1991 - Zákon č. 513/1991 Sb., Obchodní zákoník (Act No 513/1991, Commercial Code)

Act 40/1964 - Zákon č. 40/1964 Sb., Občanský zákoník (Act No 40/1964, Civil Code)

Resolution 2/1993 - Usnesení č. 2/1993 Sb., o vyhlášení Listiny základních práv a svobod jako součásti ústavního pořádku České republiky (Resolution No 2/1993 on the Promulgation of the Charter of Fundamental Rights and Freedoms as part of the Constitutional Order of the Czech Republic)

Act 150/2002 - Zákon č. 150/2002 Sb., – Soudní řád správní (Act No 150/2002 – Judicial Rules of Administrative Procedure)

Directive 2009/110/EC			National Implementing Measures			Conformity Assessment
Article No.	EN	CS	Act, Article No.	EN	CS	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>HLAVA I OBLAST PŮSOBNOSTI A DEFINICE</p> <p><i>Článek 1</i> Předmět a oblast působnosti</p> <p>1. Tato směrnice stanoví pravidla pro výkon činnosti vydávání elektronických peněz; za tímto účelem členské státy rozlišují následující kategorie vydavatelů elektronických peněz:</p>	Act 284/2009; S. 6, introductory sentence	<p>Act 284/2009, S. 1(a) and (d)</p> <p>The present act transposes the relevant legislation of the European Union, follows up on directly applicable legislation of the European Union, and governs</p> <p>(a) the activities of certain entities authorised to provide payment services and to issue electronic money, including the activities of such entities abroad,</p> <p>(d) the rights and obligations of electronic money issuers (hereinafter referred to as “issuer”) and of electronic money holders (hereinafter referred to as “holder”).</p> <p>Act 284/2009; S. 6, introductory sentence</p>	<p>Zákon č. 284/2009 Sb., § 1 písm. a) a d)</p> <p>Tento zákon zapracovává příslušné předpisy Evropské unie¹⁾, zároveň navazuje na přímo použitelný předpis Evropské unie²⁾ a upravuje</p> <p>a) činnost některých osob oprávněných poskytovat platební služby a vydávat elektronické peníze, včetně činnosti těchto osob v zahraničí,</p> <p>d) práva a povinnosti vydavatelů elektronických peněz (dále jen „vydavatel“) a držitelů elektronických peněz (dále jen „držitel“).</p> <p>Zákon č. 284/2009 Sb., § 6 uvozovací věta</p> <p>Vydávat elektronické peníze jako podnikání</p>	<p>CONFORM</p> <p>Section 1(a) and (d) and Section 6, introductory sentence of Act 284/2009 transpose Article 1(1), introductory wording of the Directive.</p> <p>The scope of Section 1 of Act 284/2009 is broader than that of the Directive, as this Act governs the activities of not only entities authorised to issue electronic money, but also of entities authorised to provide payment services, including such activities abroad. With relations to the electronic money issuers (which are referred to throughout this Act as ‘issuers’) the scope of Act 284/2009 includes also rights and obligations of issuers and of holders of electronic money (who are referred to throughout the act as ‘holders’). Moreover, Act 284/2009 in the footnote to the introductory sentence of Section (1) specifies the Directive as one of many European Union Directives which this Act transposes.</p> <p>Section 6, introductory sentence of Act 284/2009 transposes the second sentence of the Directive provision. Please see below for further explanations.</p> <p>Based on the above-mentioned observations, Section 1(a) and (d) and Section 6,</p>

Directive 2009/110/EC			National Implementing Measures		Conformity Assessment	
				Only the following persons may issue electronic money as their business activity:	mohou pouze tyto osoby:	introductory sentence of Act 284/2009 conform to Article 1(1), introductory wording of the Directive.
Art. 1(1)(a)	(a) credit institutions as defined in point 1 of Article 4 of Directive 2006/48/EC including, in accordance with national law, a branch thereof within the meaning of point 3 of Article 4 of that Directive, where such a branch is located within the Community and its head office is located outside the Community, in accordance with Article 38 of that Directive;	a) úvěrové instituce ve smyslu čl. 4 bodu 1 směrnice 2006/48/ES, včetně, v souladu s vnitrostátním právem, poboček, ve smyslu čl. 4 bodu 3 uvedené směrnice, úvěrových institucí s ústředím mimo Společenství, které se nacházejí ve Společenství v souladu s článkem 38 uvedené směrnice;	Act 284/2009, S. 6(a) to (c) a) banks, under the conditions laid down by the law governing the activities of banks, b) foreign banks and foreign financial institutions, under the conditions laid down by the law governing the activities of banks, c) savings and credit cooperatives, under the conditions laid down by the law governing the activities of savings and credit cooperatives, Act 284/2009, S. 2(2)(a) and (i) (2) For the purposes of this act the following definitions shall further apply a) Member State:: a Member State of the European Union or other	Act 284/2009, S. 6(a) to (c) a) banks, under the conditions laid down by the law governing the activities of banks, b) zahraniční banky a zahraniční finanční instituce za podmínek stanovených zákonem upravujícím činnost bank, c) spořitelní a úvěrní družstva za podmínek stanovených zákonem upravujícím činnost spořitelních a úvěrních družstev, Zákon č. 284/2009 Sb., § 2 odst. 2 písm. a) a i) (2) Pro účely tohoto zákona se dále rozumí a) členským státem stát Evropské unie nebo jiný smluvní stát Dohody o Evropském hospodářském prostoru, i) pobočkou	Zákon č. 284/2009 Sb., § 6 písm. a) až c) a) banky za podmínek stanovených zákonem upravujícím činnost bank, b) zahraniční banky a zahraniční finanční instituce za podmínek stanovených zákonem upravujícím činnost bank, c) spořitelní a úvěrní družstva za podmínek stanovených zákonem upravujícím činnost spořitelních a úvěrních družstev, Zákon č. 284/2009 Sb., § 2 odst. 2 písm. a) a i) (2) Pro účely tohoto zákona se dále rozumí a) členským státem stát Evropské unie nebo jiný smluvní stát Dohody o Evropském hospodářském prostoru, i) pobočkou	CONFORM Section 6(a) to (c), Section 2(2)(a) and (i) of Act 284/2009, Section 7(1) of Act 513/1991, Section 1(1) and (6) of Act 21/1992, and Section 1(2) of Act 87/1995 transpose Article 1(1)(a) of the Directive. Under the Czech law credit institutions within the meaning of Article 4(1)(a) of Directive 2006/48/EC are banks, foreign banks and foreign financial institutions and savings and credit cooperatives. Act 21/1992 specifies in Section 1(1) that a bank is a joint stock company having its registered office in the Czech Republic which receives deposits from the public and grants credits on a basis of a bank licence. These activities can be provided also by the branch of a foreign bank which is established in another Member State. If the bank is established in another country than a Member State, the branch needs the authorisation of the Czech National Bank to provide its services in the Czech Republic, as specified in Section 1(6) of Act 21/1992. This wording implies the compliance with Article 38 of Directive 2006/48/EC with regard to the branches of banks established in a Member State. A 'branch' is defined in Section 2(2)(i) of Act 284/2009 as either a branch of a corporate

Directive 2009/110/EC		National Implementing Measures	Conformity Assessment
		<p>contractual state of the Agreement on the European Economic Area,</p> <p>i) branch</p> <p>1. a branch of a corporate entity in another than a home Member State, which comprises all the premises of this entity in this Member State,</p> <p>2. a branch in the home Member State.</p> <p>Act 513/1992, S. 7(1)</p> <p>(1) A branch is a branch of a corporate entity, which is as such entered in the Commercial Register. [...]</p> <p>Act 21/1992, S. 1(1) and (6)</p> <p>(1) [...] For the purposes of this act shall be considered as banks joint stock companies having their registered office in the Czech Republic, which</p> <p>a) receive deposits from public, and</p> <p>b) grant credits,</p> <p>And which have a bank</p>	<p>1. organizační složka podniku v jiném než domovském členském státě, která zahrnuje všechny provozovny dotčené osoby v tomto státě,</p> <p>2. provozovna v domovském členském státě,</p> <p>Zákon č. 513/1991 Sb., § 7 odst. 1</p> <p>(1) Odštěpný závod je organizační složka podniku, která je jako odštěpný závod zapsána v obchodním rejstříku. [...]</p> <p>Zákon č. 21/1992 Sb., § 1 odst. 1 a 6</p> <p>(1) [...] Bankami se pro účely tohoto zákona rozumějí akciové společnosti se sídlem v České republice, které</p> <p>a) přijímají vklady od veřejnosti, a</p> <p>b) poskytují úvěry,</p> <p>a které k výkonu činností podle písmen a) a b) mají bankovní licenci (dále jen</p> <p>entity in another than a home Member State, which comprises all the premises of this entity in this Member State or a branch in the home Member State.</p> <p>The definition of branch therefore differs from that in Directive 2006/48/EC, but its content may be implied in the definition provided for in Act 284/2009. It should be observed that the Czech legislation does not provide a definition of a branch in the sense of Directive 2006/48/EC. Act 513/1991, when providing a definition for a branch in Section 7(1) only mentions that the branch has to be entered in the Commercial Register.</p> <p>Savings and credit cooperatives are regulated by Act No 87/1995 on Savings and Credit Cooperatives. Section 1(2) of this Act defines savings and credit cooperatives as cooperatives with their registered office in the Czech Republic, which carry out the following activities: receiving deposits from their members and granting credits to their members,.</p> <p>According to Section 2(2)(a) of Act 284/2009 the definition of a Member States includes the Member States of the EEA, in compliance with the Directive.</p> <p>Based on the above-mentioned observations, Section 6(a) to (c), Section 2(2)(a) and (i) of Act 284/2009, Section 7(1) of Act 513/1991, Section 1(1) and (6) of Act 21/1992, and Section 1(2) of Act 87/1995 of Act 284/2009 conform to Article 1(1)(a) of the Directive.</p>

Directive 2009/110/EC			National Implementing Measures		Conformity Assessment
			<p>licence for exercising the activities pursuant to points (a) and (b) (hereinafter referred to as 'licence' [...])</p> <p>(6) Bank activities referred to in paragraph 1(a) and (b) and in paragraph (3) may be carried out on the territory of the Czech Republic by a foreign bank through its branch (hereinafter referred to as a 'branch of a foreign bank', a foreign bank</p> <p>a) with its registered office in a Member State of the European Union or in a State which is a contractual party of the Agreement on the European Economic Area (hereinafter referred to as a 'Member State,' which enjoys the benefits of the single licence according to the European Union law (Section 5a) carries out these activities through a branch of this foreign bank (hereinafter referred to as a branch of a bank from a Member State'),</p> <p>b) with a registered office in other than Member</p>	<p>"licence") [...]</p> <p>(6) Bankovní činnosti uvedené v odstavci 1 písm. a) a b) a v odstavci 3 může vykonávat na území České republiky rovněž zahraniční banka prostřednictvím své pobočky (dále jen „pobočka zahraniční banky“); zahraniční banka</p> <p>a) se sídlem v členském státě Evropské unie nebo ve státě, který je smluvní stranou Dohody o Evropském hospodářském prostoru (dále jen „členský stát“), která požívá výhody jednotné licence podle práva Evropské unie (§ 5a), vykonává tyto činnosti prostřednictvím pobočky této zahraniční banky (dále jen „pobočka banky z členského státu“),</p> <p>b) se sídlem v jiném než členském státě vykonává tyto činnosti prostřednictvím pobočky této zahraniční banky (dále jen „pobočka banky z jiného než členského státu“), pokud jí byla udělena Českou národní bankou licence (§ 5) a</p>	

Directive 2009/110/EC			National Implementing Measures		Conformity Assessment	
				<p>State it carries out these activities through a branch of this foreign bank (hereinafter referred to as a ‘branch of a bank from other than a Member State’), if it was granted a licence by the Czech National Bank (Section 5), and only within the limits of the granted licence.</p> <p>Act 87/1995, S. 1(2)</p> <p>(2) The Czech National Bank shall grant the licence to act as a savings and credit cooperative to a cooperative with its registered office in the Czech republic to carry out the following activities:</p> <p>a) receiving deposits from its members, and</p> <p>b) granting credit to its members</p>	<p>pouze v rozsahu udělené licence.</p> <p>Zákon č. 87/1995 Sb., § 1 odst. 2</p> <p>(2) Povolení působit jako družstevní záložna (dále jen „povolení“) uděluje Česká národní banka (§ 2a) družstvu se sídlem v České republice k výkonu následujících činností</p> <p>a) přijímání vkladů od svých členů a</p> <p>b) poskytování úvěrů svým členům.</p>	
Art. 1(1)(b)	(b) electronic money institutions as defined in point 1 of Article 2 of this Directive including, in accordance with Article 8 of this Directive and national law, a branch	b) instituce elektronických peněz ve smyslu čl. 2 bodu 1 této směrnice, včetně, v souladu článkem 8 této směrnice a s vnitrostátním právem, poboček institucí	Act 284/2009, S. 6(d) to (f)	Act 284/2009, S. 6(d) to (f) d) electronic money institutions (Section 46), under the conditions laid down by the present act,	Zákon č. 284/2009 Sb., § 6 písm. d) –až f) d) instituce elektronických peněz (§ 46) za podmínek stanovených tímto zákonem,	CONFORM Section 6(d) to (f) and Section 47(2) of Act 284/2009 transpose Article 1(1)(b) of the Directive . The definition of electronic money institutions provided for Section 46 is in

Directive 2009/110/EC		National Implementing Measures	Conformity Assessment
thereof, where such a branch is located within the Community and its head office is located outside the Community;	elektronických peněz s ústředím mimo Společenství, které se nacházejí ve Společenství;	<p>e) foreign electronic money institutions, under the conditions laid down by the present act,</p> <p>f) small electronic money issuers (Section 53), under the conditions laid down by the present act,</p> <p>Act 284/2009, S. 47(2)</p> <p>(2) Paragraph (2)(b) shall not apply, if from an international treaty, which makes part of the legal order, results an obligation to enable the applicant with its registered office in a State, which is not a Member State, to issue electronic money in the Czech Republic under similar conditions as to the entities with their registered office in the Czech Republic and if the legal order of the country, where the applicant has its registered office does not prevent the efficient protection of funds against which electronic money was issued or that were entrusted to the applicant to carry out a payment transaction. For an</p>	<p>e) zahraniční instituce elektronických peněz za podmínek stanovených tímto zákonem,</p> <p>f) vydavatelé elektronických peněz malého rozsahu (§ 53) za podmínek stanovených tímto zákonem,</p> <p>Zákon č. 284/2009 Sb., § 47 odst. 2</p> <p>(2) Odstavec 1 písm. b) se nepoužije, jestliže z mezinárodní smlouvy, která je součástí právního řádu, vyplývá povinnost umožnit žadateli se sídlem ve státě, který není členským státem, vydávat v České republice elektronické peníze za obdobných podmínek jako osobám se sídlem v České republice a jestliže právní řád státu, v němž má žadatel sídlo, nebrání účinné ochraně peněžních prostředků, proti jejichž přijetí byly vydány elektronické peníze nebo které byly žadateli svěřeny k provedení platební transakce. Pro instituci elektronických peněz se</p> <p>compliance with the definition in Article 2, point 1 of the Directive. Foreign electronic money institutions are either those that are established in another Member State or those established in a country other than a Member State. Although Section 6(e) of Act 284/2009 does not contain such a distinction, the right of branches of electronic money institutions located in Community with their head office outside the EU is vested in the derogation to the principle that the Czech National Bank may grant the authorisation only to entities established in the Czech Republic.</p> <p>Thus, according to Section 47(2) of Act 284/2009, the applicant may be granted the authorisation to issue electronic money in the Czech Republic, if an obligation to issue electronic money under similar conditions as entities established in the Czech Republic arises under a treaty that is a part of the Czech legal order arises. Furthermore, if the legislation of the country, where the applicant is established, does not prevent efficient protection of the funds in exchange of which the electronic money was issued or that were entrusted to the applicant for the execution of a payment transaction. Thus, the right of foreign electronic money issuers established outside the EEA to issue electronic money in the Czech Republic is ensured, in compliance with Article 8 of the Directive which prohibits a more favourable approach to such foreign electronic money issuers.</p> <p>Small electronic money issuers according to Section 6(f) are legal persons that make use of the derogation provided for in Article 9 of</p>

Directive 2009/110/EC			National Implementing Measures			Conformity Assessment
				electronic money institution with its registered office in a State, which is not a Member State, Sections 52m and 52n shall not apply.	sídlem ve státě, který není členským státem, se § 52m a 52n nepoužijí.	the Directive. Based on the above-mentioned observations, Section 6(d) to (f) and Section 47(2) of Act 284/2009 conform to Article 1(1)(b) of the Directive.
Art. 1(1)(c)	(c) post office giro institutions which are entitled under national law to issue electronic money;	c) poštovní žirové instituce, které jsou podle vnitrostátního práva oprávněny vydávat elektronické peníze;	Act 284/2009, S. 6(a)	Act 284/2009, S. 6(a) a) banks, under the conditions laid down by the law governing the activities of banks,	Zákon č. 284/2009 Sb., § 6 písm. a) a) banky za podmínek stanovených zákonem upravujícím činnost bank,	CONFORM Act 284/2009 does not contain any reference to the post office giro institutions. However, under the Czech law post office giro institutions have in fact the status of banks (Postal Savings Bank – Poštovní spořitelna). Based on the above-mentioned observation, Section 6(a) of Act 284/2009 conforms to Article 1(1)(c) of the Directive.
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) Evropská centrální banka a národní centrální banky, pokud nejednají jako měnový orgán nebo jiný orgán veřejné moci;	Act 284/2009, S. 6(g)	Act 284/2009, S. 6(g) g) the Czech National Bank.	Zákon č. 284/2009 Sb., § 6 písm. g) g) Česká národní banka.	CONFORM Act 284/2009 mentions in Section 6(g) the Czech National Bank. Although it does not specify when not acting in its capacity as monetary authority or other public authorities, this condition can be inferred from the spirit of this Act. Based on the above-mentioned observation, Section 6(g) of Act 284/2009 conforms to Article 1(1)(d) of the Directive.
Art. 1(1)(e)	(e) Member States or their regional or local authorities when acting in their capacity as public authorities.	e) členské státy a jejich regionální a místní orgány, pokud jednají jako orgány veřejné moci.	N/A	N/A	N/A	NOT CONFORM The provision transposing Article 1(1)(e) of the Directive was not located within the Czech NIMs. Section 6 of Act 284/2009 provides an exhaustive list of entities entitled to provide issue electronic money. Member

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						States or their regional or local authorities are not mentioned in the list. Further clarifications could be inquired from the Czech Republic.
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. Hlava II této směrnice stanoví pravidla pro přístup k činnosti institucí elektronických peněz, její výkon a obezřetnostní dohled nad touto činností.	Act 284/2009, Title IV	Act 284/2009, Title IV ELECTRONIC MONEY INSTITUTIONS	Zákon č. 284/2009 Sb., Hlava IV INSTITUTE ELEKTRONICKÝCH PENĚZ	CONFORM Although Act 284/2009 does not contain a similar sentence to that of the Directive provision; nevertheless, the rules for the taking up, the pursuit and the prudential supervision of the business of electronic money institutions are laid down in Title IV of Act 284/2009, which deals with electronic money institutions and where a majority of the provisions governing them are concentrated. Based on the above-mentioned observation, Act 284/2009 conforms to Article 1(2) of the Directive.
Art. 1(3)	3. Member States may waive the application of all or part of the provisions of Title II of this Directive to the institutions referred to in Article 2 of Directive 2006/48/EC, with the exception of those referred to in the first and second indents of that Article.	3. Členské státy mohou upustit od uplatňování všech nebo části ustanovení hlavy II této směrnice na instituce uvedené v článku 2 směrnice 2006/48/ES, s výjimkou institucí uvedených v první a druhé odrážce zmíněného článku.	N/A	N/A	N/A	Article 1(3) of the Directive sets out an option. In Article 2 of Directive 2006/48/EC there are no institutions concerning the Czech Republic and therefore the Czech Republic did not exercise this option.
Art. 1(4)	4. This Directive does not apply to monetary value stored on instruments	4. Tato směrnice se nevztahuje na peněžní hodnotu uchovávanou na	Act 284/2009, S.	Act 284/2009, S. 4(2) (2) Electronic money is not a monetary value that	Zákon č. 284/2009 Sb., § 4 odst. 2 (2) Elektronickými penězi	CONFORM Section 4(2) of Act 284/2009 transposes

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	exempted as specified in Article 3(k) of Directive 2007/64/EC.	nástrojích, pro něž platí výjimka podle čl. 3 písm. k) směrnice 2007/64/ES.	4(2)	cannot be used for carrying out other payment transaction that the payment transactions referred to in Section 3(3)(c)(4) or in Section 3(3)(d)(7).	není peněžní hodnota, která nemůže být použita k provedení jiné platební transakce než platební transakce uvedené v § 3 odst. 3 písm. c) bodě 4 nebo v § 3 odst. 3 písm. d) bodě 7.	<p>Article 1(4) of the Directive.</p> <p>Section 4(2) of Act 284/2009 provides for a negative definition of electronic money and excludes monetary values that cannot be used for carrying out other payment transactions than those referred to in Section 3(3)(c)(4). This Section refers to the issuance of payment instruments that correspond to those specified in Article 3(k) of Directive 2007/64/EC.</p> <p>Based on the above-mentioned observation, Section 4(2) of Act 284/2009 conforms to Article 1(4) of the Directive.</p>
Art. 1(5)	5. This Directive does not apply to monetary value that is used to make payment transactions exempted as specified in Article 3(l) of Directive 2007/64/EC.	5. Tato směrnice se nevztahuje na peněžní hodnotu, která je použita na platební transakce, pro něž platí výjimka podle čl. 3 písm. l) směrnice 2007/64/ES.	Act 284/2009, S. 4(2)	Act 284/2009, S. 4(2) (2) Electronic money is not a monetary value that cannot be used for carrying out other payment transaction that the payment transactions referred to in Section 3(3)(c)(4) or in Section 3(3)(d)(7).	Zákon č. 284/2009 Sb., § 4 odst. 2 (2) Elektronickými penězi není peněžní hodnota, která nemůže být použita k provedení jiné platební transakce než platební transakce uvedené v § 3 odst. 3 písm. c) bodě 4 nebo v § 3 odst. 3 písm. d) bodě 7.	CONFORM Section 4(2) of Act 284/2009 transposes Article 1(5) of the Directive. Section 4(2) of Act 284/2009 provides for a negative definition of electronic money and excludes monetary values cannot be used for carrying out other payment transactions than those referred to in Section 3(3)(d)(7). This Section refers to payment transactions that correspond to that specified in Article 3(l) of Directive 2007/64/EC. Based on the above-mentioned observation, Section 4(2) conforms to Article 1(5) of the Directive.
Art. 2 intr. wording	<i>Article 2</i> Definitions For the purposes of this Directive, the following definitions shall apply:	<i>Článek 2</i> Definice Pro účely této směrnice se rozumí:	N/A	N/A	N/A	CONFORM It should be observed that the NIMs do not contain a similar introductory sentence as the Directive provision. However, this does not prevent the correct

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						transposition of Article 2 of the Directive, as it will be shown in the observations below.
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) "institucí elektronických peněz" právnická osoba, již bylo podle hlavy II uděleno povolení vydávat elektronické peníze;	Act 284/2009, S. 46(1)	Act 284/2009, S. 46(1) (1) Electronic money institution means a legal person that is entitled to issue electronic money on the basis of an authorisation to carry out the activities of the electronic money institution, granted by the Czech National Bank. (2) On the basis of the granted authorisation for the activities of the electronic money institution the electronic money institution is entitled (a) to issue electronic money, (b) to provide the payment services that concern electronic money, (c) to provide payment services that do not concern electronic money, referred to in the authorisation for the activities of the electronic money institution, (d) carry out activities	Zákon č. 284/2009 Sb., § 46 odst. 1 (1) Instituce elektronických peněz je právnická osoba, která je oprávněna vydávat elektronické peníze na základě povolení k činnosti instituce elektronických peněz, které jí udělila Česká národní banka. (2) Na základě uděleného povolení k činnosti instituce elektronických peněz je instituce elektronických peněz oprávněna a) vydávat elektronické peníze, b) poskytovat platební služby, které se týkají elektronických peněz, c) poskytovat platební služby, které se netýkají elektronických peněz, uvedené v povolení k činnosti instituce elektronických peněz, d) provádět činnosti související s činnostmi	CONFORM Section 46 of Act 284/2009 transposes Article 2, point (1) of the Directive. Section 46(1) of Act 284/2009 defines the electronic money institution as a moral person that is entitled to issue electronic money on the basis on an authorisation granted by the Czech National Bank. This definition therefore complies with that in the Directive provision, although there is no reference to Title IV of Act 284/2009, which corresponds to the content of Title II of the Directive. Under certain conditions, corresponding to those laid down in Article 6 of the Directive, as specified in Section 46(2) and (3), an electronic money institution may grant credit, however, no provision of Act 284/2009 stipulates that electronic money institution is a credit institution. This is in compliance with Recital 25 of the Directive. Based on the above-mentioned observations, Section 46 of Act 284/2009 conforms to Article 2, point (1) of the Directive.

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			<p>related to the activities referred to in points (a) to (c), including the granting of credit, and</p> <p>e) operate a payment system, with the exception of the payment system with settlement finality.</p> <p>(3) Granting of credit is an activity pursuant to paragraph 2(d), if</p> <p>(a) it is related to the provision of the payment service referred to in Section 3(1)(d), (e) or (g) and this payment service is included in the authorisation to operate as an electronic money institution,</p> <p>(b) the credit is not granted from the funds received by the electronic money institution or entrusted to the electronic money institution for the purpose of executing a payment transaction,</p> <p>c) the capital of the electronic money institution is adequate to the overall amount of credit granted, and</p> <p>d) the credit is to be paid,</p>	<p>uvedenými v písmenech a) až c), včetně poskytování úvěrů, a</p> <p>e) provozovat platební systém s výjimkou platebního systému s neodvolatelností zúčtování.</p> <p>(3) Poskytnutí úvěru je činností podle odstavce 2 písm. d), jestliže</p> <p>a) souvisí s poskytnutím platební služby uvedené v § 3 odst. 1 písm. d), e) nebo g) a tato platební služba je uvedena v povolení k činnosti instituce elektronických peněz,</p> <p>b) úvěr není poskytnut z peněžních prostředků, proti jejichž přijetí byly vydány elektronické peníze nebo které byly instituci elektronických peněz svěřeny k provedení platební transakce,</p> <p>c) kapitál instituce elektronických peněz je přiměřený celkové částce poskytnutých úvěrů a</p> <p>d) úvěr má být podle smlouvy uzavřené mezi institucí elektronických</p>	

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				according to the contract concluded between the electronic money institution and the debtor, at the latest within one year; this shall not apply if the credit is granted in the Czech Republic.	peněz a dlužníkem splacen nejpozději do jednoho roku; to neplatí v případě, že je úvěr poskytnut v České republice.	
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 accepted by a natural or legal person other than the electronic money issuer;	2) "elektronickými penězi" elektronicky, a to i magneticky, uchovávaná peněžní hodnota vyjádřená pohledávkou za vydavatelem, vydaná proti přijetí peněžních prostředků za účelem provádění platebních transakcí vymezených v čl. 4 bodě 5 směrnice 2007/64/ES a přijímaná jinou fyzickou či právnickou osobou, než je vydavatel elektronických peněz;	Act 284/2009, S. 4(1) Act 284/2009, S. 4(1)	Act 284/2009, S. 4(1) (1) Electronic money is a monetary value, which a) represents a claim on the person that issued it, b) is electronically stored; c) is issued on receipt of funds for the purpose of making payment transaction and d) is accepted by persons other than the person that issued it. Act 284/2009, S. 2(1)(a) (1) For the purposes of this act the following definitions shall apply (a) a payment transaction: placing of funds in a payment account, the withdrawal of funds from a payment account, or the	Zákon č. 284/2009 Sb., § 4 odst. 1 (1) Elektronickými penězi je peněžní hodnota, která a) představuje pohledávku vůči tomu, kdo ji vydal, b) je uchovávaná elektronicky, c) je vydávaná proti přijetí peněžních prostředků za účelem provádění platebních transakcí a d) je přijímána jinými osobami než tím, kdo ji vydal. Zákon č. 284/2009 Sb., § 2 odst. 1 písm. a) (1) Pro účely tohoto zákona se rozumí a) platební transakcí vložení peněžních prostředků na platební	CONFORM Section 4(1) and Section 2(1)(a) of Act 284/2009 transpose Article 2, point (2) of the Directive. Section 4(1) of Act 284/2009 provides for a definition of electronic money, which comprises all of the elements provided for in the Directive's definition. Section 4(1) of Act 284/2009 is more general than the Directive provision because it mentions that electronic money is a monetary value, which is electronically stored, without specifying that this includes also monetary value which is stored magnetically. However, this does not seem to hamper the conformity; and the definition is technically neutral, and wide enough as requested in recitals 7 and 8 of the Directive. 'Payment transaction,' which is mentioned in the definition, is defined in Section 2(1)(a) of Act 284/2009 as 'placing of funds in a payment account, the withdrawal of funds from a payment account, or the transfer of funds, unless it is a payment service'. This definition complies with Article 4, point 5 of Directive 2007/64/EC.

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				transfer of funds, unless it is a payment service (Section 3(3)).	účet, výběr peněžních prostředků z platebního účtu nebo převod peněžních prostředků, ledaže se nejedná o platební službu (§ 3 odst. 3),	Based on the above-mentioned observations, Section 4(1) and Section 2(1)(a) of Act 284/2009 conform to Article 2, point (2) of the Directive.
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) "vydavatelem elektronických peněz" subjekty uvedené v čl. 1 odst. 1, instituce, kterým byla udělena výjimka podle čl. 1 odst. 3, nebo právnické osoby, kterým byla udělena výjimka podle článku 9;	Act 284/2009, S. 6	<p>Act 284/2009, S. 6</p> <p>Only the following persons may issue electronic money as their business activity:</p> <p>a) banks, under the conditions laid down by the law governing the activities of banks,</p> <p>b) foreign banks and foreign financial institutions, under the conditions laid down by the law governing the activities of banks,</p> <p>c) savings and credit cooperatives, under the conditions laid down by the law governing the activities of savings and credit cooperatives,</p> <p>d) electronic money institutions (Section 46), under the conditions laid down by the present act,</p> <p>e) foreign electronic money</p>	<p>Zákon č. 284/2009 Sb., § 6</p> <p>Vydávat elektronické peníze jako podnikání mohou pouze tyto osoby:</p> <p>a) banky za podmínek stanovených zákonem upravujícím činnost bank,</p> <p>b) zahraniční banky a zahraniční finanční instituce za podmínek stanovených zákonem upravujícím činnost bank,</p> <p>c) spořitelní a úvěrní družstva za podmínek stanovených zákonem upravujícím činnost spořitelních a úvěrních družstev,</p> <p>d) instituce elektronických peněz (§ 46) za podmínek stanovených tímto zákonem,</p> <p>e) zahraniční instituce elektronických peněz za podmínek stanovených</p>	<p>PARTIALLY CONFORM</p> <p>Section 6 of Act 284/2009 transposes Article 2, point (3) of the Directive.</p> <p>Section 6 of Act 284/2009 provides for an exhaustive list of persons entitled to issue electronic money, and these include the following: banks, foreign banks and foreign financial institutions, savings and credit cooperatives, electronic money institutions, foreign electronic money institutions, and the Czech National Bank. These are the institutions referred to in Article 1(1) of the Directive; with the exception of Member States or their regional or local authorities when acting in their capacity as public authorities which were not located in the NIMs. Therefore, Article 6 is only partially conform with the Directive provision.</p> <p>The waiver under Article 1(3) of the Directive does not apply in respect of the Czech Republic.</p> <p>With regard to legal persons benefiting from a waiver under Article 9, these are referred to in Section 6 of Act 284/2009 as small electronic money issuers.</p> <p>Based on the above-mentioned observations;</p>

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				<p>institutions, under the conditions laid down by the present act,</p> <p>f) small electronic money issuers (Section 53), under the conditions laid down by the present act,</p> <p>g) the Czech National Bank.</p>	<p>tímto zákonem,</p> <p>f) vydavatelé elektronických peněz malého rozsahu (§ 53) za podmínek stanovených tímto zákonem,</p> <p>g) Česká národní banka.</p>	<p>Section 6 of Act 284/2009 partially conforms to Article 2, point (3) of the Directive.</p>
Art. 2 pt (4)	<p>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.</p>	<p>4) "průměrem elektronických peněz v oběhu" průměrná celková výše finančních závazků z elektronických peněz vydaných na konci každého kalendářního dne za předcházejících šest kalendářních měsíců, jež je vypočítána prvního kalendářního dne každého kalendářního měsíce a používána pro tento kalendářní měsíc.</p>	<p>Act 284/2009, S. 53(4)</p> <p>(4)For the purpose of this act, "average outstanding electronic money" means arithmetic average of the liabilities of the issuer resulting from the electronic money at the end of the calendar day for the last 6 calendar months.</p>	<p>Zákon č. 284/2009 Sb., § 53 odst. 4</p> <p>(4) Průměrem elektronických peněz v oběhu se pro účely tohoto zákona rozumí aritmetický průměr výše závazků vydavatele vyplývajících z elektronických peněz na konci kalendářního dne za posledních 6 kalendářních měsíců.</p>	<p>PARTIALLY CONFORM</p> <p>Section 53(4) of Act 284/2009 transposes Article 2, point (4) of the Directive.</p> <p>Section 53(4) of Act 284/2009 defines average outstanding electronic money as arithmetic average of the liabilities of the issuer resulting from the electronic money at the end of the calendar day for the last six calendar months. This definition corresponds to that in the Directive provision, although it does not specify that the liabilities are financial, however this can be inferred.</p> <p>However, the NIM does not specify that the arithmetic average of the liabilities is to be calculated on the first calendar day of each calendar month and applied for that calendar month. It is not clear from the wording of the NIM at which moment the calculation is to be done.</p> <p>Based on the above-mentioned observations, Section 53(4) of Act 284/2009 partially conforms to Article 2, point (4) of the Directive.</p>	

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Art. 3(1)	<p>TITLE II REQUIREMENTS FOR THE TAKING UP, PURSUIT AND PRUDENTIAL SUPERVISION OF THE BUSINESS OF ELECTRONIC MONEY INSTITUTIONS</p> <p><i>Article 3</i> General prudential rules</p> <p>1. Without prejudice to this Directive, Articles 5 and 10 to 15, Article 17(7) and Articles 18 to 25 of Directive 2007/64/EC shall apply to electronic money institutions <i>mutatis mutandis</i>.</p>	<p>HLAVA II POŽADAVKY NA PŘÍSTUP K ČINNOSTI INSTITUCÍ ELEKTRONICKÝCH PENĚZ, NA JEJÍ VÝKON A OBEZŘETNOSTNÍ DOHLED NAD NÍ</p> <p><i>Článek 3</i> Obecná obezřetnostní pravidla</p> <p>1. Aniž je dotčena tato směrnice, použijí se článek 5, články 10 až 15, čl. 17 odst. 7 a články 18 až 25 směrnice 2007/64/ES obdobně na instituce elektronických peněz.</p>	<p>Decree 141/2011, S. 6</p> <p>Act 284/2009, S. 47, S. 52c and S. 52n</p> <p>Act 284/2009, S. 48(1) and Act 500/2004, S. 68(1) and (2)</p> <p>Act 284/2009, S. 49(2), (3) and (4), Act 500/2004, S. 68(1) and (3) and S. 72</p> <p>Act 284/2009, S. 136</p> <p>Act 284/2009, S. 48(3)</p> <p>Act 563/1991, S. 1(2)(a) and (b) and S. 20(1), Act 284/2009, S. 52k(1), Act 93/2009, S. 15(4)(a) and S. 21(3) to (6)</p> <p>Act 284/2009, S. 52j(1) to (3)</p> <p>Act 284/2009, S. 52j(2), Act 40/1964, S. 420(2) and Act 513/1991, S. 331</p> <p>Act 284/2009, S. 47 and S. 135a and Act 6/1993, S. 9</p> <p>Act 284/2009, S. 49(3), S. 135a, S. 135b, S. 135c, S. 135d, S. 135^e, and S. 135f</p> <p>Act</p>	<p>Decree 141/2011, S. 6</p> <p>Act 284/2009, S. 47, S. 52c and S. 52n</p> <p>Act 284/2009, S. 48(1) and Act 500/2004, S. 68(1) and (2)</p> <p>Act 284/2009, S. 49(2), (3) and (4), Act 500/2004, S. 68(1) and (3) and S. 72</p> <p>Act 284/2009, S. 136</p> <p>Act 284/2009, S. 48(3)</p> <p>Act 563/1991, S. 1(2)(a) and (b) and S. 20(1), Act 284/2009, S. 52k(1), Act 93/2009, S. 15(4)(a) and S. 21(3) to (6)</p> <p>Act 284/2009, S. 52j(1) to (3)</p> <p>Act 284/2009, S. 52j(2), Act 40/1964, S. 420(2) and Act 513/1991, S. 331</p> <p>Act 284/2009, S. 47 and S. 135a and Act 6/1993, S. 9</p> <p>Act 284/2009, S. 49(3), S. 135a, S. 135b, S. 135c, S. 135d, S. 135^e, and S. 135f</p> <p>Act</p>	<p>Vyhláška č. 141/2011 Sb., § 6</p> <p>Zákon č. 284/2009 Sb., § 47, § 47c a § 47n</p> <p>Zákon č. 284/2009 Sb., § 48 odst. 1</p> <p>Zákon č. 284/2009 Sb., § 49 odst. 2, 3a 4</p> <p>Zákon č. 284/2009 Sb., § 136</p> <p>Zákon č. 284/2009 Sb., § 48 odst. 3</p> <p>Zákon č. 563/1991 Sb., § 1 odst. 2 písm. a) a b) a § 20 odst. 1, Zákon č. 284/2009 Sb., § 52k odst. 1, Zákon č. 93/2009 Sb., § 15 odst. 4 a písm. a) a § 21 odst. 3 až 6</p> <p>Zákon č. 284/2009 Sb., § 52j odst. 1 až 3</p> <p>Zákon č. 284/2009 Sb., § 52j odst. 2, Zákon č. 40/1964 Sb., § 420 odst 2 a Zákon č. 513/1991 Sb., § 331 -</p> <p>Zákon č. 284/2009 Sb., § 52l</p> <p>Zákon č. 284/2009 Sb., § 47 a § 135a a Zákon č. 6/1993 Sb., § 9</p>	<p>CONFORM</p> <p>Article 5 of Directive 2007/64/EC is transposed by Section 6 of Decree 141/2011 transposes Article 5 of Directive 2007/64/EC in a partially conform manner .</p> <p>This provision lists the documents that have to be submitted with the application for the authorisation of the activities of the electronic money institution, including the documents that have to be annexed to it. These correspond to those mentioned in Article 5 of Directive 2007/64/EC, however, with the exception of Article 5(g), the NIM does not specify that a document containing the description of the outsourcing arrangements is also part of the application. Also the provision transposing Article 5, first subparagraph, point (k) of Directive 2007/64/EC has not been located in the NIMs.</p> <p>Sections 47, 52c and 52n of Act 284/2009 transpose Article 10 of Directive 2007/64/EC in a conform manner.</p> <p>Section 48(1) of Act 284/2009 and Section 68(1) and (2) of Act 500/2004 transpose Article 11 of Directive 2007/64/EC in a conform manner.</p> <p>Section 49(2), (3) and (4) of Act 284/2009 and Section 68(1) and (3), as well as Section 72 of Act 500/2004 transpose Article 12 of Directive 2007/64/EC in a conform manner.</p> <p>Section 136 of Act 284/2009 transposes Article 13 of Directive 2007/64/EC in a</p>

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		<p>284/2009, S. 136</p> <p>Act 284/2009, S. 48(3)</p> <p>Act 563/1991, S. 1(2)(a) and (b) and S. 20(1), Act 284/2009, S. 52k(1), Act 93/2009, S. 15(4)(a) and S. 21(3) to (6)</p> <p>Act 284/2009, S. 52j(1) to (3)</p> <p>Act 284/2009, S.</p>	<p>Act 284/2009, S. 135b(1)</p> <p>Act 284/2009, S. 139, Resolution 2/1993, S. 36(2), Act 150/2002, S. 79(1)</p> <p>Act 284/2009, S. 52(1) and (2), S. 135(2), S. 135c,</p>	<p>Zákon č. 284/2009 Sb., § 49 odst. 3, § 135a, § 135b, § 135c, § 135d, § 135e, a § 135f</p> <p>Zákon č. 284/2009 Sb., § 135b odst. 1</p> <p>Zákon č. 284/2009 Sb., § 139, Usnesení č. 2/1993. čl. 36 odst. 2, Zákon č. 150/2002 Sb., § 79 odst. 1</p> <p>Zákon č. 284/2009 Sb., § 135b</p> <p>Zákon č. 284/2009 Sb., § 52, odst. 1 a 2, § 135 odst. 2, § 135c</p>	<p>conform manner.</p> <p>Section 48(3) of Act 284/2009 transposes Article 14 of Directive 2007/64/EC in a conform manner.</p> <p>Section 1(2)(a) and (b) and Section 20(1) of Act 563/1991, Section 52k(1) of Act 284/2009, and Section 15(4)(a) and Section 21(3) to (6) of Act 93/2009 transpose Article 15 of Directive 2007/64/EC in a conform manner .</p> <p>Sections 52j(1) to (3) of Act 284/2009 transpose Article 17(7) of Directive 2007/64/EC in a conform manner.</p> <p>Article 18 of Directive 207/64/EC is transposed by Section 52j(2) of Act 284/2009 and Section 420(2) of Act 40/1964 and Section 331 of Act 513/199 transpose Article 18 of Directive 2007/64/EC in a conform manner. .</p> <p>However, in relation to Article 18(2) of Directive 2007/64/EC, it should be noted that Act 284/2009 does not contain any provision dealing with Article 18(2) of the Directive. Therefore, the general provisions of Act 40/1964 and of Act 513/1991 dealing with liability shall apply</p> <p>Article 19 of Directive 2007/64/EC is transposed by Section 52i of Act 284/2009 transposes Article 19 of Directive 2007/64/EC in a conform manner.</p> <p>Section 47 and Section 135a of Act 28/2009 and Section 9 of Act 6/1993 transpose Article 20 of Directive 2007/64/EC in a conform</p>

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			<p>52j(2), Act 40/1964, S. 420(2) and Act 513/1991, S. 331</p> <p>Act 284/2009, S. 521</p> <p>Act 284/2009, S. 47 and S. 135a and Act 6/1993, S. 9</p> <p>Act 284/2009, S. 49(3), S. 135a, S. 135b, S. 135c, S. 135d,</p>	<p>manner</p> <p>Article 20(3) of the Directive does not apply to the Czech Republic as there is only one competent authority – the Czech National Bank.</p> <p>Section 49(3), Section 135a, Section 135b, Section 135c, Section 135d, Section 135e, and Section 135f of Act 284/2009 transpose Article 21 of Directive 2007/64/EC in a conform manner.</p> <p>Section 135b(1) of Act 284/2009 transposes Article 22 of Directive 2007/64/EC in a conform manner.</p> <p>Section 139 of Act 284/2009, Section 36(2) of Resolution 2/1993 and Section 79(1) of Act 150/2002 transpose Article 23 of Directive 2007/64/EC in a conform manner.</p> <p>There is no provision in Act 284/2009 transposing Article 23(1) or (2) of Directive 2007/64/EC. However, the right to contest the decisions taken by the competent authorities is enshrined in Article 36(2) of Resolution 2/1993, which is the charter of fundamental rights of the Czech Republic. This Article is implemented by Act 150/2002 containing judicial rules of administrative procedure.</p> <p>Section 135b of Act 284/2009 transposes Article 24 of Directive 2007/64/EC in a conform manner.</p> <p>Section 52(1) and (2), Section 135(2), and Section 135c of Act 284/2009 transpose Article 25 of Directive 2007/64/EC in a conform manner.</p>

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			<p>S. 135^e, and S. 135f</p> <p>Act 284/2009, S. 135b(1)</p> <p>Act 284/2009, S. 139, Resolution 2/1993, S. 36(2), Act 150/2002, S. 79(1)</p> <p>Act 284/2009, S. 135b</p> <p>Act 284/2009, S. 52(1) and (2), S. 135(2), S. 135c</p>			<p>With regard to recital 9 of the Directive, it should be observed that due to the different structure of Act 284/2009, in the majority of cases there are no cross-references to the provisions dealing with the payment services providers, but there are separate prudential rules for the electronic money issuers.</p>

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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. Instituce elektronických peněz informují příslušné orgány předem o každé podstatné změně opatření přijatých na ochranu peněžních prostředků, které obdržely výměnou za vydané elektronické peníze.	Act 284/2009, S. 52k(2)	Act 284/2009, S. 52k(2) (2) The electronic money institution shall inform the Czech National Bank sufficiently in advance of any material change in measures taken for safeguarding of funds that have been received in exchange for electronic money issued.	Zákon č. 284/2009 Sb., § 52k odst. 2 (2) Instituce elektronických peněz informuje Českou Národní banku s dostatečným předstihem o každé podstatné změně opatření týkajících se ochrany peněžních prostředků, proti jejichž přijetí byly vydány elektronické peníze.	CONFORM Section 52k(2) of Act 284/2009 literally transposes Article 3(2) of the Directive. The competent authority to be informed is the Czech National Bank, and thus the fair competition between the electronic money institutions and credit institutions is assured, as mentioned in recital 14 of the Directive. Based on the above-mentioned observation, Section 52k(2) of Act 284/2009 conforms to Article 3(2) of the Directive.
Art. 3(3) 1st subpar a.	3. Any natural or legal person who has taken a decision to acquire or dispose of, directly or indirectly, a qualifying holding within the meaning of point 11 of Article 4 of Directive 2006/48/EC in an electronic money institution, or to further increase or reduce, directly or indirectly, such qualifying holding as a result of which the proportion of the capital or of the voting rights held would reach, exceed or fall below 20 %, 30 % or 50 %, or so that the electronic money institution would become	3. Každá fyzická nebo právnická osoba, která se rozhodla nabýt nebo držet, přímo nebo nepřímo, kvalifikovanou účast ve smyslu čl. 4 bodu 11 směrnice 2006/48/ES v instituci elektronických peněz nebo tuto kvalifikovanou účast dále zvýšit nebo snížit, přímo nebo nepřímo, čímž by její podíl na kapitálu nebo na hlasovacích právech dosáhl nebo překročil hranice 20 %, 30 % nebo 50 % anebo pod ně poklesl, anebo pokud by se tím instituce elektronických peněz stala nebo přestala být její dceřinou společností,	Act 284/2009, S. 52b(1)	Act 284/2009, S. 52b(1) A person or persons acting in concert shall notify the Czech National Bank in advance of their intention a) to acquire a qualified holding in an electronic money institution, b) to dispose of a qualified holding in an electronic money institution, c) to increase the qualified holding in an electronic money institution, so that it reaches or exceeds 20 %, 30 %, or 50%, d) to reduce the qualified holding in an electronic	Zákon č. 284/2009 Sb., § 52b odst. 1 (1) Osoba nebo osoby jednající ve shodě oznámí předem České národní bance svůj záměr a) nabýt kvalifikovanou účast na instituci elektronických peněz, b) pozbyt kvalifikovanou účast na instituci elektronických peněz, c) zvýšit kvalifikovanou účast na instituci elektronických peněz tak, že dosáhne nebo překročí 20 %, 30 % nebo 50 %, d) snížit kvalifikovanou účast na instituci	CONFORM Section 52b(1), Section 66a(2) and Section 66b(1) and (2)(b) of Act 284/2009 transpose Article 3(3), first subparagraph of the Directive. Section 52b(1) of Act 284/2009 lays down the notification duty of a person or persons acting in concert. It should be observed that the term 'acting in concert' is defined in Section 66b of Act 513/1991 as the 'acting of two or more persons done with a mutual consent to acquire or delegate or exercise the voting rights in a certain entity or to dispose of with then in order to promote a mutual influence on the management of the business of this entity or on the choice of the statutory body or a majority of its members or a majority of a supervisory body of this entity or another influence of the behaviour of a certain entity'.

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or cease to be its subsidiary, shall inform the competent authorities of their intention in advance of such acquisition, disposal, increase or reduction.	informuje příslušné orgány předem o svém záměru nabýt, držet, zvýšit nebo snížit kvalifikovanou účast.	<p>money institution, so that it falls below 50 %,30 %, or 20 %,</p> <p>e) to become a person controlling an electronic money institution, or</p> <p>f) to stop controlling an electronic money institution.</p> <p>Act 513/1991, S. 66a(2)</p> <p>(2) A controlling person is a person, which actually carries out, directly or indirectly, decisive influence on the management or running of an undertaking of another person (hereinafter referred to as a 'controlled person'. If a controlling person is a company, a controlling person is a parent company and a controlled person is a subsidiary.</p> <p>Act 513/1991, S. 66b(1) and 2(b)</p> <p>(1) Acting in concert is acting of two or more persons done with a mutual consent to acquire</p>	<p>elektronických peněz tak, že klesne pod 50 %, 30 % nebo 20 %,</p> <p>e) stát se osobou ovládající instituci elektronických peněz, nebo</p> <p>f) přestat ovládat instituci elektronických peněz.</p> <p>Zákon č. 513/1991 Sb., § 66a odst. 2</p> <p>(2) Ovládající osobou je osoba, která fakticky nebo právně vykonává přímo nebo nepřímo rozhodující vliv na řízení nebo provozování podniku jiné osoby(dále jen "ovládaná osoba"). Je-li ovládající osobou společnost, jde o společnost mateřskou a společnost jí ovládaná je společností dceřinou. Nepřímým vlivem se rozumí vliv vykonávaný prostřednictvím jiné osoby či jiných osob.</p> <p>Zákon č. 513/1991 Sb., § 66b odst. 1 a odst. 2 písm. b)</p> <p>(1) Jednáním ve shodě je jednání dvou nebo více</p>	<p>Section 66b of Act 513/1991 further specifies that persons acting in concert are, among others, a controlling person and the persons controlled by it, this means a parent company and its subsidiary.</p> <p>The notification duty to the Czech National Bank arises in the same cases as those specified in the Directive provision, that means, if the person or persons have the intention to acquire, dispose or increase the qualified holding in the electronic money institution, so that it reaches or exceeds 20 %; 30 % or 50 %, or if it or they have the intention to reduce the qualified holding under the same thresholds, or the intention to become a person controlling an electronic money institution or to stop controlling the electronic money institution. With regard to the last two cases, Section 66a of Act 513/1991 specifies that in case of a company a controlling person is a parent company and a controlled person is a subsidiary.</p> <p>The definition of qualified holding is provided for in Section 2(2)(f) of Act 284/2009 and is almost identical to that in Article 4, point 11 of Directive 2006/48/EC.</p> <p>Based on the above-mentioned observation, Section 52b(1), Section 66a(2) and Section 66b(1) and (2)(b) of Act 284/2009 conform to Article 3(3), first subparagraph of the Directive.</p>

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				<p>or delegate or exercise the voting rights in a certain entity or to dispose of with then in order to promote a mutual influence on the management of the business of this entity or on the choice of the statutory body or a majority of its members or a majority of a supervisory body of this entity or another influence of the behaviour of a certain entity.</p> <p>(2) Unless a contrary is proved, the following persons are considered to be persons acting in concert pursuant to paragraph 1:</p> <p>(b) a controlling person and the person that it controls,</p>	<p>osob uskutečněné ve vzájemném srozumění s cílem nabýt nebo postoupit nebo vykonávat hlasovací práva v určité osobě nebo disponovat jimi za účelem prosazování společného vlivu na řízení nebo provozování podniku této osoby anebo volby statutárního orgánu nebo většiny jeho členů anebo většiny členů dozorčího orgánu této osoby nebo jiného ovlivnění chování určité osoby.</p> <p>(2) Není-li prokázán opak, má se za to, že osobami, jež jednájí ve shodě podle odstavce 1, jsou</p> <p>b) ovládající osoba a jí ovládané osoby,</p>	
Art. 3(3) 2nd subpar a.	The proposed acquirer shall supply to the competent authority information indicating the size of the intended holding and relevant information referred to in Article 19a(4) of Directive 2006/48/EC.	Navržený nabyvatel poskytne příslušnému orgánu informace o výši zamýšlené účasti a příslušné informace uvedené v čl. 19a odst. 4 směrnice 2006/48/ES.	Act 284/2009, S. 52b(4)	Act 284/2009, S. 52b(1) and (4) (1) A person or persons acting in concert shall notify the Czech National Bank in advance of their intention to a) acquire a qualified holding in an electronic	Zákon č. 284/2009 Sb., § 52b odst. 1 a 4 (1) Osoba nebo osoby jednající ve shodě oznámí předem České národní bance svůj záměr a) nabýt kvalifikovanou účast na instituci elektronických peněz,	CONFORM Section 52(b)(1) and (4) of Act 284/2009 and Section 7 of Decree 141/2011 transpose Article 3(3), second subparagraph of the Directive . Section 52b(4) of Act 284/2009 is more general than the Directive provision, because it does not concern only the case of acquiring the qualified holding, but all the other cases described in paragraph (1) (that is the

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		<p>money institution,</p> <p>b) to lose the qualifying holding in an electronic money institution,</p> <p>c) to increase the qualified holding in an electronic money institution,</p> <p>d) to decrease the qualifying holding in an electronic money institution in such a manner that it reaches or exceeds 20 %, 30 % or 50%,</p> <p>e) to decrease its qualified holding in an electronic money institution in such a manner that it goes under 50 %, 30 % or 30 %; or</p> <p>f) to stop controlling an electronic money institution.</p> <p>(4) The notification under paragraph 1 shall be done on a prescribed form. In the case of paragraph 1(a), (c) or (e), the notifier shall attach the documents certifying his characteristics with regard to the need to ensure sound and prudent management of the electronic money</p>	<p>b) pozbýt kvalifikovanou účast na instituci elektronických peněz,</p> <p>c) zvýšit kvalifikovanou účast na instituci elektronických peněz tak, že dosáhne nebo překročí 20 %, 30 % nebo 50 %,</p> <p>d) snížit kvalifikovanou účast na instituci elektronických peněz tak, že klesne pod 50 %, 30 % nebo 20 %,</p> <p>e) stát se osobou ovládající instituci elektronických peněz, nebo</p> <p>f) přestat ovládat instituci elektronických peněz.</p> <p>(4) Oznámení podle odstavce 1 lze podat pouze na předepsaném tiskopise. V případě oznámení podle odstavce 1 písm. a), c) nebo e) oznamovatel k tiskopisu přiloží doklady osvědčující jeho vlastnosti z hlediska potřeby zajistit řádné a obezřetné vedení instituce elektronických peněz. Vzory tiskopisů a obsahy jejich příloh stanoví prováděcí právní předpis.</p> <p>intention to dispose, increase or reduce a qualified holding, in an electronic money institutions, and the intention to become a person controlling an electronic money institution or the intention to stop controlling an electronic money institution). This provision stipulates than in the case of acquisition or increase of the qualifying holding or in the case of becoming a controlling person (that means the notification referred to in paragraph 1(a), (c) or (e)), the notifier shall attach the documents certifying his characteristics with regard to the need to ensure sound and prudent management of the electronic money institution.</p> <p>The documents to be attached are described in detail in an implementing act, which is Decree 141/2011, namely its Section 7 dealing with the notification of the intention to acquire or increase the qualified holding in an electronic money institution, According to Section 7, the acquirer shall fill in, in a specific form the specimen of which is provided in Annex 6, among other information, the amount of the intended holding to be acquired. At the same time, the acquirer must fill in a questionnaire the specimen of which is provided in Annexes 1 and 2 of Decree 141/2011, which contains, among others, detailed questions concerning the financial soundness, reputation and experience of the acquirer, in compliance with Article 19a (4) of Directive 2006/48/EC.</p> <p>Based on the above-mentioned observations, Section 52(b)(1) and (4) of Act 284/2009 and</p>

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			<p>institution. Specimen forms and the content of their annexes shall be laid down in an implementing act.</p> <p>Decree 141/2011, S. 7</p> <p>(1) The notification of the intention to acquire or increase the qualified holding in an electronic money institution shall be filed on a form a specimen of which is demonstrated in Annex No 6 to this decree. Annexes pursuant to paragraph 2 shall make part of the notification.</p> <p>(2) Annexes containing basic information on the notifier and related information of the present and future activities of the notifier are:</p> <p>a) the original of the document proving the right to undertake business activities,</p> <p>b) the original of a document proving the origin of the financial funds from which the acquisition and increase of the qualified holding will</p>	<p>Vyhláška č. 141/2011 Sb., § 7</p> <p>(1) Oznámení záměru nabýt nebo zvýšit kvalifikovanou účast na instituci elektronických peněz se podává na tiskopise, jehož vzor je uveden v příloze č. 6 k této vyhlášce. Součástí oznámení jsou přílohy podle odstavce 2.</p> <p>(2) Přílohami obsahujícími základní informace o oznamovateli a informace související se stávající a budoucí činností oznamovatele jsou</p> <p>a) originál dokladu o oprávnění k podnikání,</p> <p>b) originál dokladu o původu finančních prostředků, ze kterých je hrazeno nabytí nebo zvýšení kvalifikované účasti,</p> <p>c) finanční výkazy,</p> <p>d) informace o osobách s úzkým propojením s osobou oznamovatele,</p> <p>e) popis vztahů mezi oznamovatelem a institucí</p>	<p>Section 7 of Decree 141/2011 conform to Article 3(3), second subparagraph of the Directive.</p>

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			<p>be paid,</p> <p>c) financial statements,</p> <p>d) information on the persons with close links to the notifier,</p> <p>e) description of the relations between the notifier and the electronic money institution in which the notifier intends to acquire or increase its qualified holding, and of the relations of the notifier to the persons with a special relation to the electronic money institution, but at least to the persons that belong to the senior management or are members of the supervisory board of the electronic money institution,</p> <p>f) a list of the persons that are authorised to act on behalf of the notifier, or that are a members of a body authorised to act on behalf of the legal person where the notifier is a legal person,</p> <p>g) a list of person who, through acting in concert have, will acquire or will</p>	<p>elektronických peněz, na níž hodlá oznamovatel nabýt nebo zvýšit kvalifikovanou účast, a vztahů oznamovatele k osobám se zvláštním vztahem k instituci elektronických peněz, minimálně však k osobám, které jsou vedoucími osobami nebo členy dozorčí rady instituce elektronických peněz,</p> <p>f) seznam osob, které jsou statutárním orgánem nebo členem statutárního orgánu oznamovatele, je-li oznamovatel právnickou osobou,</p> <p>g) seznam osob, které jednáním ve shodě s oznamovatelem mají, nabudou nebo zvýší kvalifikovanou účast na instituci elektronických peněz, s údaji o těchto osobách, s uvedením výše podílu nebo jiné formy účasti na instituci elektronických peněz a skutečnosti, na jejímž základě dochází k jednání ve shodě,</p> <p>h) strategický záměr,</p> <p>i) originály dokladů o</p>	

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				<p>increase their qualified holding in an electronic money institution, with information on such persons, and mentioning the amount of the share of other form of holding in the electronic money institution and a fact on the basis of which there is acting in concert,</p> <p>h) a strategic intention,</p> <p>i) the original of the documents proving that the notifier is without criminal records, issued by a foreign State of the notifier,</p> <p>j) a questionnaire according to Annex No 2 to this decree filled in for each person pursuant to point (f), and</p> <p>k) a questionnaire pursuant to Annex No 3 to this decree filled in by the notifier.</p>	<p>bezúhonnosti vydaných cizím státem oznamovatele,</p> <p>j) dotazník podle přílohy č. 2 k této vyhlášce vyplněný za každou osobu podle písmene f) a</p> <p>k) dotazník podle přílohy č. 3 k této vyhlášce vyplněný oznamovatelem.</p>	
Art. 3(3) 3rd subpar a.	Where the influence exercised by the persons referred to in the second subparagraph is likely to operate to the detriment of the prudent and sound management of the	Jestliže je pravděpodobné, že vliv osob uvedených ve druhém pododstavci bude mít nepříznivý dopad na řádné a obezřetné řízení instituce, vyjádří příslušné orgány nesouhlas nebo	Act 284/2009, S. 52b (2) and (3)	Act 284/2009, S. 52b (2) and (3) (2) If a person or persons acting in concert that made the notification under paragraph 1(a), (c) or (e)	Zákon č. 284/2009 Sb., § 52b odst. 2 a 3 (2) Jestliže osoba nebo osoby jednající ve shodě, které učinily oznámení podle odstavce 1 písm. a),	CONFORM Section 52b(2) and (3) of Act 284/2009 transposes Article 3(3), third subparagraph of the Directive . Section 52(b)(2) and (3) of Act 284/2009 deal with a situation where the person or persons

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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.	učiní jiná vhodná opatření nezbytná k ukončení tohoto stavu. Tato opatření mohou zahrnovat soudní příkazy, sankce proti vedoucím osobám nebo pozastavení hlasovacích práv spojených s podíly držnými dotýnými společníky nebo členy.	are not credible or qualified with regard to the need to ensure sound and prudent management of the electronic money institution, the Czech National Bank shall express its opposition to the acquisition or increase of the qualified holding or with the controlling of the electronic money institution. This shall apply <i>mutatis mutandis</i> also if the notification in contradiction with paragraph 1(a), (c) or (e) has not been made. The proceeding on the expression of the opposition may be commenced in 60 working days counting from the day when the Czech National Bank received the notification under paragraph 1(a), (c) or (e) or from the day when the Czech National Bank found out that the notification was not in contraction with paragraph 1 (a), (c) or (e) made. If the Czech National Bank finds before the expiration of the time-	c) nebo e) nejsou důvěryhodné nebo způsobilé z hlediska potřeby zajistit řádné a obezřetné vedení instituce elektronických peněz, vysloví Česká národní banka nesouhlas s nabytím nebo zvýšením kvalifikované účasti nebo s ovládnutím instituce elektronických peněz. To platí obdobně i v případě, že oznámení nebylo v rozporu s odstavcem 1 písm. a), c) nebo e) učiněno. Řízení o vyslovení nesouhlasu lze zahájit do 60 pracovních dní ode dne, kdy České národní bance oznámení podle odstavce 1 písm. a), c) nebo e) došlo nebo kdy se Česká národní banka dozvěděla, že oznámení nebylo v rozporu s odstavcem 1 písm. a), c) nebo e) učiněno. Shledá-li Česká národní banka před uplynutím lhůty k zahájení řízení o vyslovení nesouhlasu, že osoba nebo osoby jednající ve shodě, které učinily oznámení podle odstavce 1 písm. a), c)	with the intention to acquire or increase the qualified holding in an electronic money institution or with the intention to become a controlling person of an electronic money institution, are not credible with regard to the need to ensure sound and prudent management of the electronic money institution as well as a situation where these persons did not make a notification of the intended acquisition or increase of the qualified holding or of the intention to become a person controlling an electronic money institution. Therefore, the scope of Section 52(b)(2) and (3) is broader than in Article 3(3), third subparagraph of the Directive. In compliance with the Directive provision, if the Czech National Bank finds that the person or persons acting in concert that made the relevant notification, are not credible or qualified with regard to the need to ensure sound and prudent management of the electronic money institution, it shall express its opposition to the acquisition or increase of the qualified holding or with the controlling of the electronic money institution. Section 52b(2) of Act 284/209 further contains the details on the procedure on expression the opposition. According to Section 52b(3) of Act 284/2009, in such a scenario, the Czech National Bank may prohibit the exercise of voting rights linked to the holding in the electronic money institution to the extent in which the holding was acquired or increased.

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				<p>limit for the commencement of the proceedings on the expression of the opposition, that a person or persons acting in concert, that made the notification under paragraph 1(a), (c) or (e) are credible or that they are reliable with regard to the need to ensure sound and prudent management of the electronic money institution, it shall notify them of this fact.</p> <p>(3) If the Czech National Bank expresses the opposition under paragraph 2, the persons that made the notification under paragraph 1 (a), (c) or (e) or that have not made the notification in contradiction with paragraph 1 (a), (c) or (e), cannot exercise the voting rights linked to the holding in the electronic money institution to the extent in which the holding was acquired or increased.</p>	<p>nebo e) jsou důvěryhodné nebo způsobilé z hlediska potřeby zajistit řádné a obezřetné vedení instituce elektronických peněz, tuto skutečnost jim sdělí.</p> <p>(3) Jestliže Česká národní banka vysloví nesouhlas podle odstavce 2, osoba, která učinila oznámení podle odstavce 1 písm. a), c) nebo e) nebo která oznámení v rozporu s odstavcem 1 písm. a), c) nebo e) neučinila, nesmí vykonávat hlasovací práva spojená s účastí na instituci elektronických peněz v rozsahu, v němž byla účast nabyta nebo zvýšena.</p>	Based on the above-mentioned observation, Section 52(b) and (3) of Act 284/2009 conforms to Article 3(3), third subparagraph of the Directive.
Art. 3(3) 4th subpar	Similar measures shall apply to natural or legal persons who fail to	Podobná opatření se uplatní na fyzické nebo právnické osoby, které	Act 284/2009, S.	Act 284/2009, S. 52b (2) and (3) (2) If a person or persons	Zákon č. 284/2009 Sb., § 52b odst. 2 a 3 (2) Jestliže osoba nebo	CONFORM Section 52b(2) and (3) of Act 284/2009 transpose Article 3(3), fourth subparagraph of

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a.	comply with the obligation to provide prior information, as laid down in this paragraph.	nesplní povinnost předem poskytnout informace stanovené v tomto odstavci.	52b (2) and (3)	<p>acting in concert that made the notification under paragraph 1(a), (c) or (e) are not credible or qualified with regard to the need to ensure sound and prudent management of the electronic money institution, the Czech National Bank shall express its opposition to the acquisition or increase of the qualified holding or with the control of the electronic money institution. This shall apply <i>mutatis mutandis</i> also if the notification in contradiction with paragraph 1(a), (c) or (e) has not been made. The proceeding on the expression of the opposition may be commenced in 60 working days counting from the day when the Czech national Bank received the notification under paragraph 1(a), (c) or (e) or from the day when the Czech National Bank found out that the notification was not in contraction with paragraph</p>	<p>osoby jednající ve shodě, které učinily oznámení podle odstavce 1 písm. a), c) nebo e) nejsou důvěryhodné nebo způsobilé z hlediska potřeby zajistit řádné a obezřetné vedení instituce elektronických peněz, vysloví Česká národní banka nesouhlas s nabytím nebo zvýšením kvalifikované účasti nebo s ovládnutím instituce elektronických peněz. To platí obdobně i v případě, že oznámení nebylo v rozporu s odstavcem 1 písm. a), c) nebo e) učiněno. Řízení o vyslovení nesouhlasu lze zahájit do 60 pracovních dní ode dne, kdy České národní bance oznámení podle odstavce 1 písm. a), c) nebo e) došlo nebo kdy se Česká národní banka dozvěděla, že oznámení nebylo v rozporu s odstavcem 1 písm. a), c) nebo e) učiněno.</p> <p>Shledá-li Česká národní banka před uplynutím lhůty k zahájení řízení o vyslovení nesouhlasu, že osoba nebo osoby</p>	<p>the Directive.</p> <p>Section 52(b)(2) and (3) deal with a situation where the person or persons with the intention to acquire or increase the qualified holding in an electronic money institution or with the intention to become a controlling person of an electronic money institution, did not make a notification of the intended acquisition or increase of the qualified holding or of the intention to become a person controlling an electronic money institution. Although this is not explicitly mentioned in Section 52b(2) and (3), both natural and legal persons are concerned by this provision.</p> <p>According to Section 52b(3) of Act 284/2009, the measure that the Czech National Bank may impose in this case is the prohibition to exercise the voting rights linked to the holding in the electronic money institution to the extent in which the holding was acquired or increased.</p> <p>Based on the above-mentioned observation, Section 52(b) and (3) of Act 284/2009 conforms to Article 3(3), fourth subparagraph of the Directive.</p>

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			<p>1 (a), (c) or (e) made.</p> <p>If the Czech National Bank finds before the expiration of the time-limit for the commencement of the proceedings on the expression of the opposition, that a person or persons acting in concert, that made the notification under paragraph 1(a), (c) or (e) are credible or that they are reliable with regard to the need to ensure sound and prudent management of the electronic money institution, it shall notify them of this fact.</p> <p>(3) If the Czech National Bank expresses the opposition under paragraph 2, the persons that made the notification under paragraph 1 (a), (c) or (e) or that have not made the notification in contradiction with paragraph 1 (a), (c) or (e), cannot exercise the voting rights linked to the holding in the electronic money institution to the extent in which the holding was</p>	<p>jednající ve shodě, které učinily oznámení podle odstavce 1 písm. a), c) nebo e) jsou důvěryhodné nebo způsobilé z hlediska potřeby zajistit řádné a obezřetné vedení instituce elektronických peněz, tuto skutečnost jim sdělí.</p> <p>(3) Jestliže Česká národní banka vysloví nesouhlas podle odstavce 2, osoba, která učinila oznámení podle odstavce 1 písm. a), c) nebo e) nebo která oznámení v rozporu s odstavcem 1 písm. a), c) nebo e) neučinila, nesmí vykonávat hlasovací práva spojená s účastí na instituci elektronických peněz v rozsahu, v němž byla účast nabyta nebo zvýšena.</p>	

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				acquired or increased.		
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 those votes.	Pokud je podíl nabyt přes nesouhlas příslušných orgánů, přijmou tyto orgány bez ohledu na jakékoli další přijaté sankce opatření, kterými se buď pozastaví výkon hlasovacích práv nabyvatele, nebo zajistí neplatnost odevzdaných hlasů nebo možnost jejich zrušení.	Act 284/2009, S. 52b (3)	Act 284/2009, S. 52b (2) and (3) (3) If the Czech National Bank expresses the opposition under paragraph 2, the persons that made the notification under paragraph 1 (a), (c) or (e) or that have not made the notification in contradiction with paragraph 1 (a), (c) or (e), cannot exercise the voting rights linked to the holding in the electronic money institution to the extent in which the holding was acquired or increased.	Zákon č. 284/2009 Sb., § 52b odst. 3 (3) Jestliže Česká národní banka vysloví nesouhlas podle odstavce 2, osoba, která učinila oznámení podle odstavce 1 písm. a), c) nebo e) nebo která oznámení v rozporu s odstavcem 1 písm. a), c) nebo e) neučinila, nesmí vykonávat hlasovací práva spojená s účastí na instituci elektronických peněz v rozsahu, v němž byla účast nabyta nebo zvýšena.	CONFORM Section 52b(3) of Act 284/2009 transposes Article 3(3), fifth subparagraph of the Directive. Although the wording of Section 52b(3) of Act 284/2009 is more general, it results from the wording ‘to the extent in which the holding was acquired or increased’, that the measure consisting in the prohibition of the exercise of voting rights applies here, because, although the Czech National Bank expressed its opposition, the person that made the notification of acquisition or of increase of qualified holding in the electronic money institution or of controlling the electronic money institution, already acquired or increased the qualifying holding. Therefore, the scope of Section 52b(3) is broader because it applies not only the acquisition, but also to the increase of a qualified holding, but this does not seem to affect conformity. Based on the above-mentioned observation, Section 52(b)(3) of Act 284/2009 conforms to Article 3(3), fifth subparagraph of the Directive.
Art. 3(3) 6th subpar a.	The Member States may waive or allow their competent authorities to waive the application of all or part of the obligations pursuant to	Členské státy mohou osvobodit instituce elektronických peněz, které vykonávají jednu nebo více činností uvedených v čl. 6 odst. 1	N/A	N/A	N/A	Article 3(3), sixth subparagraph of the Directive sets out an option. Owing to this option, the Czech Republic does not seem to have chosen to apply it.

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	this paragraph in respect of electronic money institutions that carry out one or more of the activities listed in Article 6(1)(e).	písm. e), od některých nebo všech povinností podle tohoto odstavce nebo umožnit svým příslušným orgánům, aby je od nich osvobodily.				
Art. 3(4)	4. Member States shall allow electronic money institutions to distribute and redeem electronic money through natural or legal persons which act on their behalf. Where the electronic money institution wishes to distribute electronic money in another Member State by engaging such a natural or legal person, it shall follow the procedure set out in Article 25 of Directive 2007/64/EC.	4. Členské státy umožní institucím elektronických peněz, aby distribuovaly elektronické peníze a prováděly jejich zpětnou výměnu prostřednictvím fyzických nebo právnických osob, které jednájí jejich jménem. Přeje-li si instituce elektronických peněz distribuovat elektronické peníze v jiném členském státě a využít přitom takovéto fyzické nebo právnické osoby, postupuje podle článku 25 směrnice 2007/64/ES.	Act 284/2009, S. 52h(1), Act 284/2009, S. 52i(1)	Act 284/2009, S. 52h(1) (1) The electronic money institution may not issue electronic money through a person that during the issuance of electronic money acts on its behalf; this shall apply neither to the employee or the proxy of the electronic money institution. Act 284/2009, S. 52i(1) (1) For the distribution of electronic money or for the provision of payment services by the electronic money institution through a commercial agent in a host Member State Section 52m shall apply <i>mutatis mutandis</i> . Before the inscription of the commercial agent in the registry of electronic money institution the Czech national Bank shall ask the supervisory body	Zákon č. 284/2009 Sb., § 52h odst. 1 (1) Instituce elektronických peněz nesmí vydávat elektronické peníze prostřednictvím osoby, která při vydávání elektronických peněz jedná jejím jménem; to neplatí pro zaměstnance ani prokuristu instituce elektronických peněz. Zákon č. 284/2009 sb., § 52i odst. 1 (1) Při distribuci elektronických peněz nebo poskytování platebních služeb institucí elektronických peněz prostřednictvím obchodního zástupce v hostitelském členském státě se použije obdobně § 52m. Před zápisem obchodního zástupce do seznamu institucí	PARTIALLY CONFORM Section 52h(1) and Section 52i(1) of Act 284/2009 transpose Article 3(4) of the Directive. Although Section 52h(1) of Act 284/2009 prohibits the issuance of electronic money through a person that acts on its behalf, it provides for the exception with regard to its employees and proxies, which is in compliance with Article 3(4), first sentence of the Directive. However, Section 52(h)(1) of Act 284/2009 deals only with issuing electronic money and does not mention redeeming electronic money, which might hamper its conformity. According to Section 52i(1) of Act 284/2009, Section 52m of this Act, the content of which corresponds to Article 25 of Directive 2007/64/EC, shall apply <i>mutatis mutandis</i> in two situations: first, in relation to the distribution of electronic money in a host Member State, and secondly, in relation to the provision of payment services by the by the electronic money institution through a commercial agent, as mentioned in recital 10 of the Directive. Therefore, Article 3(4), second sentence of the Directive is complied with.

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				of the host Member State for its opinion and it shall take into account such opinion.	elektronických peněz požádá Česká národní banka o stanovisko orgán dohledu hostitelského členského státu a k tomuto stanovisku přihlédne.	Based on the above-mentioned observations, Section 52(h)(1) and Section 52i(1) of Act 284/2009 only partially conforms to Article 3(4) of the Directive.
Art. 3(5)	5. Notwithstanding paragraph 4, electronic money institutions shall not issue electronic money through agents. Electronic money institutions shall be allowed to provide payment services referred to in Article 6(1)(a) through agents only if the conditions in Article 17 of Directive 2007/64/EC are met.	5. Bez ohledu na odstavec 4 nesmějí instituce elektronických peněz vydávat elektronické peníze prostřednictvím zástupců. Instituce elektronických peněz mohou poskytovat platební služby uvedené v čl. 6 odst. 1 písm. a) prostřednictvím zástupců pouze tehdy, pokud jsou splněny podmínky stanovené v článku 17 směrnice 2007/64/ES.	Act 284/2009, S. 52h(1) to (2), Act 284/2009, S. 136(1)(c) and (2), second sentence	Act 284/2009, S. 52h(1) to (3) (1) The electronic money institution may not issue electronic money through a person that during the issuance of electronic money acts on its behalf; this shall apply neither to the employee or the proxy of the electronic money institution. (2) The electronic money institution may provide payment services through a commercial agent, if (a) the management and control system is appropriate with regard to the compliance with the obligations related to the fight against money laundering and financing of terrorism and (a) the commercial agent that is a natural person and a superior of the commercial agent that is a	Zákon č. 284/2009 Sb., § 52h odst. 1 až 3 (1) Instituce elektronických peněz nesmí vydávat elektronické peníze prostřednictvím osoby, která při vydávání elektronických peněz jedná jejím jménem; to neplatí pro zaměstnance ani prokuristu instituce elektronických peněz. (2) Instituce elektronických peněz může poskytovat platební služby prostřednictvím obchodního zástupce, jestliže a) řídicí a kontrolní systém obchodního zástupce je vhodný z hlediska dodržování povinností souvisejících s bojem proti legalizaci výnosů z trestné činnosti a financování terorismu a b) obchodní zástupce,	CONFORM Sections 52h(1) to (3) , 136(1)(c) and 136(2), second sentence of Act 284/2009 transpose Article 3(5) of the Directive. Section 52h(1) of Act 284/2009 transposes the first sentence of the Directive provision and contains a general prohibition for issuing electronic money by a person than acts on behalf of an electronic money institution, with the exception of its employees and proxies. This means that commercial agents may not issue electronic money on behalf of an electronic money institution. Section 52(h)(2) of Act 284/2009 lays down two conditions, under which commercial agents may provide payment services. First, the management and control system must be appropriate with regard to the compliance with the obligations related to the fight against money laundering and financing of terrorism, and second, the commercial agent that is a natural person and a superior of the commercial agent that is a legal person, must be credible, professionally qualified and they have sufficient experience with regard to a sound and prudential provision of payment services. The Czech National Bank has to be informed of the intention of the electronic

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		<p>legal person, are credible, professionally qualified and they have sufficient experience with regard to a sound and prudential provision of payment services.</p> <p>(3) The electronic money institution that intends to provide payment services through a commercial agent shall notify the Czech National Bank of it.</p> <p>Act 284/2009, S. 136(1)(c) and (2), second sentence</p> <p>(1) The Czech National Bank shall keep</p> <p>(c) the register of electronic money institutions,</p> <p>(2) [...] In the registers referred to in paragraph (1)(a) to (d) shall be entered also information on the commercial agents through whom the registered person is entitled to provide payment services.</p>	<p>money institution to provide payment services through a commercial agent. Section 52h of Act 284/2009 is therefore in line with Article 17 of Directive 2007/64/EC as well as with recital 10 of the Directive.</p> <p>According to Section 136(1)(c) and (2) of Act 284/2009, the commercial agents through whom the electronic money institution provides payment services have to be entered in the register of electronic money institution, as required in Article 17 of Directive 2007/64/EC.</p> <p>It should be observed that payment services are defined in Section 3(1) of Act 284/2009 and its content corresponds to the payment services referred to in Article 6(1)(a) of the Directive.</p> <p>Based on the above-mentioned observations, Section 52h(1) to (3) , Section 136(1)(c) , and Section 136(2), second sentence of Act 284/2009 conform to Article 3(5) of the Directive.</p> <p>který je fyzickou osobou, a vedoucí osoby obchodního zástupce, který je právnickou osobou, jsou důvěryhodné, odborně způsobilé a mají dostatečné zkušenosti z hlediska řádného a obezřetného poskytování platebních služeb.</p> <p>(3) Instituce elektronických peněz, která má v úmyslu poskytovat platební služby prostřednictvím obchodního zástupce, to oznámí České národní bance.</p> <p>Zákon č. 284/2009 Sb., § 136 odst. 1 písm. c) a odst. 2 věta druhá</p> <p>(1) Česká národní banka vede</p> <p>c) seznam institucí elektronických peněz,</p> <p>(2) [...] Do seznamů a registrů podle odstavce 1 písm. a) až d) se zapisují také údaje o obchodních zástupcích, jejichž prostřednictvím je zapsaná osoba oprávněna poskytovat platební</p>

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				služby.	
Art. 4	<p><i>Article 4</i> Initial capital</p> <p>Member States shall require electronic money institutions to hold, at the time of authorisation, initial capital, comprised of the items set out in Article 57(a) and (b) of Directive 2006/48/EC, of not less than EUR 350 000.</p>	<p><i>Článek 4</i> Počáteční kapitál</p> <p>Členské státy vyžadují, aby počáteční kapitál institucí elektronických peněz složený z položek stanovených v čl. 57 písm. a) a b) směrnice 2006/48/ES činil při udělení povolení nejméně 350 000 EUR.</p>	<p>Act 284/2009, S. 52a(1)</p> <p>(1) The initial capital of the electronic money institution shall be at least the amount corresponding to EUR 350 000.</p> <p>Act 284/2009, S. 2(2)(e)</p> <p>(2) For the purposes of this act the following definitions shall further apply:</p> <p>e) initial capital: the sum of</p> <ol style="list-style-type: none"> 1. paid capital, 2. paid share premium, 3. obligatory reserve funds, 4. other funds created from the allocation of income that can be used exclusively for the payment of loss shown in the financial statements, 5. the difference between the non-allocated income from the previous terms, shown in the financial statement audited by the 	<p>Zákon č. 284/2009 Sb., § 52a odst. 1</p> <p>(1) Počáteční kapitál instituce elektronických peněz musí činit alespoň částku odpovídající 350 000 eur.</p> <p>Zákon č. 284/2009 Sb., § 2 odst. 2 písm. e)</p> <p>(2) Pro účely tohoto zákona se dále rozumí</p> <p>e) počátečním kapitálem součet</p> <ol style="list-style-type: none"> 1. splaceného základního kapitálu, 2. splaceného emisního ážia, 3. povinných rezervních fondů, 4. ostatních fondů vytvořených z rozdělení zisku, které lze použít výhradně k úhradě ztráty uvedené v účetní závěrce, 5. rozdílu nerozděleného zisku z předchozích 	<p>CONFORM</p> <p>Section 52a(1) and Section 2(2)(e) of Act 284/2009 transposes Article 4 of the Directive.</p> <p>According to Section 52a(1) of Act 284/2009 the initial capital of the electronic money institution shall be at least the amount corresponding to EUR 350 000. Therefore, together with Section 52a(2) of Act 284/2009, Section 52a(1) is in line with the first sentence of recital 11, laying down both the minimum amount of the initial capital and the obligation to maintain a capital adequacy.</p> <p>Initial capital is defined, in line with Article 57(a) and (b) of Directive 2006/48/EC, in Section 2(2)(i) of Act 284/2009 as a sum of:</p> <ul style="list-style-type: none"> - paid capital, - paid share premium, - obligatory reserve funds, - other funds created from the allocation of income that can be used exclusively for the payment of loss shown in the financial statements, - the difference between the non-allocated income from the previous terms, shown in the financial statement audited by the auditor and approved by the competent organ of the legal person, that the competent organ of the legal person did not decide about, and between the non-paid loss from the previous terms

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				auditor and approved by the competent organ of the legal person, that the competent organ of the legal person did not decide about, and between the non-paid loss from the previous terms including the loss from the previous accounting terms.	období, uvedeného v účetní závěrce ověřené auditorem a schválené příslušným orgánem právnické osoby, o jehož rozdělení příslušný orgán právnické osoby nerozhodl, a neuhrazené ztráty z předchozích období včetně ztráty za minulá účetní období,	including the loss from the previous accounting terms. Based on the above-mentioned observations, Section 52a(1) and Section 2(2)(e) of Act 284/2009 conforms to Article 4 of the Directive.
Art. 5(1)	Article 5 Own funds 1. The electronic money institution's own funds, as set out in Articles 57 to 61, 63, 64 and 66 of Directive 2006/48/EC shall not fall below the amount required under paragraphs 2 to 5 of this Article or under Article 4 of this Directive, whichever the higher.	Článek 5 Kapitál 1. Kapitál instituce elektronických peněz ve smyslu článků 57 až 61, 63, 64 a 66 směrnice 2006/48/ES nesmí klesnout pod vyšší z částek požadovaných podle odstavců 2 až 5 tohoto článku nebo podle článku 4 této směrnice.	Act 284/2009, S. 52a(2) (2) The electronic money institution shall regularly maintain the capital adequacy. The capital adequacy of the electronic money institution may not fall below the amount of the initial capital set out in paragraph 1. Act 284/2009, S. 17(1) (1) The payment institution shall regularly keep the capital at least equivalent to the capital requirement to cover risks. [...] Act 284/2009, S. 1 The present act transposes	Act 284/2009, S. 52a(2) (2) The electronic money institution shall regularly maintain the capital adequacy. The capital adequacy of the electronic money institution may not fall below the amount of the initial capital set out in paragraph 1. Act 284/2009, S. 17(1) (1) The payment institution shall regularly keep the capital at least equivalent to the capital requirement to cover risks. [...] Act 284/2009, S. 1 The present act transposes	Zákon č. 284/2009 Sb., § 52a odst. 2 (2) Instituce elektronických peněz průběžně udržuje kapitálovou přiměřenost. Kapitál instituce elektronických peněz zároveň nesmí klesnout pod minimální výši počátečního kapitálu stanovenou v odstavci 1. Zákon č. 284/2009 Sb., § 17 odst. 1 (1) Platební instituce průběžně udržuje kapitál alespoň ve výši odpovídající kapitálovému požadavku ke krytí rizik (dále jen „kapitálová přiměřenost“). [...]	CONFORM Section 52a(2), Section 17(1) and footnote to Section 1 of Act 284/2009 transpose Article 5(1) of the Directive. It should be observed that throughout the NIM, the term “own funds” is translated as “capital”. Section 52a(2) stipulates that the electronic money institution shall regularly maintain the capital adequacy, which may not fall under the amount of the initial capital as set out in paragraph 1. The term “capital adequacy” is defined in Section 17(1) of Act 284/2009 as “capital at an amount at least equivalent to the capital requirement to cover risks”. There is no definition of the capital corresponding to Articles 57 to 61, 63 and 64 of Directive 2006/48/EC. However according to the footnote to Section 1 of Act 284/2009 defining its scope of application this Act transposes Directive 98/26/EC, Directive 2007/64/EC, Directive 2009/44/EC, and Directive 2009/110/EC, and Directive

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			<p>the relevant legislation of the European Union¹⁾</p> <p>1) Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems, as amended by Directive 2009/44/EC of the European Parliament and of the Council.</p> <p>Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, as amended by Directive 2009/44/EC of the European Parliament and of the Council.</p> <p>Directive 2009/44/EC of the European Parliament and of the Council of 6 May 2009 amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on</p>	<p>Zákon č. 284/2009 Sb., § 1</p> <p>Tento zákon zpracovává příslušné předpisy Evropské unie¹⁾</p> <p>1) Směrnice Evropského parlamentu a Rady 98/26/ES ze dne 19. května 1998 o neodvolatelnosti zúčtování v platebních systémech a v systémech vypořádání obchodů s cennými papíry, ve znění směrnice Evropského parlamentu a Rady 2009/44/ES.</p> <p>Směrnice Evropského parlamentu a Rady 2007/64/ES ze dne 13. listopadu 2007 o platebních službách na vnitřním trhu, kterou se mění směrnice 97/7/ES, 2002/65/ES, 2005/60/ES a 2006/48/ES a zrušuje směrnice 97/5/ES, ve znění směrnice Evropského parlamentu a Rady 2009/111/ES.</p> <p>Směrnice Evropského parlamentu a Rady 2009/44/ES ze dne 6. května 2009, kterou se</p>	<p>2010/78/EC. Therefore it can be assumed that the definition is in line with the mentioned Articles of Directive 2006/48/EC, although there is no provision directly stating this.</p> <p>The minimum amount of the initial capital provided for in Article 52a(1) corresponds to Article 4 of the Directive. The methods for counting the amount of the capital adequacy are specified in Section 39 and following and Section 46 of Decree 141/2011 and correspond to Article 5(2) to (5) of the Directive. Namely, Section 46 of Decree 141/2011 lays down an additional specific method for calculation of the capital adequacy with regard to the activity of issuing electronic money, as mentioned in recital 11.</p> <p>Based on the above-mentioned observations, Section 52a(2), Section 17(1) and footnote to Section 1 of Act 284/2009 conform to Article 5(21) of the Directive.</p>

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				<p>financial collateral arrangements as regards linked systems and credit claims.</p> <p>Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC.</p>	<p>mění směrnice 98/26/ES o neodvolatelnosti zúčtování v platebních systémech a v systémech vypořádání obchodů s cennými papíry a směrnice 2002/47/ES o dohodách o finančním zajištění, pokud jde o propojené systémy a pohledávky z úvěru.</p> <p>Směrnice Evropského parlamentu a Rady 2009/110/ES ze dne 16. září 2009 o přístupu k činnosti institucí elektronických peněz, o jejím výkonu a o obezřetnostním dohledu nad touto činností, o změně směrnic 2005/60/ES a 2006/48/ES a o zrušení směrnice 2000/46/ES.</p>	
Art. 5(2) 1st subpar a.	2. In regard to the activities referred to in Article 6(1)(a) that are not linked to the issuance of electronic money, the own funds requirements of an electronic money institution shall be calculated in accordance with one of the three methods (A, B or C) set out in Article 8(1) and (2)	2. Ve vztahu k činnostem uvedeným v čl. 6 odst. 1 písm. a), které nejsou spojeny s vydáváním elektronických peněz, se požadavky na kapitál instituce elektronických peněz vypočítají jednou ze tří metod (A, B nebo C) stanovených v čl. 8 odst. 1 a 2 směrnice 2007/64/ES. Vhodnou metodu určí	Act 284/2009, S. 52a (3) and (5)	Act 284/2009, S. 52a (3) and (5) (3) In the application for the authorisation of the activities of the electronic money institution the applicant shall indicate the method that the electronic money institution will use for the calculation of the capital requirement to cover the risks related to	Zákon č. 284/2009 Sb., § 52a odst. 3 and 5 (3) V žádosti o povolení k činnosti instituce elektronických peněz žadatel uvede přístup, který bude instituce elektronických peněz uplatňovat při výpočtu kapitálového požadavku ke krytí rizik spojených s poskytováním platebních	CONFORM Section 52a(3) of Act 284/2009 transposes Article 5(2), first subparagraph of the Directive . Section 52a(3) of Act 284/2009 establishes the procedure for determining the method of calculation of the capital requirement to cover the risks related to the provision of payment services that do not concern electronic money. Section 52a(5) is a legal basis for

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of Directive 2007/64/EC. The appropriate method shall be determined by the competent authorities in accordance with national legislation.	příslušné orgány v souladu s vnitrostátními právními předpisy.	<p>the provision of payment services that do not concern electronic money. In the decision on the authorisation of the activities of the electronic money institution the Czech National Bank shall approve this method, if it is appropriate with regard to the due provision of payment services, that do not concern electronic money, or with regard to the situation of the applicant, otherwise it shall set out another method. The Czech National Bank may later on change the method, if the situation or the conditions under which the method was chosen have changed.</p> <p>(5) The implementing act shall set out the rules for the calculation for the amount of the capital of the electronic money institution, as well as the rules for the calculation of the capital adequacy, including the methods that the electronic money institution may use for the calculation of the capital</p>	<p>služeb, které se netýkají elektronických peněz. Česká národní banka v rozhodnutí o povolení k činnosti instituce elektronických peněz tento přístup schválí, jestliže je vhodný z hlediska řádného poskytování platebních služeb, které se netýkají elektronických peněz, nebo vzhledem k poměrům žadatele; jinak stanoví jiný vhodný přístup. Stanovený přístup může Česká národní banka později změnit, jestliže se změni okolnosti nebo podmínky, za nichž byl přístup stanoven.</p> <p>(5) Prováděcí právní předpis stanoví pravidla pro výpočet výše kapitálu instituce elektronických peněz, jakož i pravidla pro výpočet kapitálové přiměřenosti, včetně jednotlivých přístupů, které instituce elektronických peněz může uplatňovat při výpočtu kapitálového požadavku ke krytí rizik spojených s poskytováním platebních služeb, které se netýkají elektronických</p>	<p>Decree 141/2011, which contains, among others, the rules for the calculation of the capital requirement of the electronic money institutions. It lays down three methods for the calculation of the capital requirement, as mentioned in recital 11 of the Directive. The three methods (A, B, and C) are set out in Sections 40 to 42 of Decree 141/2011 and correspond to those set out in Article 8(1) and (2) of Directive 2007/64/EC.</p> <p>It should be observed that although it is the applicant for the authorisation of the activities of the electronic money institution that indicates one of the three methods in the application for the authorisation, it is up to the Czech National Bank to approve the chosen method, if it is appropriate with regard to the due provision of payment services, that do not concern electronic money, or with regard to the situation of the applicant. If the chosen method is not appropriate, the Czech National Bank shall set out another method.</p> <p>The Czech National Bank may also change the method later on, if the situation or the conditions under which the method was chosen have changed.</p> <p>Based on the above-mentioned observations, Section 52a(3) and (5) of Act 284/2009 conform to Article 5(2), first subparagraph of the Directive.</p>

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				requirement to cover the risks related to the provision of payment services that do not concern electronic money.	peněž.	
Art. 5(2) 2nd subpar a.	In regard to the activity of issuing electronic money, the own funds requirements of an electronic money institution shall be calculated in accordance with Method D as set out in paragraph 3.	Ve vztahu k činnosti vydávání elektronických peněz se požadavky na kapitál instituce elektronických peněz vypočítají metodou D stanovenou v odstavci 3.	Act 284/2009, S. 52a(5)	Act 284/2009, S. 52a(5) (5) The implementing act shall set out the rules for the calculation for the amount of the capital of the electronic money institution, as well as the rules for the calculation of the capital adequacy, including the methods that the electronic money institution may use for the calculation of the capital requirement to cover the risks related to the provision of payment services that do not concern electronic money.	Zákon č. 284/2009 Sb., § 52a odst. 5 (5) Prováděcí právní předpis stanoví pravidla pro výpočet výše kapitálu instituce elektronických peněz, jakož i pravidla pro výpočet kapitálové přiměřenosti, včetně jednotlivých přístupů, které instituce elektronických peněz může uplatňovat při výpočtu kapitálového požadavku ke krytí rizik spojených s poskytováním platebních služeb, které se netýkají elektronických peněz.	CONFORM Section 52a(5) of Act 284/2009 transposes Article 5(2), second subparagraph of the Directive. Section 284/2009 provides a legal basis for Decree 141/2011, which contains, among others, the rules for the calculation of the capital adequacy of electronic money institution. The rules for the capital requirement to cover the risks related to the issuance of electronic money are set out in Section 46. Based on the above-mentioned observations, Section 52a(5) of Act 284/2009 conform to Article 5(2), second subparagraph of the Directive.
Art. 5(2) 3rd subpar a.	Electronic money institutions shall at all times hold own funds that are at least equal to the sum of the requirements referred to in the first and second subparagraphs.	Instituce elektronických peněz musí mít vždy kapitál, který je nejméně roven součtu požadavků stanovených v prvním a druhém pododstavci.	Decree 141/2011, S. 44	Decree 141/2011, S. 44 For the calculation of the capital adequacy of an electronic money institution, the capital shall be stipulated pursuant to Section 45 and the capital requirement to cover risks as the sum of the capital	Vyhláška č. 141/2011 Sb., § 44 Pro účely výpočtu kapitálové přiměřenosti instituce elektronických peněz se stanoví výšekapitálu podle § 45 a výše kapitálového požadavku ke krytí rizik	CONFORM Sections 44 and 45 of Decree 141/2011 transpose Article 5(2), third subparagraph of the Directive. Section 44 of Decree 141/2011 stipulates that the amount of the capital shall be fixed pursuant to Section 45, according to which Section 33 to 38, laying down the rules for the calculation of the capital of the payment

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				<p>requirements pursuant to Section 46 and 47.</p> <p>Decree 141/2011, S. 45</p> <p>Section 33 to 38 shall apply <i>mutatis mutandis</i> to the calculation of the capital of an electronic money institution.</p>	<p>jako součet kapitálových požadavků podle § 46 a 47.</p> <p>Vyhláška č. 141/2011 Sb., § 45</p> <p>Pro výpočet výše kapitálu instituce elektronických peněz platí obdobně § 33 až 38.</p>	<p>institution, shall apply <i>mutatis mutandis</i>.</p> <p>Section 44 of Decree 141/2011 furthers lays down that the capital requirement to cover risks shall be stipulated as the sum of the capital requirements pursuant to Section 46 and 47.</p> <p>Section 46 of Decree 141/2011 lays down the rules for the calculation of the capital requirement to cover risks connected with issuing electronic money, and Section 47 lays down the rules for the calculation of the capital requirement to cover risks connected with the provision of payment services that do not relate to electronic money.</p> <p>Based on the above-mentioned observations, Sections 44 and 45 of Decree 141/2011 conforms to Article 5(2), third subparagraph of the Directive.</p>
Art. 5(3)	3. Method D: The own funds of an electronic money institution for the activity of issuing electronic money shall amount to at least 2 % of the average outstanding electronic money.	3. Metoda D: Kapitál instituce elektronických peněz pro vydávání elektronických peněz činí nejméně 2 % průměru elektronických peněz v oběhu.	Act 141/2011, S. 46(1)	<p>Act 141/2011, S. 46(1)</p> <p>(1) The capital requirement to cover risks connected with issuing electronic money shall equal 2 % of the average amount of electronic money in circulation.</p>	<p>Vyhláška č. 141/2011 Sb., § 46 odst. 1</p> <p>(1) Kapitálový požadavek ke krytí rizik spojených s vydáváním elektronických peněz se rovná 2 % z průměru elektronických peněz v oběhu.</p>	<p>CONFORM</p> <p>Section 46(1) of Decree 141/2011 transposes Article 5(3) of the Directive.</p> <p>Section 46(1) of Decree 141/2011 fixes the capital requirement to cover risks connected with issuing electronic money, as mentioned in recital 11 of the Directive, at 2 % of the average amount of electronic money in circulation.</p> <p>Based on the above-mentioned observation, Section 46(1) of Decree 141/2011 conforms to Article 5(3) of the Directive.</p>
Art.	4. Where an electronic money institution carries	4. Pokud instituce elektronických peněz	Decree 141/2011, S. 46(2)	<p>Decree 141/2011, S. 46(2)</p>	<p>Vyhláška č. 141/2011 Sb.,</p>	<p>CONFORM</p>

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5(4)	<p>out any of the activities referred to in Article 6(1)(a) that are not linked to the issuance of electronic money or any of the activities referred to in Article 6(1)(b) to (e) and the amount of outstanding electronic money is unknown in advance, the competent authorities shall allow that electronic money institution to calculate its own funds requirements on the basis of a representative portion assumed to be used for the issuance of electronic money, provided such a representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the competent authorities. Where an electronic money institution has not completed a sufficient period of business, its own funds requirements shall be calculated on the basis of projected outstanding electronic money evidenced by its business plan subject to any adjustment to that plan having been required by</p>	<p>vykonává některou z činností uvedených v čl. 6 odst. 1 písm. a), která není spojena s vydáváním elektronických peněz, nebo některou z činností uvedených v čl. 6 odst. 1 písm. b) až e) a částka elektronických peněz v oběhu není předem známa, povolí příslušné orgány této instituci vypočítat požadavky na svůj kapitál na základě reprezentativní části, jež má být podle předpokladu použita na vydávání elektronických peněz, pod podmínkou, že tuto reprezentativní část lze rozumným způsobem odhadnout na základě dřívějších údajů a že to příslušné orgány považují za uspokojivé. Pokud instituce elektronických peněz nevyvíjela činnost po dostatečně dlouhou dobu, vypočítají se její požadavky na kapitál na základě předpokládané výše elektronických peněz v oběhu doložené obchodním plánem, s výhradou úprav tohoto plánu požadovaných příslušnými orgány.</p>	<p>11, S. 46(2) and (3)</p>	<p>and (3)</p> <p>(2) Where it is not possible to establish what portion of funds submitted by the holder to the electronic money institution is designated for activities pursuant to Section 46(2)(b) of the act, the stipulation of the average amount of electronic money in circulation shall be based on such an amount of these funds that corresponds to a reliable estimate on the basis of data from the previous periods.</p> <p>(3) If the electronic money institution has issued electronic money for a period of less than 6 calendar months, this capital requirement shall equal 2% of the average amount of electronic money in circulation determined on the basis of its business plan, or adjusted pursuant to the requirements of the Czech National Bank.</p>	<p>§ 46 odst. 2 a 3</p> <p>(2) Pokud nelze určit, jaká část peněžních prostředků předaných držitelem instituci elektronických peněz je určena pro činnost podle § 46 odst. 2 písm. b) zákona, vychází se při určení průměru elektronických peněz v oběhu z takové části těchto peněžních prostředků, která odpovídá spolehlivému odhadu na základě údajů z předchozích období.</p> <p>(3) Pokud instituce elektronických peněz vydává elektronické peníze po dobu kratší než 6 kalendářních měsíců, rovná se tento kapitálový požadavek 2% průměru elektronických peněz v oběhu stanovených na základě jejího obchodního plánu, případně upraveného podle požadavků České národní banky.</p>	<p>Section 46(2) and (3) of Decree 141/2011 transpose Article 5(4) of the Directive.</p> <p>Section 46(2) of Decree 141/2011 is more general than the Article 5(4) of the Directive, without affecting the conformity. It deals with a situation where it is not possible to establish what portion of funds submitted by the holder to the electronic money institution is designated for activities pursuant to Section 46(2)(b) of Act 284/2011 (this provision refers to providing of payment services that do not concern electronic money). This provision therefore implies, that the electronic money institution carries out also other activities, as those referred to in Article 6(1)(b) to (e).</p> <p>In this case, the calculation of the capital requirement to cover the risks connected with issuing the electronic money shall be based on such an amount of these funds that corresponds to a reliable estimate on the basis of data from the previous periods. However, although the NIM does not specify the Directive condition that this must be done to the satisfaction of the competent authority (the Czech National Bank), but this nevertheless can be inferred from the spirit of both Act 284/2009 and Decree 141/2011.</p> <p>Section 46(3) of Decree 141/2011 concerns the calculation of the capital requirement to cover risks connected with issuing electronic money in case the electronic money institution has issued electronic money for a period of less than 6 calendar months. The NIM is therefore more specific than the Directive provision with regard to the</p>

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	the competent authorities.					<p>specification of completing a sufficient period of business. In this case, the capital requirement shall be 2% of the average amount of electronic money in circulation determined on the basis of its business plan, however, this is subject adjustments, if required by the Czech National Bank.</p> <p>Based on the above-mentioned observations, Section 46(2) and (3) of Decree 141/2011 conforms to Article 5(4) of the Directive.</p>	
Art. 5(5)	<p>5. On the basis of an evaluation of the risk-management processes, of the risk loss databases and internal control mechanisms of the electronic money institution, the competent authorities may require the electronic money institution to hold an amount of own funds which is up to 20 % higher than the amount which would result from the application of the relevant method in accordance with paragraph 2, or permit the electronic money institution to hold an amount of own funds which is up to 20 % lower than the amount which would result from the application of the relevant</p>	<p>5. Příslušné orgány mohou na základě vyhodnocení postupů pro řízení rizik, databází ztrát z rizik a vnitřních kontrolních mechanismů instituce elektronických peněz požadovat, aby tato instituce měla kapitál až o 20 % vyšší, než je částka stanovená pomocí příslušné metody v souladu s odstavcem 2, nebo povolit, aby instituce elektronických peněz měla kapitál až o 20 % nižší, než je částka stanovená pomocí příslušné metody v souladu s odstavcem 2.</p>	Act 284/2009, S. 52a(4)	<p>Act 284/2009, S. 52a(4)</p> <p>(4) The Czech National Bank may on the basis of an evaluation of the management and control system of the electronic money institution decide that the electronic money institution must regularly maintain the capital adequacy at a level up to 20 % higher or up to 20 % lower than that prescribed in paragraph (2), sentence one.</p>	Zákon č. 284/2009 Sb., § 52a odst. 4	<p>(4) Česká národní banka může na základě vyhodnocení řídicího a kontrolního systému instituce elektronických peněz rozhodnout, že instituce elektronických peněz je povinna průběžně udržovat kapitálovou přiměřenost ve výši až o 20 % vyšší nebo až o 20 % nižší, než je stanoveno v odstavci 2 větě první.</p>	<p>CONFORM</p> <p>Section 52a(4) of Act 284/2009 transposes Article 5(5) of the Directive</p> <p>Article 5(5) of the Directive sets out an option, which is transposed by Section 52a(4) of Act 284/2009 by entitling the Czech National Bank to decide, that the electronic money institution must regularly maintain the capital adequacy at a level up to 20 % higher or up to 20 % lower than that prescribed in paragraph (2), sentence (that means the capital adequacy calculated according to the relevant method as described in Decree 141/2011).</p> <p>The Czech National Bank bases its decision on the evaluation of the management and control system of the electronic money institution, and not only on an evaluation of the risk-management processes, of the risk loss databases and internal control mechanisms of the electronic money institution.</p> <p>Based on the above-mentioned observations,</p>

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	method in accordance with paragraph 2.				Section 52a(4) of Act 284/2009 conforms to Article 5(5) of the Directive.	
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. Členské státy přijmou nezbytná opatření, aby se předešlo vícenásobnému použití prvků způsobilých pro výpočet kapitálu:	N/A	N/A	N/A	CONFORM It should be observed that the NIMs do not contain a similar introductory sentence as the Directive provision. However, this does not prevent the correct transposition of Article 5(6) of the Directive, as it will be shown in the observations below.
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) pokud instituce elektronických peněz patří do stejné skupiny jako jiná instituce elektronických peněz, úvěrová instituce, platební instituce, investiční podnik, společnost pro správu aktiv, pojišťovna nebo zajišťovna;	Decree 141/2011, S. 45 and S. 33(5)	Decree 141/2011, S. 45 Section 33 to 38 shall apply <i>mutatis mutandis</i> to the calculation of the capital of an electronic money institution. Decree 141/2011, S. 33(5) (5) Where the payment institution belongs to the same group as another payment institution, institution, investment firm, insurance company or reinsurance company, capital shall exclude items or parts thereof that are included in the capital of such persons.	Vyhláška č. 141/2011 Sb., § 45 Pro výpočet výše kapitálu instituce elektronických peněz platí obdobně § 33 až 38. Vyhláška č. 141/2011 Sb., § 33 odst. 5 (5) Pokud platební instituce patří do stejné skupiny jako jiná platební instituce, instituce, investiční společnost, pojišťovna nebo zajišťovna, nesmí do kapitálu zahrnout ty položky nebo jejich části, které jsou zahrnuty do kapitálu těchto osob.	CONFORM Section 45 and Section 33(5) of Decree 141/2011 transpose Article 5(6)(a) of the Directive According to Section 45 of Decree 141/2011 for the calculation of the capital of electronic money institution Section 33 to 38 apply <i>mutatis mutandis</i> , that is to say the rules for the calculation of the capital of payment institution. Section 33(5) of Decree 141/2011 deals with a situation where an electronic money institution belongs to the same group as another electronic money institution, investment firm, insurance company or reinsurance company, and prohibits in such a case to include in the capital items or parts thereof that are included in the capital of such persons. The entities referred to in this provision correspond to those in the Directive provision. Based on the above-mentioned observations, Section 45 and 33(5) of Decree 141/2011

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						correspond to Article 5(6)(a) of the Directive.
Art. 5(6)(b)	(b) where an electronic money institution carries out activities other than the issuance of electronic money.	b) pokud instituce elektronických peněz vykonává jiné činnosti než vydávání elektronických peněz.	Decree 141/2011, S. 45 and 33(6)	<p>Decree 141/2011, S. 45 Section 33 to 38 shall apply <i>mutatis mutandis</i> to the calculation of the capital of an electronic money institution.</p> <p>Decree 141/2011, S. 33(6) (6) Hybrid institutions shall not include in capital items or parts thereof that are used to perform activities other than those for which authorisation is required pursuant to the Act, while when performing such activities the hybrid institution shall maintain the level of capital laid down in other legal rules.</p>	<p>Vyhláška č. 141/2011 Sb., § 45 Pro výpočet výše kapitálu instituce elektronických peněz platí obdobně § 33 až 38.</p> <p>Vyhláška č. 141/2011 Sb., § 33 odst. 6 (6) Hybridní instituce nesmí do kapitálu zahrnout ty položky nebo jejich části, které jsou použity pro výkon jiných činností, než jsou činnosti, k jejichž výkonu je třeba povolení podle zákona, s tím, že při výkonu těchto činností je hybridní instituce povinna udržovat určitou výši kapitálu podle jiných právních předpisů 13).</p>	<p>CONFORM Section 45 and Section 33(6) of Decree 141/2011 transpose Article 5(6)(b) of the Directive. Section 33(6), in connection with Section 45 of Decree 141/2011 addresses the so-called hybrid institution, which means the electronic money institutions that carry out other activities than those for which the authorisation is required pursuant to Act 284/2009. In line with the Directive provision the hybrid institutions may not include in capital items or parts thereof that are used to perform activities other than those for which authorisation is required pursuant to the act 284/25009, and thus multiple use of elements eligible for the calculation of the capital is avoided. Based on the above-mentioned observations, Section 45 and Section 33(6) of Decree 141/2011 conform to Article 5(6)(b) of the Directive.</p>
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	7. Jsou-li splněny podmínky stanovené v článku 69 směrnice 2006/48/ES, mohou se členské státy nebo jejich příslušné orgány rozhodnout neuplatňovat odstavce 2 a 3 tohoto	N/A	N/A	N/A	Article 5(7) of the Directive sets out an option. Owing to this option, the Czech Republic does not seem to have chosen to apply it.

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	money institutions which are included in the consolidated supervision of the parent credit institutions pursuant to Directive 2006/48/EC.	článku na instituce elektronických peněz, které jsou zahrnuty do konsolidovaného dohledu nad mateřskou úvěrovou institucí podle směrnice 2006/48/ES.				
Art. 6(1) 1st subpar a.	<i>Article 6 Activities</i> 1. In addition to issuing electronic money, electronic money institutions shall be entitled to engage in any of the following activities:	<i>Článek 6 Činnosti</i> 1. Instituce elektronických peněz jsou vedle vydávání elektronických peněz oprávněny vykonávat i kteroukoli z těchto činností:	Act 284/2009, S. 46(2), introductory sentence	Act 284/2009, S. 46(2), introductory sentence (2) On the basis of the granted authorisation for the activities of the electronic money institution the electronic money institution is entitled	Zákon č. 284/2009 Sb., § 46 odst. 2 uvozovací věta (2) Na základě uděleného povolení k činnosti instituce elektronických peněz je instituce elektronických peněz oprávněna	CONFORM Section 46(2), introductory sentence of Act 284/2009 almost literally transposes Article 6(1), first subparagraph of the Directive. Based on the above-mentioned observation, Section 46(2), introductory sentence of Act 284/2009 conforms to the Directive provision.
Art. 6(1) 1st subpar a. (a)	(a) the provision of payment services listed in the Annex to Directive 2007/64/EC;	a) poskytování platebních služeb uvedených v příloze směrnice 2007/64/ES;	Act 284/2009, S. 46(2)(b) and (c)	Act 284/2009, S. 46(2)(b) and (c) (b) to provide the payment services that concern electronic money, (c) to provide payment services that do not concern electronic money, referred to in the authorisation for the activities of the electronic money institution,	Zákon č. 284/2009 Sb., § 46 odst. 2 písm. b) a c) b) poskytovat platební služby, které se týkají elektronických peněz, c) poskytovat platební služby, které se netýkají elektronických peněz, uvedené v povolení k činnosti instituce elektronických peněz,	CONFORM Section 46(2)(b) and (c) of Act 284/2009 transpose Article 6(1), first subparagraph, point (a) of the Directive Section 46(2)(b) and (c) of Act 284/2009 distinguishes between the provision of the payment services that concern electronic money and the provision payment services that do not concern electronic money, as referred to in the authorisation for the activities of the electronic money institution. However, this does not seem to affect the conformity. Payment services are defined in Section 3 of Act 284/2009 and correspond to the content of Annex to Directive 2007/64/EC.

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						Based on the above-mentioned observation, Section 46(2)(b) and (c) of Act 284/2009 conform to Article 6(1), first subparagraph, point (a) of the Directive.
Art. 6(1) 1st subpar a. (b)	(b) the granting of credit related to payment services referred to in points 4, 5 or 7 of the Annex to Directive 2007/64/EC, where the conditions laid down in Article 16(3) and (5) of that Directive are met;	b) poskytování úvěrů souvisejících s platebními službami uvedenými v bodech 4, 5 nebo 7 přílohy směrnice 2007/64/ES, pokud jsou splněny podmínky stanovené v čl. 16 odst. 3 a 5 uvedené směrnice;	Act 284/2009, S. 46(2)(d)) and S. 46(3)	Act 284/2009, S. 46(2)(d) (d) carry out activities related to the activities referred to in points (a) to (c), including the granting of credit, and Act 284/2009, S. 46(3) (3) Granting of credit is an activity pursuant to paragraph 2(d), if (a) it is related to the provision of the payment service referred to in Section 3(1)(d), (e) or (g) and this payment service is included in the authorisation to operate as an electronic money institution, (b) the credit is not granted from the funds received by the electronic money institution or entrusted to the electronic money institution for the purpose of executing a payment transaction,	Zákon č. 284/2009 Sb., § 46 odst. 2 písm. d) d) provádět činnosti související s činnostmi uvedenými v písmenech a) až c), včetně poskytování úvěrů, a Zákon č. 284/2009 Sb., § 46 odst. 3 (3) Poskytnutí úvěru je činností podle odstavce 2 písm. d), jestliže a) souvisí s poskytnutím platební služby uvedené v § 3 odst. 1 písm. d), e) nebo g) a tato platební služba je uvedena v povolení k činnosti instituce elektronických peněz, b) úvěr není poskytnut z peněžních prostředků, proti jejichž přijetí byly vydány elektronické peníze nebo které byly instituci elektronických peněz svěřeny k provedení	CONFORM Sections 46(2)(d) and 46(3) of Act 284/2009 transpose Article 6(1), first subparagraph, point (b) of the Directive. According to Section 46(2)(d) of Act 284/2009 granting of credit is considered as an activity related to activities referred to in points (a) to (c), that means issuing of electronic money, provision of payment services that concern electronic money and provision of payment services that do not concern electronic money. Section 46(3) of Act 284/2009 further lays down the conditions for granting of credit by an electronic money institution. First of all, it must be related to the provision of the payment service related referred to in Section 3(1)(d), (e) of (g) and this payment service must be included in the authorisation to operate as an electronic money institution. Section 3(1)(d),(e) and (g) of Act 284/2009 correspond to points 4, 5 and 7 of Annex to Directive 2007/64/EC. According to Section 46(3)(b) the credit may not be granted from the funds received by the electronic money institution or entrusted to the electronic money institution for the purpose of executing a payment transaction; this is in line with Article 16(3)(c) of

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				<p>c) the capital of the electronic money institution is adequate to the overall amount of credit granted, and</p> <p>d) the credit is to be paid, according to the contract concluded between the electronic money institution and the debtor, at the latest within one year; this shall not apply if the credit is granted in the Czech Republic.</p>	<p>platební transakce,</p> <p>c) kapitál instituce elektronických peněz je přiměřený celkové částce poskytnutých úvěrů a</p> <p>d) úvěr má být podle smlouvy uzavřené mezi institucí elektronických peněz a dlužníkem splacen nejpozději do jednoho roku; to neplatí v případě, že je úvěr poskytnut v České republice.</p>	<p>Directive 2007/64/EC.</p> <p>Pursuant to Section 46(3)(c) the capital of the electronic money institution must be adequate to the overall amount of credit granted, in compliance with Article 16(3)(d) of Directive 2007/64/EC.</p> <p>The last condition for granting the credit by an electronic money institution is laid down in Section 46(3)(d), according to which the credit must be paid at the latest within one year, unless it was granted in the Czech Republic, in line with Article 16(3)(b) of Directive 2007/64/EC.</p> <p>Although there is no provision directly stating that the credit must be ancillary, this can be inferred from the fact that granting of credit has to be related to the provision of a payment service.</p> <p>It should be observed that none of these provisions contradicts Act No 145/2010 on consumer credit, and thus condition laid down in Article 16(5) of Directive 2007/64/EC is met.</p> <p>Based on the above-mentioned observations, Section 46(2)(d) and Section 46(3) of Act 284/2009 conform to Article 6(1), first subparagraph, point (b) of the Directive.</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	c) poskytování provozních služeb a úzce spojených doplňkových služeb souvisejících s vydáváním elektronických peněz nebo s poskytováním platebních	Act 284/2009, S. 46(2)(d)	Act 284/2009, S. 46(2)(d) (d) carry out activities related to the activities referred to in points (a) to (c), including the granting	Zákon č. 284/2009 Sb., § 46 odst. 2 písm. d) d) provádět činnosti související s činnostmi uvedenými v písmenech a) až c), včetně poskytování	CONFORM Section 46(2)(d) of Act 284/2009 transposes Article 6(1), first subparagraph, point (c) of the Directive . According to Section 46(2)(d) of Act

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	of payment services referred to in point (a);	služeb uvedených v písmenu a);		of credit, and	úvěřů, a	<p>284/2009, an electronic money institution may carry out activities related to the activities related to activities referred to in points (a) to (c), that is to say, issuing electronic money, carrying out payment services concerning electronic money, and carrying out payment services that do not concern electronic money.</p> <p>Based on the above-mentioned observation, Section 46(2)(d) of Act 284/2009 conforms to Article 6(1), first subparagraph, point (c) of the Directive.</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) provozování platebních systémů ve smyslu čl. 4 bodu 6 směrnice 2007/64/ES, aniž je dotčen článek 28 uvedené směrnice;	Act 284/2009, S. 46(2)(e)	Act 284/2009, S. 46(2)(e) e) operate a payment system, with the exception of the payment system with settlement finality.	Zákon č. 284/2009 Sb., § 46 odst. 2 písm. e) e) provozovat platební systém s výjimkou platebního systému s neodvolatelností zúčtování.	<p>CONFORM</p> <p>Section 46(2)(e) of Act 284/2009 transposes Article 6(1), first subparagraph, point (d) of the Directive.</p> <p>According to Section 46(2)(e) of Act 284/2009 the electronic money institution may) operate a payment system, with the exception of the payment system with settlement finality.</p> <p>The conditions for the access to the payment systems are laid down in Section 60 and 61 of Act 284/2009 and are in conformity with Article 28 of Directive 2007/64/EC.</p> <p>A payment system is defined in Section 2(2)(1) of Act 284/2009 as “payment system with uniform rules used to execute, clear or settle payment transactions,” and thus corresponds to the definition in Article 4, point 6 of Directive 2007/64/EC. Therefore, the national provision is conform even if it does not contain the same referrece as the</p>

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						<p>article of the Directive.</p> <p>Based on the above-mentioned observations, Section 46(2)(e) of Act 284/2009 conforms to Article 6(1), first subparagraph, point (d) of the Directive.</p>
Art. 6(1) 1st subpar a. (e)	(e) business activities other than issuance of electronic money, having regard to the applicable Community and national law.	e) obchodní činnosti jiné než vydávání elektronických peněz s ohledem na platné právo Společenství a vnitrostátní právo.	Decree 141/2011, S. 33(6)	Decree 141/2011, S. 33(6) (6) Hybrid institutions shall not include in capital items or parts thereof that are used to perform activities other than those for which authorisation is required pursuant to the Act, while when performing such activities the hybrid institution shall maintain the level of capital laid down in other legal rules.	Vyhláška č. 141/2011 Sb., § 33 odst. 6 (6) Hybridní instituce nesmí do kapitálu zahrnout ty položky nebo jejich části, které jsou použity pro výkon jiných činností, než jsou činnosti, k jejichž výkonu je třeba povolení podle zákona, s tím, že při výkonu těchto činností je hybridní instituce povinna udržovat určitou výši kapitálu podle jiných právních předpisů.	CONFORM Neither Act 284/2009 nor Decree 141/2011 explicitly lays down the right of electronic money institutions to carry out business activities other than issuance of electronic money. However this right can be inferred from various provisions of Decree 141/2011, i.e. Section 33(6) which deals with the so-called hybrid institutions. This provision implies that electronic money institutions may vary from the activities other than those for which authorisation is required pursuant to Act 284/2009. It is not directly mentioned that such activities must be comply with the applicable Community and national law, but it may be inferred from the spirit of the NIMs. Based on the above-mentioned observations, Section 33(6) of Decree 141/2011 conforms to Article 6(1), first subparagraph, point (e) of the Directive.
Art. 6(1) 2nd subpar a.	Credit referred to in point (b) of the first subparagraph shall not be granted from the funds received in exchange of	Úvěr podle prvního pododstavce písm. b) nesmí být poskytován z peněžních prostředků přijatých výměnou za	Act 284/2009, S. 3(b)	Act 284/2009, S. 46(3)(b) (3) Granting of credit is an activity pursuant to paragraph 2(d), if	Zákon č. 284/2009 Sb., § 46 odst. 3 písm. b) (3) Poskytnutí úvěru je činností podle odstavce 2	CONFORM Section 3(b) of Act 284/2009 transposes Article 6(1), first subparagraph of the Directive

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	electronic money and held in accordance with Article 7(1).	elektronické peníze a drženy v souladu s čl. 7 odst. 1.		(b) the credit is not granted from the funds received by the electronic money institution in exchange of issuing electronic money or entrusted to the electronic money institution for the purpose of executing a payment transaction,	písm. d), jestliže b) úvěr není poskytnut z peněžních prostředků, proti jejichž přijetí byly vydány elektronické peníze nebo které byly instituci elektronických peněz svěřeny k provedení platební transakce,	<p>According to Section 3(b) of Act 28/2009, an electronic money institution may grant credit if the credit is not granted from the funds received in exchange of issuing electronic money, or that were entrusted to the electronic money institution for the purpose of executing a payment transaction, which is in line with Article 6(1), second subparagraph as well as with recital 13 of the Directive.</p> <p>There is no reference to the provisions transposing Article 7(1) of the Directive, but this does not affect the conformity.</p> <p>Based on the above-mentioned observations, Section 3(b) of Act 284/2009 conforms to Article 6(1), first subparagraph of the Directive.</p>
Art. 6(2)	2. Electronic money institutions shall not take deposits or other repayable funds from the public within the meaning of Article 5 of Directive 2006/48/EC.	2. Instituce elektronických peněz nesmí od veřejnosti přijímat vklady ani jiné splatné peněžní prostředky ve smyslu článku 5 směrnice 2006/48/ES.	Act 21/1992, Sec. 2(1)	Act 21/1992, Sec. 2(1) (1) No unlicensed person may accept deposits from the public, unless a special law provides otherwise.	Zákon č. 21/1992 Sb., § 2 odst. 1 (1) Bez licence nesmí nikdo přijímat vklady od veřejnosti, pokud zvláštní zákon nestanoví jinak.	CONFORM Section 2(1) of Act 21/1992 transposes Article 6(2) of the Directive. Act 21/1992 on banks stipulates in Section 2(1) that no unlicensed person may accept deposits from the public, unless a special law provides otherwise. There is no such licence in Act 284/2009 for the electronic money institution, therefore electronic money institutions that are not credit institutions (i.e. banks) are not entitled to accept deposits from public, which is in line with Article 6(2) as well as with recital 11 of the Directive. Based on the above-mentioned observations, Section 2(1) of Act 21/1992 conforms to Article 6(2) of the Directive.

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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. Veškeré peněžní prostředky, které instituce elektronických peněz získá od držitele elektronických peněz, musí být neprodleně vyměněny za elektronické peníze. Tyto peněžní prostředky nepředstavují vklad ani jiné splatné peněžní prostředky přijaté od veřejnosti ve smyslu článku 5 směrnice 2006/48/ES.	Act 284/2009, S. 52d	Act 284/2009, S. 52d (1) Any funds received by electronic money institutions in exchange of the electronic money or that were entrusted to the electronic money institution in order to carry out a payment transaction shall not constitute a deposit according to act regulating the activities of banks. (2) The electronic money institution shall issue electronic money immediately after it has received the funds at the exchange of which the electronic money are to be issued.	Zákon č. 284/2009 Sb., §52d (1) Peněžní prostředky, proti jejichž přijetí byly vydány elektronické peníze nebo které byly instituci elektronických peněz svěřeny k provedení platební transakce, nejsou vkladem podle zákona upravujícího činnost bank. (2) Instituce elektronických peněz vydá elektronické peníze neprodleně poté, co přijala peněžní prostředky, proti jejichž přijetí mají být elektronické peníze vydány.	CONFORM Section 52d of Act 284/2009 almost literally transposes Article 6(3) of the Directive, although using a different structure. This provision, instead of referring to Article 5 of Directive 2006/48/EC, refers to Act regulating the activities of banks (Act 21/1992). Act 21/1992 transposes, among others, also Directive 2006/48/EC. Based on the above-mentioned observations, Section 52d of Act 284/2009 conforms to Article 6(3) of the Directive.
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. Ustanovení čl. 16 odst. 2 a 4 směrnice 2007/64/ES se vztahují na peněžní prostředky obdržené na činnosti uvedené v odst. 1 písm. a) tohoto článku, které nejsou spojeny s vydáváním elektronických peněz.	Act 284/2009, S. 52d(1) and S. 52e(1) Act 21/1992, S. 2(1)	Act 284/2009, S. 52d(1) (1) Any funds received by electronic money institutions in exchange of the electronic money or that were entrusted to the electronic money institution in order to carry out a payment transaction shall not constitute a deposit according to act regulating the activities of	Zákon č. 284/2009 Sb., § 52d odst. 1 (1) Peněžní prostředky, proti jejichž přijetí byly vydány elektronické peníze nebo které byly instituci elektronických peněz svěřeny k provedení platební transakce, nejsou vkladem podle zákona upravujícího činnost bank.	CONFORM Sections 52d(1) and 52e(1) of Act 284/2009 and Section 2(1) of Act 21/1992 transpose Article 6(4) of the Directive. According to Section 52d(1) of Act 284/2009 any funds that were entrusted to the electronic money institution in order to carry out a payment transaction shall not constitute a deposit, as defined in Act 21/1992. Section 52e(1) provides that funds that were entrusted to the electronic money institution to execute a payment transaction must be kept

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			<p>banks.</p> <p>Act 284/2009, S. 52e(1)</p> <p>(1) Funds at the exchange of which the electronic money are to be issued or that were entrusted to the electronic money institution to execute a payment transaction must</p> <p>a) be kept separate from the electronic money institution's own funds and from the funds of other persons, with the exception of other funds at the exchange of which the electronic money are to be issued or that were entrusted to the electronic money institution for the execution of a payment transaction, and</p> <p>b) by the end of the day following the day on which the electronic money institution has received them, be deposited in or transferred to a separate account held by the payment institution at a bank, savings and credit cooperative, foreign bank established in a</p>	<p>Zákon č. 284/2009 Sb., § 52e odst. 1</p> <p>(1) Peněžní prostředky, proti jejichž přijetí byly vydány elektronické peníze nebo které byly instituci elektronických peněz svěřeny k provedení platební transakce, musí být</p> <p>a) drženy odděleně od vlastních peněžních prostředků instituce elektronických peněz a od peněžních prostředků jiných osob s výjimkou ostatních peněžních prostředků, proti jejichž přijetí byly vydány elektronické peníze nebo které byly instituci elektronických peněz svěřeny k provedení platební transakce, a</p> <p>b) po uplynutí pracovního dne následujícího po dni, kdy je instituce elektronických peněz obdržela, uloženy na samostatném účtu instituce elektronických peněz u banky, spořitelního a úvěrního družstva, zahraniční banky se sídlem v členském státě</p>	<p>separate from the electronic money institution's own funds and from the funds of other persons (point (a)) and by the end of the day following the day on which the electronic money institution has received them, be deposited in or transferred to a separate account held by the payment institution (point (b)). Therefore, Article 16(2) of Directive 2007/64/EC is complied with.</p> <p>With regard to Article 16(4) of Directive 2007/64/EC, Act 21/1992, on banks stipulates in its Section 2(1) that no unlicensed person may accept deposits from the public, unless a special law provides otherwise. There is no such licence in Act 284/2009 for the electronic money institution, therefore electronic money institutions that are not credit institutions (i.e. banks) are not entitled to accept deposits from public.</p> <p>Based on the above-mentioned observations, Section 52d(1) and Section 52e(1) of Act 284/2009 and Section 2(1) of Act 21/1992 conform to Article 6(4) of the Directive.</p>

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				<p>Member State or foreign bank established in a non-Member State subject to supervision comparable to the supervision exercised by the Czech National Bank, or shall be invested in low-risk liquid assets, unless the electronic money institution transmits them to the payee or another provider within that period.</p> <p>Act 21/1992, Sec. 2(1) (1) No unlicensed person may accept deposits from the public, unless a special law provides otherwise.</p>	<p>nebo zahraniční banky se sídlem v jiném než členském státě, která podléhá dohledu srovnatelnému s dohledem České národní banky, nebo musí být investovány do likvidních aktiv s nízkým rizikem, pokud je instituce elektronických peněz nepředá příjemci nebo jinému poskytovateli.</p> <p>Zákon č. 21/1992 Sb., § 2 odst. 1 (1) Bez licence nesmí nikdo přijímat vklady od veřejnosti, pokud zvláštní zákon nestanoví jinak.</p>	
Art. 7(1)	<p><i>Article 7</i> Safeguarding requirements</p> <p>1. Member States shall require an electronic money institution to safeguard funds that have been received in exchange for electronic money that has been issued, in accordance with Article 9(1) and (2) of Directive 2007/64/EC. Funds received in the form of</p>	<p><i>Článek 7</i> Požadavky na ochranu peněžních prostředků</p> <p>1. Členské státy vyžadují, aby instituce elektronických peněz chránila peněžní prostředky, které získala výměnou za vydané elektronické peníze v souladu s čl. 9 odst. 1 a 2 směrnice 2007/64/ES. Peněžní prostředky získané formou platby</p>	<p>Act 284/2009, S. 52(1) and (2), Act 284/2009, S. 52f</p>	<p>Act 284/2009, S. 52e(1) and (3)</p> <p>(1) Funds at the exchange of which the electronic money has been issued or that were entrusted to the electronic money institution to execute a payment transaction must</p> <p>a) be kept separate from the electronic money institution's own funds and from the funds of</p>	<p>Zákon č. 284/2009 Sb., § 52e odst. 1 a 2</p> <p>(1) Peněžní prostředky, proti jejichž přijetí byly vydány elektronické peníze nebo které byly instituci elektronických peněz svěřeny k provedení platební transakce, musí být</p> <p>a) drženy odděleně od vlastních peněžních prostředků instituce</p>	<p>CONFORM</p> <p>Section 52(1) and (2), and Section 52f of Act 284/2009 transpose Article 7(1) of the Directive.</p> <p>Article 7(1) of the Directive sets out an option.</p> <p>Section 52e lays down, in line with Article 9(1) of Directive 2007/64/EC, the following safeguarding requirements for the funds at the exchange of which the electronic money was issued, as well as for the funds that were entrusted to the electronic money institution</p>

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<p>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>prostřednictvím platebního nástroje nemusí být chráněny až do doby, kdy jsou připsány na platební účet instituce elektronických peněz nebo dány instituci elektronických peněz jinak k dispozici, v souladu s případnými požadavky na lhůty pro provedení transakce stanovenými ve směrnici 2007/64/ES. V každém případě jsou tyto peněžní prostředky chráněny nejpozději po uplynutí pěti pracovních dní ve smyslu čl. 4 bodu 27 uvedené směrnice od vydání elektronických peněz.</p>	<p>other persons, with the exception of other funds at the exchange of which the electronic money are to be issued or that were entrusted to the electronic money institution for the execution of a payment transaction, and</p> <p>b) by the end of the day following the day on which the electronic money institution has received them, be deposited in or transferred to a separate account held by the electronic money institution at a bank, savings and credit cooperative, foreign bank established in a Member State or foreign bank established in a non-Member State subject to supervision comparable to the supervision exercised by the Czech National Bank, or shall be invested in low-risk liquid assets, unless the electronic money institution transmits them to the payee or another provider within that period.</p> <p>(2) Paragraph (1) shall not apply if the electronic</p>	<p>elektronických peněz a od peněžních prostředků jiných osob s výjimkou ostatních peněžních prostředků, proti jejichž přijetí byly vydány elektronické peníze nebo které byly instituci elektronických peněz svěřeny k provedení platební transakce, a</p> <p>b) po uplynutí pracovního dne následujícího po dni, kdy je instituce elektronických peněz obdržela, uloženy na samostatném účtu instituce elektronických peněz u banky, spořitelního a úvěrního družstva, zahraniční banky se sídlem v členském státě nebo zahraniční banky se sídlem v jiném než členském státě, která podléhá dohledu srovnatelnému s dohledem České národní banky, nebo musí být investovány do likvidních aktiv s nízkým rizikem, pokud je instituce elektronických peněz nepředá příjemci nebo jinému poskytovateli.</p> <p>(2) Odstavec 1 se</p>	<p>to execute a payment transaction:</p> <ul style="list-style-type: none"> - they must be kept separate from the electronic money institution's own funds and from the funds of other persons, and they must be by the end of the day following the day on which the electronic money institution has received them, be deposited in or transferred to a separate account, or they shall be invested in low-risk liquid assets (Section 52e(1) (a) and (b)); - the safeguarding requirements for the case of bankruptcy of an electronic money institution are laid down in Section 52e(2) and (3): the electronic money institution must have an insurance policy or if it must be covered by another comparable guarantee. <p>Article 9(2), of Directive 2007/64/EC, which is also an option, is transposed, although in a more general manner, by Section 52f(1) of Act 284/2009, which stipulates that if it is impossible to determine what portion of the funds transferred by a holder or by user to the electronic money institution is intended for payment transactions, the electronic money institution must protect a portion of these funds corresponding to an estimate based on data from previous periods.</p> <p>Section 52f(2) of Act 284/2009 deals with safeguarding of funds at the exchange of which the electronic money has been issued through a payment instrument. In such a case the electronic money institution shall safeguard these funds pursuant to Section 52e only after they have been credited on its payment account or made available to it, but</p>

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			<p>money institution has entered into an insurance policy or if it is covered by another comparable guarantee, on the basis of which users have the right to benefit at an amount corresponding to the right to the release of the funds at the exchange of which the electronic money are to be issued or that were entrusted to the electronic money institution for the execution of a payment transaction, in the event that the electronic money institution is unable to satisfy that right itself, especially if a decision on the bankruptcy of the electronic money institution has been issued.</p> <p>Act 284/2009, S. 52f</p> <p>Where it is impossible to determine what portion of the funds transferred by a holder or by user to the electronic money institution is intended for payment transactions, the electronic money institution is required under Section 20 to protect a portion of these funds corresponding to an</p>	<p>nepoužije, jestliže instituce elektronických peněz uzavřela pojistnou smlouvu nebo za ni byla poskytnuta jiná srovnatelná záruka, na jejichž základě mají držitelé a uživatelé právo na plnění ve výši odpovídající právu na vydání peněžních prostředků, proti jejichž přijetí byly vydány elektronické peníze nebo které byly instituci elektronických peněz svěřeny k provedení platební transakce, v případě, že instituce elektronických peněz není schopna toto právo uspokojit sama, zejména v případě vydání rozhodnutí o úpadku instituce elektronických peněz.</p> <p>Zákon č. 284/2009 Sb., § 52f</p> <p>(1) Jestliže nelze určit, jaká část peněžních prostředků předaných držitelem nebo uživatelem instituci elektronických peněz je určena pro platební</p>	<p>at the latest after 5 working days after issuing of electronic money. This is in line with Article 7(1) of the Directive.</p> <p>Based on the above-mentioned observations, Section 52(1) and (2) and Section 52f of Act 284/2009 conform to Article 7(1) of the Directive.</p>

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				<p>estimate based on data from previous periods.</p> <p>(2) If an electronic money institution receives from a holder funds at the exchange of which the electronic money has been issued through a payment instrument, it is assumed that these funds were received at the moment where a payment order was made. In such a case the electronic money institution shall safeguard these funds pursuant to Section 52e only after they have been credited on its payment account or made available to it, but at the latest after 5 working days after issuing of electronic money.</p>	<p>transakce, je instituce elektronických peněz povinna chránit podle § 52e takovou část těchto peněžních prostředků, která odpovídá odhadu na základě údajů z předchozích období.</p> <p>(2) Jestliže instituce elektronických peněz přijímá od držitele peněžní prostředky, proti jejichž přijetí byly vydány elektronické peníze, formou přijetí platebního prostředku, platí, že peněžní prostředky byly přijaty v okamžiku, kdy byl platebním prostředkem dán platební příkaz. V takovém případě chrání instituce elektronických peněz tyto peněžní prostředky podle § 52e teprve poté, co byly připsány na její platební účet nebo jí dány k dispozici, nejpozději však po uplynutí 5 pracovních dní ode dne vydání elektronických peněz.</p>	
Art. 7(2) 1st subpar a.	2. For the purposes of paragraph 1, secure, low-risk assets are asset items falling into one of the	2. Pro účely odstavce 1 jsou bezpečnými aktivy s nízkým rizikem položky aktiv spadající do	Decree 141/2011, S. 48(a)	Decree 141/2011, S. 48(a) Low-risk assets shall mean:	Vyhláška č. 141/2011 Sb., § 48 písm. a) Aktivy s nízkým rizikem	CONFORM Section 48(a) of Decree 141/2011 transposes Article 7(2), first subparagraph of the

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	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.	kategorií v tabulce 1 bodě 14 přílohy I směrnice Evropského parlamentu a Rady 2006/49/ES ze dne 14. června 2006 o kapitálové přiměřenosti investičních podniků a úvěrových institucí [10], u nichž kapitálový požadavek pro specifické riziko nepřekračuje 1,6 %, avšak s vyloučením jiných kvalifikujících položek, jak jsou definovány v bodě 15 uvedené přílohy.		a) government or qualifying instruments defined in the decree stipulating prudential rules for banks, credit unions and investment firms, excluding other qualifying instruments that would have a coefficient for the calculation of the capital requirement for specific interest risk below or equal to 1.6%,	se rozumí a) vládní nebo kvalifikované nástroje podle vyhlášky upravující pravidla obezřetného podnikání bank, spořitelních a úvěrních družstev a obchodníků s cennými papíry, s výjimkou ostatních kvalifikovaných nástrojů, kterým by podle uvedené vyhlášky odpovídal koeficient pro výpočet kapitálového požadavku ke specifickému úrokovému riziku nepřevyšující 1,6 %,	Directive. Decree 141/2011 uses the term “low risk assets” and defines them in Section 48(a) as government or qualifying instruments defined in the decree stipulating prudential rules for banks, credit unions and investment firms, (Decree No 123/2007) excluding other qualifying instruments that would have a coefficient for the calculation of the capital requirement for specific interest risk below or equal to 1.6%. All of the categories referred to in Table 1 of point 14 of Annex I to Directive 2006/49EC are included here. Based on the above-mentioned observation, Section 48(a) of Decree 141/2011 conforms to Article 7(2), first subparagraph of the Directive.
Art. 7(2) 2nd subpar a.	For the purposes of paragraph 1, secure, low-risk assets are also units in an undertaking for collective investment in transferable securities (UCITS) which invests solely in assets as specified in the first subparagraph.	Pro účely odstavce 1 jsou bezpečnými aktivy s nízkým rizikem rovněž podílové jednotky v subjektu kolektivního investování do převoditelných cenných papírů (SKIPCP), který investuje pouze do aktiv uvedených v prvním pododstavci.	Decree 141/2011, S. 48(b)	Decree 141/2011, S. 48(b) Low-risk assets shall mean: b) collective investment securities, if the assets of the collective investment fund include exclusively instruments pursuant to point a).	Vyhláška č. 141/2011 Sb., § 48 písm. b) Aktivy s nízkým rizikem se rozumí b) cenné papíry kolektivního investování, pokud v aktivech fondu kolektivního investování jsou výhradně nástroje podle písmene a).	CONFORM Section 48(b) of Decree 141/2011 transposes Article 7(2), second subparagraph of the Directive. Section 48(b) of Decree 141/2011 includes among low-risk assets also collective investment securities, if the assets of the collective investment fund include exclusively instruments pursuant to point a). This is in line with the Directive provision, although the NIM uses a slightly different terminology, and refers to collective investment securities. Based on the above-mentioned observations, Section 48(b) of Decree 141/2011 conforms to Article 7(2), second subparagraph of the

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						Directive.
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.	Za výjimečných okolností, a existuje-li řádné zdůvodnění, mohou příslušné orgány na základě zhodnocení bezpečnosti, splatnosti, hodnoty nebo jiných rizikových prvků aktiv, které jsou uvedeny v prvním a druhém pododstavci, určit, která z těchto aktiv nepředstavují pro účely odstavce 1 bezpečná aktiva s nízkým rizikem.	Act 284/2009, S. 52e(5)	Act 284/2009, S. 52e(5) (4) An implementing act shall lay down the assets in which the electronic money institution may invest monetary funds according to paragraph 1, point (b). (5) For the reasons worthy of special consideration the Czech National Bank may by a measure of a general nature temporarily prohibit the electronic money institution to invest funds referred to in paragraph 1(b), at the exchange of which the electronic money was issued in the assets laid down by the implementing act referred to in paragraph (4); the Czech National bank shall at the same time determine in the measure of a general measure which assets are concerned. At the same time, the Czech National Bank shall take into account the security, maturity and value of	Zákon č. 284/2009 Sb., § 52e odst. 5 (4) Prováděcí právní předpis stanoví aktiva, do kterých může instituce elektronických peněz investovat peněžní prostředky podle odstavce 1 písm. b). (5) Z důvodů zvláštního zřetele hodných může Česká národní banka opatřením obecné povahy dočasně zakázat institucím elektronických peněz investovat peněžní prostředky podle odstavce 1 písm. b), proti kterým byly vydány elektronické peníze, do aktiv stanovených prováděcím právním předpisem podle odstavce 4, jejichž druh tímto opatřením současně vymezí. Přitom Česká národní banka přihlédně k bezpečnosti, splatnosti a hodnotě těchto aktiv.	CONFORM The option provided for in Article 7(2), third subparagraph of the Directive is transposed by Section 52e(4) and (5) of Act 284/2009. Section 52e(5) of Act 284/2009 entitles the Czech National Bank to temporarily prohibit to the electronic money institution, by a measure of a general nature, to invest funds at the exchange of which the electronic money was issued, in the assets referred to in paragraph 4 (these are assets laid down in Section 48 of Decree 141/2011). At the same time, the Czech National Bank shall determine which kind of assets is concerned. This right of the Czech National Bank is limited “for the reasons worthy of special consideration”. This wording is not defined in Act 284/2009, but it may be assumed that it corresponds to the exceptional circumstances as mentioned in the Directive provision. This wording also implies that there must be an adequate justification for such measure. In line with the Directive provision, the Czech national Bank must take into account the security, maturity and value of these assets. However, other risk elements that should be also taken into account are not mentioned in Section 52e(5) of Act 284/2009, the NIM is therefore less detailed than the Directive provision, without its conformity being affected. Based on the above-mentioned observation,

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				these assets.	Section 52e(4) and (5) conforms to Article 7(2), third subparagraph of the Directive.	
Art. 7(3)	3. Article 9 of Directive 2007/64/EC shall apply to electronic money institutions for the activities referred to in Article 6(1)(a) of this Directive that are not linked to the activity of issuing electronic money.	3. Článek 9 směrnice 2007/64/ES se vztahuje na instituce elektronických peněz pro činnosti uvedené v čl. 6 odst. 1 písm. a) této směrnice, které nejsou spojeny s vydáváním elektronických peněz.	Act 284/2009, S. 52e(1) and (2), Act 284/2009, S. 52f(1)	<p>Act 284/2009, S. 52e(1) and (2)</p> <p>(1) Funds at the exchange of which the electronic money are to be issued or that were entrusted to the electronic money institution to execute a payment transaction must</p> <p>a) be kept separate from the electronic money institution's own funds and from the funds of other persons, with the exception of other funds at the exchange of which the electronic money are to be issued or that were entrusted to the electronic money institution for the execution of a payment transaction, and</p> <p>b) by the end of the day following the day on which the electronic money institution has received them, be deposited in or transferred to a separate account held by the payment institution at a bank, savings and credit cooperative, foreign</p>	<p>Zákon č. 284/2009 Sb., § 52e odst. 1 a 2</p> <p>(1) Peněžní prostředky, proti jejichž přijetí byly vydány elektronické peníze nebo které byly instituci elektronických peněz svěřeny k provedení platební transakce, musí být</p> <p>a) drženy odděleně od vlastních peněžních prostředků instituce elektronických peněz a od peněžních prostředků jiných osob s výjimkou ostatních peněžních prostředků, proti jejichž přijetí byly vydány elektronické peníze nebo které byly instituci elektronických peněz svěřeny k provedení platební transakce, a</p> <p>b) po uplynutí pracovního dne následujícího po dni, kdy je instituce elektronických peněz obdržela, uloženy na samostatném účtu instituce elektronických peněz u banky, spořitelního a</p>	<p>CONFORM</p> <p>Section 52e(1) and (2) and Section 52f(1) of Act 284/2009 transpose Article 7(3) of the Directive.</p> <p>Article 7(3) of the Directive sets out an option.</p> <p>Section 52e lays down, in line with Article 9(1) of Directive 2007/64/EC, the following safeguarding requirements for the funds at the exchange of which the electronic money was issued, as well as for the funds that were entrusted to the electronic money institution to execute a payment transaction:</p> <ul style="list-style-type: none"> - they must be kept separate from the electronic money institution's own funds and from the funds of other persons, and they must be by the end of the day following the day on which the electronic money institution has received them, be deposited in or transferred to a separate account, or they shall be invested in low-risk liquid assets (Section 52e(1) (a) and (b)); - the safeguarding requirements for the case of bankruptcy of an electronic money institution are laid down in Section 52e(2) and the electronic money institution must have an insurance policy or if it must be covered by another comparable guarantee. <p>Article 9(2), of Directive 2007/64/EC is transposed, although in a more general manner, by Section 52f(1) of Act 284/2009,</p>

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			<p>bank established in a Member State or foreign bank established in a non-Member State subject to supervision comparable to the supervision exercised by the Czech National Bank, or shall be invested in low-risk liquid assets, unless the electronic money institution transmits them to the payee or another provider within that period.</p> <p>(2) Paragraph (1) shall not apply if the electronic money institution has entered into an insurance policy or if it is covered by another comparable guarantee, on the basis of which users have the right to benefit at an amount corresponding to the right to the release of the funds at the exchange of which the electronic money are to be issued or that were entrusted to the electronic money institution for the execution of a payment transaction, in the event that the electronic money institution is unable to satisfy that right itself, especially if a decision on</p>	<p>úvěrního družstva, zahraniční banky se sídlem v členském státě nebo zahraniční banky se sídlem v jiném než členském státě, která podléhá dohledu srovnatelnému s dohledem České národní banky, nebo musí být investovány do likvidních aktiv s nízkým rizikem, pokud je instituce elektronických peněz nepředá příjemci nebo jinému poskytovateli.</p> <p>(2) Odstavec 1 se nepoužije, jestliže instituce elektronických peněz uzavřela pojistnou smlouvu nebo za ni byla poskytnuta jiná srovnatelná záruka, na jejichž základě mají držitelé a uživatelé právo na plnění ve výši odpovídající právu na vydání peněžních prostředků, proti jejichž přijetí byly vydány elektronické peníze nebo které byly instituci elektronických peněz svěřeny k provedení platební transakce, v případě, že instituce</p>	<p>which stipulates that if it is impossible to determine what portion of the funds transferred by a holder or by user to the electronic money institution is intended for payment transactions, the electronic money institution must protect a portion of these funds corresponding to an estimate based on data from previous periods.</p> <p>Articles 9(3) and 9(4) of Directive 2007/64/EC set out an option. Owing to these options, the Czech Republic does not seem to have chosen to apply them.</p> <p>Based on the above-mentioned observations, Section 52e(1) and (2) and Section 52f(1) of Act 284/2009 conform to Article 7(3) of the Directive.</p>

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			<p>the bankruptcy of the electronic money institution has been issued.</p> <p>(3) An insurer of the insurance policy referred to in paragraph (2) may be only an insurance company or a foreign person with a similar business activity with established in a Member State or established in another country than a Member State, if it is subject to a supervision similar to that of the Czech National Bank, if such persons are not members of the same group than the electronic money institution,</p> <p>Another comparable guarantee referred to in paragraph (2) may be provided only by a bank, savings and credit association, foreign bank with a similar purpose of business activity established in another Member State or established in another country than a Member State, which is subject to the supervision similar to that of the Czech National</p>	<p>elektronických peněz není schopna toto právo uspokojit sama, zejména v případě vydání rozhodnutí o úpadku instituce elektronických peněz.</p> <p>(3) Uzavřít pojistnou smlouvu podle odstavce 2 jako pojistitel může pouze pojišťovna nebo zahraniční osoba s obdobným předmětem podnikání se sídlem v členském státě nebo se sídlem v jiném než členském státě, která podléhá dohledu srovnatelnému s dohledem České národní banky, jestliže tyto osoby nejsou členy stejné skupiny jako instituce elektronických peněz. Poskytnout jinou srovnatelnou záruku podle odstavce 2 může pouze banka, spořitelní a úvěrní družstvo, zahraniční banka nebo zahraniční osoba s obdobným předmětem podnikání se sídlem v jiném členském státě nebo se sídlem v jiném než členském státě, která podléhá dohledu srovnatelnému s dohledem České národní banky,</p>	

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				<p>Bank, if these persons are not members of the same group as the electronic money institution.</p> <p>Act 284/2009, S. 52f(1) (1) Where it is impossible to determine what portion of the funds supplied by a user or by a holder to the electronic money institution is intended for payment transactions, the electronic money institution is required under Section 52e to protect a portion of these funds corresponding to an estimate based on data from previous periods.</p>	<p>jestliže tyto osoby nejsou členy stejné skupiny jako instituce elektronických peněz.</p> <p>Zákon č. 284/2009 Sb., § 52f odst. 1 (1) Jestliže nelze určit, jaká část peněžních prostředků předaných držitelem nebo uživatelem instituci elektronických peněz je určena pro platební transakce, je instituce elektronických peněz povinna chránit podle § 52e takovou část těchto peněžních prostředků, která odpovídá odhadu na základě údajů z předchozích období.</p>	
Art. 7(4)	4. For the purposes of paragraphs 1 and 3, Member States or their competent authorities may determine, in accordance with national legislation, which method shall be used by the electronic money institutions to safeguard funds.	4. Pro účely odstavců 1 a 3 mohou členské státy nebo jejich příslušné orgány v souladu s vnitrostátními právními předpisy určit, kterou metodu mají instituce elektronických peněz použít pro ochranu peněžních prostředků.	N/A	N/A	N/A	Article 7(4) of the Directive sets out an option. Owing to this option, the Czech Republic does not seem to have chosen to apply it.
Art. 8(1)	<i>Article 8</i> Relations with third	<i>Článek 8</i> Vztahy se třetími	Act 284/20	Act 284/2009, S. 47(2) (2) Paragraph 1(b) shall	Zákon č. 284/2009 Sb., § 47 odst. 2	CONFORM Section 47(2) of Act 284/2009 transposes

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	<p>countries</p> <p>1. Member States shall not apply to a branch of an electronic money institution having its head office outside the Community, when taking up or pursuing its business, provisions which result in more favourable treatment than that accorded to an electronic money institution having its head office within the Community.</p>	<p>zeměmi</p> <p>1. Členské státy neuplatňují vůči pobočkám institucí elektronických peněz s ústředím mimo Společenství v případě, že zahajují nebo provozují činnost, ustanovení, jež by je ve výsledku zvýhodňovala před institucí elektronických peněz s ústředím ve Společenství.</p>	<p>09, S. 47(2)</p>	<p>not apply if an obligation arises from a treaty that is a part of the legal order, to enable the applicant that is established in a country which is not a Member State, to issue in the Czech republic electronic money under conditions similar to those of persons established in the Czech Republic, and if the legislation of the country in which the applicant is established does not prevent efficient protection of the funds at the exchange of which electronic money was issued or that were entrusted to the applicant for the execution of a payment transaction. Section 52m and Section 52n shall not apply for the electronic money institution established in a country, which is not a Member State.</p>	<p>(2) Odstavec 1 písm. b) se nepoužije, jestliže z mezinárodní smlouvy, která je součástí právního řádu, vyplývá povinnost umožnit žadateli se sídlem ve státě, který není členským státem, vydávat v České republice elektronické peníze za obdobných podmínek jako osobám se sídlem v České republice a jestliže právní řád státu, v němž má žadatel sídlo, nebrání účinné ochraně peněžních prostředků, proti jejichž přijetí byly vydány elektronické peníze nebo které byly žadateli svěřeny k provedení platební transakce. Pro instituci elektronických peněz se sídlem ve státě, který není členským státem, se § 52m a 52n nepoužijí.</p>	<p>Article 8(1) of the Directive.</p> <p>Section 47(2) of Act 284/2009 enables the applicants established in a country which is not a Member State to issue electronic money in the Czech Republic under conditions similar to those of persons established in the Czech Republic. However, such a possibility must be provided for in a relevant international treaty.</p> <p>The wording “under conditions similar to those of persons established in the Czech Republic” implies that the applicant cannot have a more favourable treatment when taking up or pursuing its business, in line with the Directive provision, and as suggested in recital 15 of the Directive.</p> <p>Section 47(2) of Act 284/2009 provides another condition for the applicant, which is that the legislation of the country in which the applicant is established does not prevent efficient protection of the funds at the exchange of which electronic money was issued or that were entrusted to the applicant for the execution of a payment transaction.</p> <p>Considering that the applicant is established outside the EEA, Section 52m and Section 52n do not apply.</p> <p>Based on the above-mentioned observations, Section 47(2) of Act 284/2009 conforms to Article 8(1) of the Directive.</p>
<p>Art. 8(2)</p>	<p>2. The competent authorities shall notify the Commission of all</p>	<p>2. Příslušné orgány oznámí Komisi veškerá povolení vydaná</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>	<p>CONFORM</p> <p>The provision transposing Article 8(2) of the Directive has not been identified throughout</p>

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	authorisations for branches of electronic money institutions having their head office outside the Community.	institucím elektronických peněz s ústředím mimo Společenství pro jejich pobočky.				<p>the NIMs.</p> <p>The absence, in the national legislation, of a binding disposition requiring the Czech competent authority to notify the Commission of the authorisations conceded does not prevent that the provision of such information is done.</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 identically throughout the Community.	3. Aniž je dotčen odstavec 1, může Společenství v dohodách uzavřených s jednou nebo více třetími zeměmi sjednat použití ustanovení, jež zajistí pobočkám instituce elektronických peněz s ústředím mimo Společenství stejné zacházení v celém Společenství.	N/A	N/A	N/A	<p>CONFORM</p> <p>Article 8(3) of the Directive is addressed to the Community and thus does not require transposition.</p>
Art. 9(1) 1st subpara. intr. wording	<p><i>Article 9</i></p> <p>Optional Exemptions</p> <p>1. Member States may waive or allow their competent authorities to waive the application of all or part of the</p>	<p><i>Článek 9</i></p> <p>Volitelné výjimky</p> <p>1. Členské státy mohou upustit od uplatňování nebo umožnit svým příslušným orgánům, aby upustily od uplatňování,</p>	Act 284/2009, S. 53(1), Act 284/2009, S.	Act 284/2009, S. 53(1) (1) Small electronic money issuer is a legal person that is entitled to issue electronic money on the basis of its entry into the register of small	Zákon č. 284/2009 Sb., § 53 odst. 1 (1) Vydavatel elektronických peněz malého rozsahu je právnická osoba, která je oprávněna vydávat	<p>CONFORM</p> <p>Section 53(1) and Section 59 of Act 284/2009 and Art. 36(2) of Resolution 2/1993 transpose Article 9(1), first subparagraph, introductory wording of the Directive.</p> <p>Article 9(1), introductory sentence of the</p>

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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:	všech nebo některých částí postupů a podmínek stanovených v člancích 3, 4, 5 a 7 této směrnice, s výjimkou článků 20, 22, 23 a 24 směrnice 2007/64/ES, a umožnit právnickým osobám zápis do rejstříku institucí elektronických peněz, pokud splňují oba tyto požadavky:	59	<p>electronic money issuers. Section 46(2) shall apply <i>mutatis mutandis</i>.</p> <p>Act 284/2009, S. 59</p> <p>(1) Section 52d to 52g, 52k and 52l shall apply <i>mutatis mutandis</i> to small electronic money issuers.</p> <p>(2) Electronic money issuers may not grant interests or other advantages dependent of the length of the period during which funds are entrusted to them for the execution of the payment transaction.</p> <p>Resolution 2/1993, Art. 36(2)</p> <p>(2) Unless a law provides otherwise, a person who claims that her rights were curtailed by a decision of a public administrative authority may turn to a court for review of the legality of that decision. However, judicial review of decisions affecting the fundamental rights and freedoms listed in this</p>	<p>elektronické peníze na základě zápisu do registru vydavatelů elektronických peněz malého rozsahu. Ustanovení § 46 odst. 2 se použije obdobně.</p> <p>Zákon č. 284/2009 Sb., § 59</p> <p>(1) Pro vydavatele elektronických peněz malého rozsahu se použijí obdobně § 52d až 52g, 52k a 52l.</p> <p>(2) Vydavatel elektronických peněz malého rozsahu nesmí uživatelům poskytovat úroky nebo jiné výhody závislé na délce doby, po kterou mu jsou peněžní prostředky svěřeny k provedení platební transakce.</p> <p>Usnesení č. 2/1993 Sb., o vyhlášení Listiny základních práv a svobod, čl. 36 odst. 2</p> <p>(2) Kdo tvrdí, že byl na svých právech zkrácen rozhodnutím orgánu veřejné správy, může se</p>	<p>Directive sets out an option. The Czech legislation has applied the Directive provision, as suggested in recital 16 of the Directive, by providing for a small electronic money issuer, as defined in Section 53(1) as a legal person that is entitled to issue electronic money on the basis of its entry into the register of small electronic money issuers. According to Section 46(2), referred to in this provision, the small electronic money issuer may be entitled to the same activities as electronic money institution.</p> <p>According to Section 59 of Act 284/2009, only Section 52d to 52g, section 52k and Section 52l apply <i>mutatis mutandis</i> to the small electronic money issuers. Section 52d to 52g lay down the safeguarding requirements of funds of an electronic money institution, while Section 52k deals with information requirements, and Section 52l regulates keeping of documents and of records.</p> <p>Section 59(2) of Act 284/2009 also explicitly prohibits the small electronic money issuer from granting interests or other similar advantages. This Section does not explicitly provide for the application of provisions corresponding to Articles 20, 22, 23 and 24 of Directive 2007/64/EC, but this does not affect the conformity because Section 135a and the following Sections dealing with the supervision of the Czech National Bank, professional secrecy and exchange of information apply at all the institutions regulated by this Act – payment institutions, small payment services providers, electronic</p>

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				Charter may not be removed from the jurisdiction of courts.	obrátit na soud, aby přezkoumal zákonnost takového rozhodnutí, nestanoví-li zákon jinak. Z pravomoci soudu však nesmí být vyloučeno přezkoumávání rozhodnutí týkajících se základních práv a svobod podle Listiny.	<p>money institutions and small electronic money issuers.</p> <p>The right to apply to the courts results from the application of Article 36(2) of Resolution 2/1993 – the Charter of fundamental rights of the Czech Republic, which entitles any person claiming that his rights have been prejudiced by the decision of a public authority to apply to a court to review the legality of such a decision, unless the law provides otherwise.</p> <p>Based on the above-mentioned observations, Section 53(1) and Section 59 of Act 284/2009 and Art. 36(2) of Resolution 2/1993 conform to Article 9(1), first subparagraph, introductory wording of the Directive.</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 no more than EUR 5000000; and	a) veškeré obchodní činnosti vytvářejí průměr elektronických peněz v oběhu, který nepřekračuje limit stanovený členským státem a v žádném případě není vyšší než 500 000 0 EUR, a	Act 284/2009, S. 53(2), first sentence	Act 284/2009, S. 53(2), first sentence (2) Small electronic money issuers are entitled to issue electronic money and provide payment services concerning the electronic money only on condition that the average of the electronic money issued by them that are in the circulation in the Czech Republic does not exceed the amount corresponding to EUR 5 000 000. [...]	Zákon č. 284/2009 Sb., § 53 odst. 2 věta první (2) Vydavatel elektronických peněz malého rozsahu je oprávněn vydávat elektronické peníze a poskytovat platební služby, které se týkají elektronických peněz, pouze tehdy, jestliže průměr jím vydaných elektronických peněz v oběhu v České republice nepřekročí částku odpovídající 5 000 000 eur. [...]	CONFORM Section 53(2), first sentence of Act 284/2009 transposes Article 9(1), first subparagraph, point (a) of the Directive In compliance with the Directive provision, Section 53(2), first sentence of Act 284/2009 limits the average of the electronic money issued by the small electronic money issuer and that are in circulation in the Czech Republic to an amount corresponding to EUR 5 000 000. Based on the above-mentioned observations, Section 53(2), first sentence of Act 284/2009 conforms to Article 9(1), first subparagraph, point (a) of the Directive.

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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) žádná z fyzických osob odpovědných za řízení nebo provoz podniku nebyla odsouzena za trestné činy související s praním peněz nebo financováním terorismu nebo jiné finanční trestné činy.	Act 284/2009, S. 54(1)(e)	Act 284/2009, S. 54(1)(e) (1) The Czech National Bank shall enter the applicant into the register of small electronic money issuers, e) if none of its directors or managers has been convicted of a criminal offence against property, an economic criminal offence or of a criminal offence committed in relation to terrorist financing and	Zákon č. 284/2009 Sb., § 54 odst. 1 písm. e) (1) Česká národní banka zapíše do registru vydavatelů elektronických peněz malého rozsahu žadatele, e) jestliže žádná z jeho vedoucích osob nebyla odsouzena pro trestný čin proti majetku, hospodářský trestný čin nebo pro trestný čin spáchaný v souvislosti s financováním terorismu a	CONFORM Section 54(1)(e) of Act 284/2009 transposes Article 9(1), first subparagraph, point (b) of the Directive. Although Section 54(1)(e) uses a slightly different wording, the condition for entering the applicant into the register of small electronic money issuers is the same as that in the Directive provision: none of its directors or managers (these are the persons responsible for the management or operation of the business) has been convicted of a criminal offence against property, an economic criminal offence (this includes also offences relating to money laundering and other financial crimes) or of a criminal offence committed in relation to terrorist financing. Based on the above-mentioned observations, Section 54(1)(e) of Act 284/2009 conforms to Article 9(1), first subparagraph, point (b) of the Directive.
Art. 9(1) 2nd subpar a,	Where an electronic money institution carries out any of the activities referred to in Article 6(1)(a) that are not linked to the issuance of electronic money or any of the activities referred to in Article 6(1)(b) to (e) and the amount of outstanding electronic money is unknown in advance, the	Pokud instituce elektronických peněz vykonává některou z činností uvedených v čl. 6 odst. 1 písm. a), která není spojena s vydáváním elektronických peněz, nebo některou z činností uvedených v čl. 6 odst. 1 písm. b) až e) a částka elektronických peněz v oběhu není předem známa,	Act 284/2009, S. 53(1) and (2)	(1) Small electronic money issuer is a legal person that is entitled to issue electronic money on the basis of its entry into the register of small electronic money issuers. Section 46(2) shall apply <i>mutatis mutandis</i> . 2) Small electronic money issuers are entitled to issue	Zákon č. 284/2009 Sb., § 53 odst. 1 a 2 (1) Vydavatel elektronických peněz malého rozsahu je právnická osoba, která je oprávněna vydávat elektronické peníze na základě zápisu do registru vydavatelů elektronických peněz malého rozsahu.	CONFORM Section 53(1) and (2) and Section 54(1)(c) of Act 284/2009 transpose Article 9(1), second subparagraph of the Directive Although the first sentence of Section 53(2) of Act 284/2009 deals only with the entitlement to issue electronic money and provide payment services concerning the electronic money, it has to be read together with Section (1), according to which Section 46(2) shall apply <i>mutatis mutandis</i> , and thus

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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.	povolí příslušné orgány této instituci elektronických peněz používat první pododstavec písm. a) na základě reprezentativní části, jež má být podle předpokladu použita na vydávání elektronických peněz, pod podmínkou, že tuto reprezentativní část lze rozumným způsobem odhadnout na základě dřívějších údajů a že to příslušné orgány považují za uspokojivé. Pokud instituce elektronických peněz nevyvíjela obchodní činnost po dostatečně dlouhou dobu, je splnění tohoto požadavku hodnoceno na základě předpokládané výše elektronických peněz v oběhu doložené obchodním plánem, s výhradou úprav tohoto plánu požadovaných příslušnými orgány.	electronic money and provide payment services concerning the electronic money only on condition that the average of the electronic money issued by them that are in the circulation in the Czech Republic does not exceed the amount corresponding to EUR 5 000 000. If it is not possible to determine, which portion of the funds transferred by the holder to the small electronic money issuer is designated for payment transaction that concern electronic money, the average of the outstanding electronic money shall be determined from such a portion of these funds that corresponds to the estimation on the basis of data from the previous periods. If the small electronic money issuer issues electronic money for a period shorter than 6 month, the average of outstanding electronic money issued by him shall be determined from his business plan.	Ustanovení § 46 odst. 2 se použije obdobně. (2) Vydavatel elektronických peněz malého rozsahu je oprávněn vydávat elektronické peníze a poskytovat platební služby, které se týkají elektronických peněz, pouze tehdy, jestliže průměr jím vydaných elektronických peněz v oběhu v České republice nepřekročí částku odpovídající 5 000 000 eur. Jestliže nelze určit, jaká část peněžních prostředků předaných držitelem vydavateli elektronických peněz malého rozsahu je určena pro platební transakce, které se týkají elektronických peněz, vychází se při určení průměru elektronických peněz v oběhu z takové části těchto peněžních prostředků, která odpovídá odhadu na základě údajů z předchozích období. Jestliže vydavatel elektronických peněz malého rozsahu vydává elektronické peníze kratší	the small electronic money issuer may carry out the same activities as an electronic money institutions. Section 53(2), second sentence of Act 284/2009 deals with a situation where it is not possible to determine, which portion of the funds transferred by the holder to the small electronic money issuer is designated for payment transaction that concern electronic money; this means that the amount of outstanding electronic money is unknown in advance. In this case, the average of the outstanding electronic money shall be determined from such a portion of these funds that corresponds to the estimation on the basis of data from the previous period. With regard to the condition that this must be done to the satisfaction of the competent authorities, this provision has to be read together with Section 54(1)(c), according to which one of the conditions for the entry of the small electronic money issuer by the Czech National Bank to the register of the small electronic money issuer is that its business plan complies with the conditions laid down in Section 53(2) and (3). Section 53(2), third sentence stipulates that if the small electronic money issuer issues electronic money for a period shorter than 6 month, the average of outstanding electronic money issued by him shall be determined from his business plan. According to Act 284/2009 “sufficiently long period” is therefore less than 6 months. However, the NIM does not provide for possible adjustments to be required by the competent

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				<p>Act 284/2009, S. 54(1)(c)</p> <p>(1) The Czech national Bank shall enter to the register of the small electronic money issuer an applicant</p> <p>c) whose business plan complies with the conditions laid down in Section 53(2) and (3).</p>	<p>dobu než 6 měsíců, vychází se při určení průměru jím vydaných elektronických peněz v oběhu z jeho obchodního plánu.</p> <p>Zákon č. 284/2009 Sb., § 54 odst. 1 písm. c)</p> <p>(1) Česká národní banka zapíše do registru vydavatelů elektronických peněz malého rozsahu žadatele,</p> <p>c) jehož obchodní plán je podložen reálnými ekonomickými propočty a je v souladu s podmínkami stanovenými v § 53 odst. 2 a 3,</p>	<p>authorities, but this does not seem to affect the conformity.</p> <p>Based on the above-mentioned observations, Section 52(1) and (2) and Section 54(1)(c) of Act 284/2009 conforms to Article 9(1), second subparagraph of the Directive.</p>
Art. 9(1) 3rd subpar a.	Member States may also provide for the granting of the optional exemptions under this Article to be subject to an additional requirement of a maximum storage amount on the payment instrument or payment account of the consumer where the electronic money is stored.	Členské státy mohou rovněž podmínit udělení volitelných výjimek splněním dalšího požadavku na maximální částku uchovávanou na platebním prostředku nebo platebním účtu spotřebitele, na němž jsou elektronické peníze uchovávány.	N/A	N/A	N/A	Article 9(1), third subparagraph of the Directive sets out an option. Owing to this option, the Czech Republic does not seem to have chosen to apply it.
Art. 9(1) 4th	A legal person registered in accordance with this	Právnícká osoba zapsaná v rejstříku v souladu s tímto	Act 284/20	Act 284/2009, S. 53(3)	Zákon č. 284/2009 Sb., §	CONFORM

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subpar a.	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.	odstavcem může poskytovat platební služby nesouvisející s elektronickými penězi vydanými v souladu s tímto článkem pouze za předpokladu, že jsou splněny podmínky stanovené v článku 26 směrnice 2007/64/ES.	09, S. 53(3), Act 284/2009, S. 54(1)(e))	(3) An small electronic money issuer shall be authorised to provide payment services that do not concern electronic money only if the monthly average of the amounts of payment transactions that do not concern electronic money executed by it in the Czech Republic, including payment transactions executed through its commercial agents, over the preceding 12 months does not exceed EUR 3 000 000. If a small electronic money issuer provides payment services that do not concern electronic money for less than 12 months, the basis when determining the amount of payment transactions executed shall be the business plan.	53 odst. 3 (3) Vydavatel elektronických peněz malého rozsahu je oprávněn poskytovat platební služby, které se netýkají elektronických peněz, pouze tehdy, jestliže měsíční průměr částek jím provedených platebních transakcí, které se netýkají elektronických peněz, v České republice, včetně platebních transakcí provedených prostřednictvím jeho obchodních zástupců, za posledních 12 měsíců nepřekročí částku odpovídající 3 000 000 eur. Jestliže vydavatel elektronických peněz malého rozsahu poskytuje platební služby, které se netýkají elektronických peněz, kratší dobu než 12 měsíců, vychází se při určení částky jím provedených platebních transakcí z jeho obchodního plánu.	Sections 53(3) and 54(1)(b) and (e) of Act 284/2009 transpose Article 9(1), fourth subparagraph of the Directive. According to Section 53(3) of Act 284/2009, a small electronic money issuer may provide payment services not related to electronic money on the same condition as that specified in Article 26(1)(a) of Directive 2007/64/EC if the monthly average of the amounts of payment transactions that do not concern electronic money executed by it in the Czech Republic, including payment transactions executed through its commercial agents, over the preceding 12 months does not exceed EUR 3 000 000. If a small electronic money issuer provides such services for a period shorter than 12 months, the basis for determining the amount of payment transactions executed shall be the business plan. According to Section 54(1)(e) of Act 284/2009 the condition for entering the applicant into the register of small electronic money issuers is the same as that in the Directive provision: none of its directors or managers (these are the persons responsible for the management or operation of the business) has been convicted of a criminal offence against property, an economic criminal offence (this includes also offences relating to money laundering and other financial crimes) or of a criminal offence committed in relation to terrorist financing. This is in line with Article 26(1)(b) of Directive 2007/64/EC.
			Act 284/2009, S. 54(1)(b) and) (e) (1) The Czech National Bank shall enter the applicant into the register of small electronic money issuers, b) who is established in a	Zákon č. 284/2009 Sb., § 54 odst. 1 písm. b) a e) (1) Česká národní banka		

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			<p>Member State where it actually carries out its activities, and with a branch in the Czech Republic,</p> <p>e) if none of its directors or managers was not convicted of a criminal offence against property, an economic criminal offence or of a criminal offence committed in relation to terrorist financing and</p>	<p>zapiše do registru vydavatelů elektronických peněz malého rozsahu žadatele,</p> <p>b) který má sídlo v členském státě, ve kterém skutečně podniká, a pobočku v České republice,</p> <p>e) jestliže žádná z jeho vedoucích osob nebyla odsouzena pro trestný čin proti majetku, hospodářský trestný čin nebo pro trestný čin spáchaný v souvislosti s financováním terorismu a</p>	<p>Other conditions of Article 26 of Directive 2007/64/EC are also complied with, namely a small electronic money issuer may be entered into the register of small electronic money issuers only if it is established in a Member State where is actually carries out its activities, and if it has a branch in the Czech Republic (Section 54(1)(b) of Act 284/2009).</p> <p>Act 284/2009 does not specify that Section 52m and 52n dealing with cross-border activities of electronic money issuers apply to a small electronic issuer, in line with Article 26(3) of Directive 2007/64/EC.</p> <p>Based on the above-mentioned observations, Sections 53(3) and 54(1)(b) and (e) of Act 284/2009 conform to Article 9(1), fourth subparagraph of the Directive.</p>
Art. 9(2)	<p>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.</p>	<p>2. Právnícká osoba zapsaná v rejstříku podle odstavce 1 je povinna mít ústředí v členském státě, ve kterém svou činnost skutečně vykonává.</p>	<p>Act 284/2009, S. 54(1)(b)</p> <p>(1) The Czech National Bank shall enter the applicant into the register of small electronic money issuers,</p> <p>(b) that is established in the Member State where is actually pursues its business, and that has a branch in the Czech Republic,</p>	<p>Zákon č. 284/2009 Sb., § 54 odst. 1 písm. b)</p> <p>(1) Česká národní banka zapiše do registru vydavatelů elektronických peněz malého rozsahu žadatele,</p> <p>b) který má sídlo v členském státě, ve kterém skutečně podniká, a pobočku v České republice,</p>	<p>PARTIALLY CONFORM</p> <p>Section 54(1)(b) of Act 284/2009 transposes Article 9(2) of the Directive.</p> <p>According to Section 54(1)(b), one of the conditions for entering the small electronic money issuer to the register of small electronic money issuers is that it is established in the Member State in which it actually pursues its business.</p> <p>However, it should be observed that Section 54(1)(b) allows also for the applicant that has a branch in the Czech Republic, although according to Article 9(3) of the Directive Article 10(9) and Article 25 of Directive 2007/64/EC shall not apply to it. This might hamper its conformity.</p>

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						Based on the above-mentioned observations, Se action 54(1)(b) of Act 284/2009 only partially conforms to Article 9(2) of the Directive.
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. Na právnickou osobu zapsanou v rejstříku podle odstavce 1 se pohlíží jako na instituci elektronických peněz. Ustanovení čl. 10 odst. 9 a článku 25 směrnice 2007/64/ES se však na ni nepoužijí.	<p>Act 284/2009, S. 53(1), Act 284/2009, S. 59(1)</p> <p>(1) Small electronic money issuer is a legal person that is entitled to issue electronic money on the basis of its entry into the register of small electronic money issuers. Section 46(2) shall apply <i>mutatis mutandis</i>.</p> <p>Act 284/2009, S. 59(1)</p> <p>(1) Section 52d to 52g, 52k and 52l shall apply <i>mutatis mutandis</i> to small electronic money issuers.</p> <p>Act 284/2009, S. 54(1)(b)</p> <p>(1) The Czech National Bank shall enter the applicant into the register of small electronic money issuers,</p> <p>(b) that is established in the Member State where is actually pursues its business, and that has a branch in the Czech</p>	<p>Act 284/2009, S. 53(1)</p> <p>(1) Small electronic money issuer is a legal person that is entitled to issue electronic money on the basis of its entry into the register of small electronic money issuers. Section 46(2) shall apply <i>mutatis mutandis</i>.</p> <p>Act 284/2009, S. 59(1)</p> <p>(1) Section 52d to 52g, 52k and 52l shall apply <i>mutatis mutandis</i> to small electronic money issuers.</p> <p>Act 284/2009, S. 54(1)(b)</p> <p>(1) The Czech National Bank shall enter the applicant into the register of small electronic money issuers,</p> <p>(b) that is established in the Member State where is actually pursues its business, and that has a branch in the Czech</p>	<p>Zákon č. 284/2009 Sb., § 53 odst. 1</p> <p>(1) Vydavatel elektronických peněz malého rozsahu je právnická osoba, která je oprávněna vydávat elektronické peníze na základě zápisu do registru vydavatelů elektronických peněz malého rozsahu. Ustanovení § 46 odst. 2 se použije obdobně.</p> <p>Zákon č. 284/2009 Sb., § 59 odst. 1</p> <p>(1) Pro vydavatele elektronických peněz malého rozsahu se použijí obdobně § 52d až 52g, 52k a 52l.</p> <p>Zákon č. 284/2009 Sb., § 54 odst. 1 písm. b)</p> <p>(1) Česká národní banka zapíše do registru vydavatelů elektronických peněz malého rozsahu</p>	<p>PARTIALLY CONFORM</p> <p>Sections 53(1), 59(1) and 54(1)(b) of Act 284/2009 transpose Article 9(3) of the Directive.</p> <p>According to Section 53(1), only a legal person may be entered into the register of small electronic money issuers. This provision also provides that Section 46(2) shall apply <i>mutatis mutandis</i>. Section 46(2) lists the activities that an electronic money issuer may carry out. Therefore, it results from this provision that a small electronic money issuer is treated as an electronic money institution.</p> <p>Section 59(1) of Act 284/2009 provides for a <i>mutatis mutandis</i> application of Section 52d to 52g (which deal with safeguard requirements), Section 52k (information duty) and 52l of Act 284/2009 (keeping of documents and records). As Section 52m, dealing with carrying out of the activities of an electronic money institution in a Member State, and Section 52n dealing with carrying out of the activities of a foreign electronic money institution established in another Member State in the Czech Republic, and thus do not apply to the small electronic money issuer.</p> <p>However, Section 54(1)(b) of Act 284/2009 allows for entering in to the register of small</p>

Directive 2009/110/EC			National Implementing Measures			Conformity Assessment
				Republic,	žadatele, b) který má sídlo v členském státě, ve kterém skutečně podniká, a pobočku v České republice,	electronic money issuers an applicant that is established in the Member State where is actually pursues its business, and that has a branch in the Czech Republic, which is contrary to the Directive provision and hampers the conformity of the NIM. Based on the above-mentioned observations, Section 53(1), Section 59(1) and Section 54(1)(b) of Act 284/2009 only partially conform to Article 9(3) of the Directive.
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. Členské státy mohou stanovit, že právnická osoba zapsaná v rejstříku podle odstavce 1 smí vykonávat pouze některé z činností uvedených v čl. 6 odst. 1.	N/A	N/A	N/A	Article 9(4) of the Directive sets out an option. Owing to this option, the Czech Republic does not seem to have chosen to apply it.
Art. 9(5) intr. wording	5. A legal person referred to in paragraph 1 shall:	5. Právnická osoba uvedená v odstavci 1:	N/A	N/A	N/A	CONFORM It should be observed that the NIMs do not contain a similar introductory sentence as the Directive provision. However, this does not prevent the correct transposition of Article 9(5) of the Directive, as it will be shown in the observations below.
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) oznámí příslušným orgánům všechny změny své situace, jež mají význam pro podmínky uvedené v odstavci 1, a	Act 284/2009, S. 56(1)	Act 284/2009, S. 56(1) (1) A small electronic money issuer shall without undue delay notify the Czech National Bank of any change of the information specified in	Zákon č. 284/2009 Sb., ú 56 odst. 1 (1) Vydavatel elektronických peněz malého rozsahu oznámí bez zbytečného odkladu České národní bance	CONFORM Section 56(1) of Act 284/2009 transposes Article 9(5)(a) of the Directive . According to Section 56(1) of Act 284/2009 the small electronic money issuer shall, without undue delay, notify the Czech National Bank of any change to the relevant

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				the application for the entry into the register of small electronic money issuers or in its annexes, on the basis of which it was entered in to this register.	změnu údajů uvedených v žádosti o zápis do registru vydavatelů elektronických peněz malého rozsahu nebo jejích přílohách, na jejichž základě byl do tohoto registru zapsán.	information on the basis of which it was entered into the register of small electronic money issuers. Based on the above-mentioned observations, Section 56(1) of Act 284/2009 conforms to Article 9(5)(a) of the Directive.
Art. 9(5)(b)	(b) at least annually, on date specified by the competent authorities, report on the average outstanding electronic money.	b) nejméně jednou ročně ke dni stanovenému příslušnými orgány podá hlášení o průměrné výši elektronických peněz v oběhu.	Act 284/2009, S. 52k(1) and (3)	Act 284/2009, S. 52k(1) and (3) (1) An electronic money institution shall provide the Czech National Bank with the information on its financial situation, on the results of its economic activity, on the fulfilment of the conditions for the performance of its activities and the information on the commercial agents through whom it distributes electronic money in another Member State or where it provides payment services. (3) An implementing act shall provide the content, form, time-limits and the manner of providing information referred to in paragraph.	Zákon č. 284/2009 Sb., § 52k odst. 1 a 3 (1) Instituce elektronických peněz poskytuje České národní bance informace o své finanční situaci, o výsledcích svého hospodaření, o plnění podmínek výkonu své činnosti a informace o obchodních zástupcích, jejichž prostřednictvím distribuuje elektronické peníze v jiném členském státě nebo poskytuje platební služby. (3) Obsah, formu, lhůty a způsob poskytování informací podle odstavce 1 stanoví prováděcí právní předpis. Vyhláška č. 142/2011 Sb., § 4 odst. 1 písm. d) a odst. 2 písm. d)	CONFORM Section 52k(1) and (3) of Act 284/2009, Section 4(1)(d), Section 4(2)(d) and Section 5(2) of Decree 142/2011 transpose Article 9(5)(b) of the Directive. Section 52k of Act 284/2009 stipulates that the electronic money institution, and also the small electronic money issuer, because this provision applies to it <i>mutatis mutandis</i> , shall provide the Czech National bank with, among others, the information on its financial situation and on the results of its economic activity. Although the wording of the NIM is more general, it includes also the information on the average outstanding electronic money. Further details on this obligation of information are laid down in an implementing act, which is Decree 142/2011, which obliges the small electronic money issuers to provide the information on its financial situation, among others 'report on the admissible assets and on the amount of payment transaction and issued electronic money' four times per year. Based on the above-mentioned observations, Section 52k(1) and (3) of Act 284/2009, Section 4(1)(d), Section 4(2)(d) and Section

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			<p>4(1)(d) and S. 4(2)(d)</p> <p>(1) The reporting entity pursuant to Section 2(a) and (b) shall draft and submit the following statements:</p> <p>(d) PLT(ČNB) 40-04 'report on the admissible assets and on the amount of payment transaction and issued electronic money' and</p> <p>(2) The reporting entity pursuant to Section 2© and (d) shall draft and submit the following statements:</p> <p>(d) PLT(ČNB) 40-04 'report on the admissible assets and on the amount of payment transaction and issued electronic money' and</p> <p>Decree 142/2011, S. 5(2)</p> <p>(2) The reporting entity shall draft the statements pursuant to Section 4 for the last day of the calendar quarter and it shall submit them by 30 days following the end of the first, second and third calendar quarter</p>	<p>(1) Vykazující subjekt podle § 2 písm. a) a b) sestavuje a předkládá tyto výkazy:</p> <p>d) PLT(ČNB) 40-04 „Hlášení o přípustných aktivech a objemu platebních transakcí a vydaných elektronických peněz“ a</p> <p>(2) Vykazující subjekt podle § 2 písm. c) a d) sestavuje a předkládá tyto výkazy:</p> <p>d) PLT(ČNB) 40-04 „Hlášení o přípustných aktivech a objemu platebních transakcí a vydaných elektronických peněz“ a</p> <p>Vyhláška č. 142/2011 Sb., § 5 odst. 2</p> <p>(2) Výkazy podle § 4 sestavuje vykazující subjekt k poslednímu dni kalendářního čtvrtletí a předkládá do 30 kalendářních dnů po skončení 1., 2. a 3. kalendářního čtvrtletí a do 10. února následujícího roku po skončení 4.</p>	<p>5(2) of Decree 142/2011 conform to Article 9(5)(b) of the Directive.</p>

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				and by 10 of February of the following year after the end of the fourth quarter.	kalendářního čtvrtletí.	
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. Členské státy přijmou opatření nezbytná k zajištění toho, aby v případě, že podmínky stanovené v odstavcích 1, 2 a 4 přestanou být plněny, dotyčná právnická osoba požádala o povolení do 30 kalendářních dnů v souladu s článkem 3. Každé takové osobě, která nepožádá o povolení v této lhůtě, je v souladu s článkem 10 vydávání elektronických peněz zakázáno.	Act 284/2009, S. 57(4), Act 284/2009, S. 58(1), first sentence	Act 284/2009, S. 57 (4) (4) If, within 30 days from the day when it ceased to comply with the conditions referred to in Section 53(2), the small electronic money issuer applies for the authorisation for the payment institution, authorisation for electronic money institution or for the entry into the register of small payment services provider, the Czech National Bank may specify in the decision referred to in paragraph 3(b), that it shall not come into force before the entry into force of the decision of the application filed. Act 284/2009, S. 58(1), first sentence (1) As from the day on which the registration of the small electronic money issuer was cancelled, the	Zákon č. 284/2009 Sb., § 57 odst. 4 (4) Jestliže vydavatel elektronických peněz malého rozsahu do 30 dnů ode dne, kdy přestal splňovat podmínky stanovené v § 53 odst. 2, podá žádost o povolení k činnosti platební instituce, žádost o povolení k činnosti instituce elektronických peněz nebo žádost o zápis do registru poskytovatele platebních služeb malého rozsahu, může Česká národní banka v rozhodnutí podle odstavce 3 písm. b) stanovit, že nenabude účinnosti dříve, než nabude účinnosti rozhodnutí o podané žádosti. Zákon č. 284/2009 Sb., § 58 odst. 1 věta první (1) Ode dne zániku nebo zrušení registrace vydavatele elektronických	CONFORM Sections 57 (4) and 58(1), first sentence of Act 284/2009 transpose Article 9(6) of the Directive. Section 57(4) of Act 284/2009 stipulates that where a small electronic money issuer no longer fulfils the conditions referred to in Section 53(2), it can within 30 days apply for authorisation for as a payment institution, authorisation as an electronic money institution or for entry into the register of small payment services provider. In this case, the Czech National Bank may specify in its decision on the cancellation of the registration of the small electronic money issuer that it shall not come into force before the entry into force of the decision of the application filed. However, the scope of this provision is limited in comparison with Article 9(6) of the Directive, where the small electronic money issuer may seek authorisation within 30 days if conditions set out in paragraphs 1, 2 and 4 are no longer met. In the NIM, this procedure is limited only to the situation where the average of the outstanding electronic money issued by the electronic money issuer exceeds the amount corresponding to EUR 5 000 000, as stipulated in Section 53(2) of Act 284/2009. Section 58(1), first sentence stipulates, a more

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				person whose registration ceased to exist or whose registration was cancelled may not carry out the activities referred to in Section 46(2).	peněz malého rozsahu nesmí ten, jehož registrace zanikla nebo byla zrušena, vykonávat činnosti podle § 46 odst. 2. [...]	<p>general manner than the Directive provision, that the small electronic money issuer whose registration ceased to exist or was cancelled may not carry out the activities referred to in Section 46(2), including issuing of the electronic money.</p> <p>Based on the above-mentioned observations, Section 57 (4) and Section 58(1), first sentence of Act 284/2009 conform to Article 9(6) of the Directive.</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. Členské státy zajistí, aby jejich příslušné orgány měly dostatečné pravomoci ke kontrole průběžného plnění požadavků stanovených v tomto článku.	Act 284/2009, S. 135a(1)(a)	<p>Act 284/2009, S. 135a(1)(a)</p> <p>(1) The Czech National Bank shall supervise the compliance with the obligations of</p> <p>(a) payment institutions, small payment services providers, electronic money institutions, small electronic money issuers in the extent set out in the act or in another legal act laying down the rules for the carrying out of the activities that these persons are entitled to exercise under this act,</p>	<p>Zákon č. 284/2009 Sb., § 135a odst. 1 písm. a)</p> <p>(1) Česká národní banka vykonává dohled nad dodržováním povinností</p> <p>a) platební instituce, poskytovatele platebních služeb malého rozsahu, instituce elektronických peněz a vydavatele elektronických peněz malého rozsahu stanovených tímto zákonem nebo jiným právním předpisem upravujícím postup při výkonu činností, které jsou tyto osoby oprávněny vykonávat podle tohoto zákona,</p>	<p>CONFORM</p> <p>Section 135a(1)(a) of Act 284/2009 transposes Article 9(7) of the Directive.</p> <p>Section 135a and the following Sections of Act 284/2009 lay down the competencies of the Czech National Bank with regard to the supervision of the activities of, among others, small electronic money issuers.</p> <p>The supervision of the Czech National Bank concerns the duties laid down in Act 284/2009 as well as other acts (i.e. Decree 141/2011) which lay down the rules for carrying out the activities of small electronic money issuers according to these acts.</p> <p>The competencies of the Czech National Bank correspond to those laid down in Directive 2007/64/EC.</p> <p>Based on the above-mentioned observations, Section 135a(1)(a) of Act 284/2009 conforms to Article 9(7) of the Directive.</p>
Art.	8. This Article shall not apply in respect of the	8. Tento článek se nepoužije na směrnici	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.	2005/60/ES ani na vnitrostátní právní předpisy proti praní peněz.				<p>No provision in Act 284/2009 or in Decree 141/2011 that would prevail over the requirements laid down in Directive 2005/60/EC or in the Czech anti-money-laundering provisions could be located.</p> <p>Article 25(5) of the Directive does not require implementation into national legislation provided no provision contradicts the requirement. Therefore, unless stated otherwise, Czech legislation conforms to Article 9(8) of the Directive.</p>
Art. 9(9)	<p>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.</p>	<p>9. Jestliže členský stát využije výjimku uvedenou v odstavci 1, oznámí to Komisi do 30. dubna 2011. Neprodleně jí oznámí veškeré následné změny. Kromě toho členský stát sdělí Komisi počet dotčených právnických osob a uvědomí ji každoročně o celkové částce elektronických peněz vydaných k 31. prosinci každého kalendářního roku v oběhu, jak je uvedeno v odstavci 1.</p>	N/A	N/A	N/A	<p>CONFORM</p> <p>No provision transposing Article 9(9) of the Directive could be located within Czech legislation, therefore it was not possible to find out whether the Czech Republic complied with the notification duty specified therein.</p> <p>The absence, in the national legislation, of a binding disposition requiring Czech Republic 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 the provision of 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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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>HLAVA III VYDÁVÁNÍ A ZPĚTNÁ VÝMĚNA ELEKTRONICKÝCH PENĚŽ</p> <p><i>Článek 10</i> Zákaz vydávání elektronických peněz</p> <p>Aniž je dotčen článek 18, zakáží členské státy vydávat elektronické peníze fyzickým nebo právnickým osobám, které nejsou vydavateli elektronických peněz.</p>	Act 284/2009, S. 6	<p>Act 284/2009, S. 6</p> <p>Only the following persons may issue electronic money as their business activity:</p> <p>a) banks, under the conditions laid down by the law governing the activities of banks,</p> <p>b) foreign banks and foreign financial institutions, under the conditions laid down by the law governing the activities of banks,</p> <p>c) savings and credit cooperatives, under the conditions laid down by the law governing the activities of savings and credit cooperatives,</p> <p>d) electronic money institutions (Section 46), under the conditions laid down by the present act,</p> <p>e) foreign electronic money institutions, under the conditions laid down by the present act,</p> <p>f) small electronic money issuers (Section 53), under the conditions laid down</p>	<p>Zákon č. 284/2009 Sb., § 6</p> <p>Vydávat elektronické peníze jako podnikání mohou pouze tyto osoby:</p> <p>a) banky za podmínek stanovených zákonem upravujícím činnost bank,</p> <p>b) zahraniční banky a zahraniční finanční instituce za podmínek stanovených zákonem upravujícím činnost bank,</p> <p>c) spořitelní a úvěrní družstva za podmínek stanovených zákonem upravujícím činnost spořitelních a úvěrních družstev,</p> <p>d) instituce elektronických peněz (§ 46) za podmínek stanovených tímto zákonem,</p> <p>e) zahraniční instituce elektronických peněz za podmínek stanovených tímto zákonem,</p> <p>f) vydavatelé elektronických peněz malého rozsahu (§ 53) za podmínek stanovených tímto zákonem,</p>	<p>CONFORM</p> <p>Section 6 of Act 284/2009 transposes Article 10 of the Directive.</p> <p>Section 6 of Act 284/2009 uses the positive approach and lists the persons that are entitled to issue electronic money as their business activity. It results from this provision that any other person is prohibited to issue electronic money.</p> <p>Based on the above-mentioned observation, Section 6 of Act 284/2009 conforms to Article 10 of the Directive.</p>

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				by the present act, g) the Czech National Bank.	g) Česká národní banka.	
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>Článek 11</i> Vydávání a zpětná výměna</p> <p>1. Členské státy zajistí, aby vydavatelé elektronických peněz vydávali elektronické peníze proti přijetí peněžních prostředků ve jmenovité hodnotě odpovídající výši přijatých peněžních prostředků.</p>	Act 284/2009, S. 124(2)	Act 284/2009, S. 124(2) (2) The electronic money issuer issues electronic money on the receipt of funds at the amount corresponding to the par value of the electronic money issued.	Zákon č. 284/2009 Sb., § 124 odst. 2 (2) Vydavatel vydává elektronické peníze proti přijetí peněžních prostředků ve výši odpovídající jmenovité hodnotě vydávaných elektronických peněz.	<p>CONFORM</p> <p>Section 124(2) of Act 284/2009 transposes Article 11(1) of the Directive.</p> <p>Section 124(2) of Act 284/2009 correctly transposes the Directive provision by stipulating that the electronic money issuer issues electronic money on the receipt of funds at the amount corresponding to the par value of the electronic money issued. Moreover, in line with recital 18 of the Directive, Section 52d(1) of Act 284/2009 stipulates that any funds received by electronic money institutions in exchange of the electronic money shall not constitute a deposit according to act regulating the activities of banks.</p> <p>Based on the above-mentioned observation, Section 124(2) of Act 284/2009 conforms to Article 11(1) of the Directive.</p>
Art. 11(2)	<p>2. Member States shall ensure that, upon request by the electronic money holder, electronic money issuers redeem, at any moment and at par value, the monetary value of the electronic money held.</p>	<p>2. Členské státy zajistí, aby vydavatelé elektronických peněz na žádost držitele elektronických peněz provedli kdykoli zpětnou výměnu peněžní hodnoty držených elektronických peněz ve výši odpovídající jejich jmenovité hodnotě.</p>	Act 284/2009, S. 124a(1)	Act 284/2009, S. 124a(1) (1) Redemption shall for the purposes of this act mean the redemption of electronic money for the banknotes, coins or non-cash monetary fund's at the amount corresponding to the par value of the redeemed electronic	Zákon č. 284/2009 Sb., § 124a odst. 1 (1) Zpětnou výměnou se pro účely tohoto zákona rozumí výměna elektronických peněz za bankovky, mince nebo bezhotovostní peněžní prostředky ve výši odpovídající jmenovité	<p>CONFORM</p> <p>Section 124a(1) of Act 284/2009 transposes Article 11(2) of the Directive.</p> <p>Section 124a of Act 284/2009 first provides a definition of a redemption, which is “the redemption of electronic money for the banknotes, coins or non-cash monetary fund's at the amount corresponding to the par value of the redeemed electronic money, carried out by the issuer at the request of the holder”. It</p>

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				money, carried out by the issuer at the request of the holder. The holder may ask the issuer for redemption at any moment.	hodnotě vyměřovaných elektronických peněz, provedená vydavatelem na žádost držitele. Držitel může požádat vydavatele o zpětnou výměnu kdykoli.	further specifies that the holder may ask the issuer for redemption at any moment. Thus, all of the elements of the Directive provision are complied with. Based on the above-mentioned observations, Section 124a(1) of Act 284/2009 conforms to Article 11(2) of the Directive.
Art. 11(3)	3. The contract between the electronic money issuer and the electronic money holder shall clearly and prominently state the conditions of redemption, including any fees relating thereto, and the electronic money holder shall be informed of those conditions before being bound by any contract or offer.	3. Smlouva mezi vydavatelem elektronických peněz a držitelem elektronických peněz jasně a zřetelně stanoví podmínky pro zpětnou výměnu, včetně jakýchkoli s tím spojených poplatků, a držitel elektronických peněz je o těchto podmínkách informován před tím, než je vázán jakoukoli smlouvou nebo nabídkou.	Act 284/2004, S. 124b(1) and (3) (1) The issuer shall inform the holder clearly and prominently on the conditions of the redemption sufficiently in advance before the holder is bound by the contract on issuing the electronic money. (3) If the right of the issuer for the fee for carrying out the redemption was agreed upon, such a charge shall belong to the issuer only if the holder asked for the redemption before the day when the legal relation from the contract on the issuance of the electronic money ceased to exist or more than one year after this day or if the holder terminates the contract on the issuance of the electronic money that has	Zákon č. 284/2009 Sb., § 124b odst. 1 a 3 (1) Vydavatel informuje držitele určitě a srozumitelně o podmínkách zpětné výměny s dostatečným předstihem před tím, než je držitel smlouvou o vydání elektronických peněz vázán. (3) Bylo-li sjednáno právo vydavatele na úplatu za provedení zpětné výměny, náleží vydavateli tato úplata pouze tehdy, jestliže držitel požádá o zpětnou výměnu přede dnem zániku právního vztahu ze smlouvy o vydání elektronických peněz nebo více než 1 rok po tomto dni nebo jestliže držitel vypoví smlouvu o vydání elektronických peněz, která byla uzavřena na dobu určitou. Úplata	CONFORM Section 124b(1) and (3) of Act 284/2009 transposes Article 11(3) of the Directive. Section 124b(1) of Act 284/2009 obliges the issuer to inform the electronic money holder (referred to in the NIM as 'holder') clearly and prominently on the conditions of the redemption. This must be done sufficiently in advance before the holder is bound by the contract on issuing the electronic money. The NIM is therefore less specific than the Directive provision, because it does not explicitly mention the obligation to inform about any fees relating to the redemption; however this can be inferred from Section 142b(3) according to which the right of the issuer for the fee for carrying out the redemption may be agreed upon Based on the above-mentioned observations, Section 124b(1) and (3) of Act 284/2009 conforms to Article 11(3) of the Directive.	

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				been concluded for a determined period. The fee must be proportionate and commensurate with the actual costs of the issuer.	musí být přiměřená a musí odpovídat skutečným nákladům vydavatele.	
Art. 11(4) 1st subpar a. intr. wording	4. Redemption may be subject to a fee only if stated in the contract in accordance with paragraph 3 and only in any of the following cases:	4. Zpětná výměna může podléhat poplatku pouze tehdy, pokud je tak stanoveno ve smlouvě v souladu s odstavcem 3, a pouze v některém z těchto případů:	N/A	N/A	N/A	CONFORM It should be observed that the Act 284/2009 does not contain a similar introductory sentence as the Directive provision. However, this does not prevent the correct transposition of Article 11(4), first subparagraph of the Directive, as it will be shown in the observations below.
Art.11 (4) 1st subpar a. (a)	(a) where redemption is requested before the termination of the contract;	a) je-li zpětná výměna požadována před ukončením smlouvy;	Act 284/2009, S. 142b(3)	Act 284/2009, S. 142b(3) (3) If the right of the issuer for the fee for carrying out the redemption was agreed upon, such a charge shall belong to the issuer only if the holder asked for the redemption before the day when the legal relation from the contract on the issuance of the electronic money ceased to exist or more than one year after this day or if the holder terminates the contract on the issuance of the electronic money that has been concluded for a determined period. The fee must be proportionate and	Zákon č. 284/2009 Sb., § 124b odst. 3 (3) Bylo-li sjednáno právo vydavatele na úplatu za provedení zpětné výměny, náleží vydavateli tato úplata pouze tehdy, jestliže držitel požádá o zpětnou výměnu přede dnem zániku právního vztahu ze smlouvy o vydání elektronických peněz nebo více než 1 rok po tomto dni nebo jestliže držitel vypoví smlouvu o vydání elektronických peněz, která byla uzavřena na dobu určitou. Úplata musí být přiměřená a musí odpovídat skutečným	CONFORM Section 142b(3) of Act 284/2009 transposes Article 11(4), first subparagraph, point (a) of the Directive. Section 124b(3) of Act 28/2009 deals with the situation where the right of the issuer for the fee for carrying out the redemption was agreed, and provides for the conditions for such a fee, one of them being that the holder asked for the redemption before the day when the legal relation from the contract on the issuance of the electronic money ceased to exist. It should be observed that the cessation of the legal relation from the contract equals to the termination of the contract. Based on the above-mentioned observations, Section 142b(3) of Act 284/2009 conforms to Article 11(4), first subparagraph, point (a) of the Directive.

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				commensurate with the actual costs of the issuer.	nákladům vydavatele.	
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) je-li ve smlouvě uveden den ukončení smlouvy a držitel elektronických peněz vypoví smlouvu před tímto datem nebo	Act 284/2009, S. 142b(3)	Act 284/2009, S. 142b(3) (3) If the right of the issuer for the fee for carrying out the redemption was agreed upon, such a charge shall belong to the issuer only if the holder asked for the redemption before the day when the legal relation from the contract on the issuance of the electronic money ceased to exist of more than one year after this day or if the holder terminates the contract on the issuance of the electronic money that was concluded for a determined period. The fee must be proportionate and commensurate with the actual costs of the issuer.	Zákon č. 284/2009 Sb., § 124b odst. 3 (3) Bylo-li sjednáno právo vydavatele na úplatu za provedení zpětné výměny, náleží vydavateli tato úplata pouze tehdy, jestliže držitel požádá o zpětnou výměnu přede dnem zániku právního vztahu ze smlouvy o vydání elektronických peněz nebo více než 1 rok po tomto dni nebo jestliže držitel vypoví smlouvu o vydání elektronických peněz, která byla uzavřena na dobu určitou. Úplata musí být přiměřená a musí odpovídat skutečným nákladům vydavatele.	CONFORM Section 142b(3) of Act 284/2009 transposes Article 11(4), first subparagraph, point (b) of the Directive. Section 124b(3) of Act 284/2009 deals with the situation where the right of the issuer for the fee for carrying out the redemption was agreed, and provides for the conditions for such a fee, one of them being if the holder terminates the contract on the issuance of the electronic money that was concluded for a determined period, which is in line with the Directive provision. Based on the above-mentioned observations, Section 142b(3) of Act 284/2009 conforms to Article 11(4), first subparagraph, point (b) of the Directive.
Art. 11(4) 1st subpar a. (c)	(c) where redemption is requested more than one year after the date of termination of the contract.	c) je-li zpětná výměna požadována více než jeden rok po dni ukončení smlouvy.	Act 284/2009, S. 142b(3)	Act 284/2009, S. 142b(3) (3) If the right of the issuer for the fee for carrying out the redemption was agreed upon, such a charge shall belong to the issuer only if the holder asked for the redemption before the day	Zákon č. 284/2009 Sb., § 124b odst. 3 (3) Bylo-li sjednáno právo vydavatele na úplatu za provedení zpětné výměny, náleží vydavateli tato úplata pouze tehdy, jestliže držitel požádá o zpětnou výměnu přede	CONFORM Section 142b(3) of Act 284/2009 transposes Article 11(4), first subparagraph, point (b) of the Directive. Section 124b(3) of Act 28/2009 deals with the situation where the right of the issuer for the fee for carrying out the redemption was agreed, and provides for the conditions for such a fee, one of them being that the holder

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				when the legal relation from the contract on the issuance of the electronic money ceased to exist or more than one year after this day or if the holder terminates the contract on the issuance of the electronic money that was concluded for a determined period. The fee must be proportionate and commensurate with the actual costs of the issuer.	dnem zániku právního vztahu ze smlouvy o vydání elektronických peněz nebo více než 1 rok po tomto dni nebo jestliže držitel vypoví smlouvu o vydání elektronických peněz, která byla uzavřena na dobu určitou. Úplata musí být přiměřená a musí odpovídat skutečným nákladům vydavatele.	asked for the redemption more than one year after when the legal relation from the contract on the issuance of the electronic money ceased to exist. It should be observed that the cessation of the legal relation from the contract equals to the termination of the contract. Based on the above-mentioned observations, Section 142b(3) of Act 284/2009 conforms to Article 11(4), first subparagraph, point (c) of the Directive.
Art. 11(4) 2nd subpar a.	Any such fee shall be proportionate and commensurate with the actual costs incurred by the electronic money issuer.	Každý takovýto poplatek musí být přiměřený a úměrný skutečným nákladům vynaloženým vydavatelem elektronických peněz.	Act 284/2009, S. 142b(3)	Act 28444/2009, S. 142b(3) (3) If the right of the issuer for the fee for carrying out the redemption was agreed upon, such a charge shall belong to the issuer only if the holder asked for the redemption before the day when the legal relation from the contract on the issuance of the electronic money was terminated, or more than one year after this day or if the holder terminates the contract on the issuance of the electronic money that was concluded for a determined period. The fee must be proportionate and	Zákon č. 284/2009 Sb., § 124b odst. 3 (3) Bylo-li sjednáno právo vydavatele na úplatu za provedení zpětné výměny, náleží vydavateli tato úplata pouze tehdy, jestliže držitel požádá o zpětnou výměnu přede dnem zániku právního vztahu ze smlouvy o vydání elektronických peněz nebo více než 1 rok po tomto dni nebo jestliže držitel vypoví smlouvu o vydání elektronických peněz, která byla uzavřena na dobu určitou. Úplata musí být přiměřená a musí odpovídat skutečným nákladům vydavatele.	CONFORM Section 142b(3) of Act 284/2009 transposes Article 11(4), second subparagraph of the Directive. The second sentence of Section 124b(3) of Act 284/2009 almost literally transposes the Directive requirement. Based on the above-mentioned observation, Section 142b(3) of Act 284/2009 conforms to Article 11(4), second subparagraph of the Directive.

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				commensurate with the actual costs of the issuer.		
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. Pokud je zpětná výměna požadována před ukončením smlouvy, může držitel elektronických peněz požadovat zpětnou výměnu části nebo všech elektronických peněz.	Act 284/2009, S. 124a(2)	Act 284/2009, S. 124a(2) (2) If the holder requests the redemption before the day of the termination of the legal relation from the contract on the issuance of the electronic money, the issuer shall carry out the redemption to the extent in which the holder requests the redemption.	Zákon č. 284/2009 Sb., § 124a odst. 2 (2) Požádá-li držitel o zpětnou výměnu přede dnem zániku právního vztahu ze smlouvy o vydání elektronických peněz, provede vydavatel zpětnou výměnu v rozsahu, v němž o ni držitel požádá.	CONFORM Section 124a(2) of Act 284/2009 transposes Article 11(5) of the Directive. Although Section 124a(2) of Act 284/2009 uses a different wording than the Directive, the meaning is the same and implies that the holder may ask the redemption either in whole or in part. Based on the above-mentioned observation, Section 124a(2) of Act 284/2009 conforms to Article 11(5) of the Directive.
Art. 11(6) intr. wording	6. Where redemption is requested by the electronic money holder on or up to one year after the date of the termination of the contract:	6. Pokud držitel elektronických peněz požaduje zpětnou výměnu v den ukončení smlouvy nebo do jednoho roku od tohoto dne:	Act 284/2009, S. 124a(3), first sentence	Act 284/2009, S. 124a(3), first sentence (3) If the holder requests the redemption on the day of termination of the legal relationship from the contract on the issuance of the electronic money or up to one year after this date, [...]	Zákon č. 284/2009 Sb., § 124a odst. 3 věta první (3) Požádá-li držitel o zpětnou výměnu v den zániku právního vztahu ze smlouvy o vydání elektronických peněz nebo do 1 roku po tomto dni, [...]	CONFORM Section 124a(3), first sentence of Act 284/2009 almost literally transposes Article 11(6), introductory wording of the Directive. Although the wording slightly differs, it may be considered equivalent. Based on the above-mentioned observation, Section 124a(3), first sentence of Act 284/2009 conforms to Article 11(6), introductory wording of the Directive.
Art. 11(6)(a)	a) the total monetary value of the electronic money held shall be redeemed; or	a) je zpětně vyměněna celková peněžní hodnota držení elektronických peněz nebo	Act 284/2009, S. 124a(3), first sentence	Act 284/2009, S. 124a(3), first sentence [...] the issuer shall carry out the redemption to the full extent.	Zákon č. 284/2009 Sb., § 124a odst. 3 věta první [...] provede vydavatel zpětnou výměnu v plném rozsahu.	CONFORM Section 124a(3), first sentence of Act 284/2009 transposes Article 11(6)(a) of the Directive. Although Section 124a(3), first sentence of Act 284/2009 uses a different wording, it

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						<p>complies with the requirement set out in the Directive provision.</p> <p>Based on the above-mentioned observation, Section 124a(3), first sentence of Act 284/2009 conforms to Article 11(6)(a) of the Directive.</p>
Art. 11(6)(b)	<p>(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.</p>	<p>b) v případě, že instituce elektronických peněz provozuje jednu nebo více činností uvedených v čl. 6 odst. 1 písm. e) a není předem známo, jaká část peněžních prostředků bude použita jako elektronické peníze, jsou zpětně vyměněny veškeré peněžní prostředky, které držitel elektronických peněz vyžaduje.</p>	<p>Act 284/2009, S. 124a(3), second sentence</p>	<p>Act 284/2009, S. 124a(3), second sentence</p> <p>If it is not possible to determine which part of the funds received by the electronic money issuer or by the small electronic money issuer is assigned to the payment transactions that concern electronic money, the right of redemption shall concern all the funds received in this manner, to the extent in which the holder requests the redemption.</p>	<p>Zákon č. 284/2009 Sb., § 124a odst. 3 věta druhá</p> <p>Jestliže nelze určit, jaká část peněžních prostředků přijatých institucí elektronických peněz nebo vydavatelem elektronických peněz malého rozsahu je určena pro platební transakce, které se týkají elektronických peněz, vztahuje se právo na zpětnou výměnu na všechny takto přijaté peněžní prostředky, a to v rozsahu, v němž držitel o zpětnou výměnu požádá.</p>	<p>CONFORM</p> <p>Section 124a(3), second sentence of Act 284/2009 transposes Article 11(6)(b) of the Directive.</p> <p>Although Section 124a(3), second sentence of Act 284/2009 uses a different wording, it complies with the requirement set out in the Directive provision, and can be thus considered equivalent.</p> <p>Based on the above-mentioned observation, Section 124a(3), second sentence of Act 284/2009 conforms to Article 11(6)(b) of the Directive.</p>
Art. 11(7)	<p>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</p>	<p>7. Bez ohledu na odstavce 4, 5 a 6 upravuje práva osoby přijímající elektronické peníze jiné než spotřebitele na zpětnou výměnu smlouva mezi vydavatelem elektronických peněz a touto osobou.</p>	<p>Act 284/2009, S. 124c</p>	<p>Act 284/2009, S. 124c</p> <p>If the redemption is requested by a person n other than a consumer, that accepts the electronic money, Section 124a(2) and (3) and Section 124b(3) shall not apply. In this case the conditions of</p>	<p>Zákon č. 284/2009 Sb., § 124c</p> <p>Požaduje-li zpětnou výměnu osoba přijímající elektronické peníze, která není spotřebitelem, § 124a odst. 2 a 3 a § 124b odst. 3 se nepoužijí. V takovém případě se podmínky</p>	<p>CONFORM</p> <p>Section 124c of Act 284/2009 transposes Article 11(7) of the Directive.</p> <p>Section 124c excludes the application of Section 124a(2) and (3) and of Section 124b(3) (which transpose Article 11(4), (5) and (6)), if the redemption is requested by a person other than a consumer, and stipulates, in line with the Directive provision, that in</p>

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	and that person.			the redemption shall be determined by the contract on the issuance of the electronic money.	zpětné výměny řídí smlouvou o vydání elektronických peněz.	such a case the conditions of the redemption shall be determined by the contract on the issuance of the electronic money. Based on the above-mentioned observations, Section 124c of Act 284/2009 conforms to Article 11(7) of the Directive.
Art. 12	<i>Article 12</i> Prohibition of interest Member States shall prohibit the granting of interest or any other benefit related to the length of time during which an electronic money holder holds the electronic money.	<i>Článek 12</i> Zákaz úročení Členské státy zakáží poskytování úroků nebo jakéhokoli jiného prospěchu spojeného s dobou, během níž držitel elektronických peněz tyto peníze drží.	Act 284/2009, S. 124(3)	Act 284/2009, S. 124(3) (3) The issuer may not grant interests or other advantages dependent of the length of the period during which the holder holds the electronic money.	Zákon č. 284/2009 Sb., § 124 odst. 3 (3) Vydavatel nesmí držitelé poskytovat úroky ani jiné výhody závislé na délce doby, po kterou držitel elektronické peníze drží.	CONFORM Section 124(3) of Act 284/2009 almost literally transposes Article 12 of the Directive. Although the wording differs, it may be considered equivalent. Based on the above-mentioned observation, Section 124(3) of Act 284/2009 conforms to Article 12 of the Directive.
Art. 13	<i>Article 13</i> Out-of-court complaint and redress procedures for the settlement of disputes 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.	<i>Článek 13</i> Mimosoudní postupy vyřizování stížností a zjednávání nápravy s cílem urovnání sporů Aniž je dotčena tato směrnice, použije se kapitola 5 hlavy IV směrnice 2007/64/ES obdobně na vydavatele elektronických peněz ve vztahu k jejich povinnostem vyplývajícím z této hlavy.	Act 229/2002, S. 1(1)(b)	Act 284/2009, S. 135e, Act 500/2004, S. 42 Act 284/2009, S. 135e, second sentence Act 284/2009, S. 126, 131, 132, 134, 135 Act 284/2009, S. 135e Act 284/2009, S. 135e Act 284/2009, S. 135(4) Act 229/2002, S. 1(1)(b) and S. 20(1)	Zákon č. 284/2009 Sb., § 135e, Zákon č. 284/2009 Sb., § 42 Zákon č. 284/2009 Sb., § 135e věta druhá Zákon č. 284/2009 Sb., § 126, 131, 132, 134 Zákon č. 284/2009 Sb., § 135e Zákon č. 284/2009 Sb., § 135e Zákon č. 284/2009 Sb., § 135e Zákon č. 284/2009 Sb., § 135 odst. 4 Zákon č. 229/2002 Sb., § 1 odst. 1 písm. b) a § 20	CONFORM Section 135e, first sentence of Act 284/2009 transposes Article 80(1) of Directive 2007/64/EC in a conform manner. The competent body for receiving complaints for infringements of the provisions of Czech law transposing the Directive is the Czech National Bank. As regards the right of consumer associations and other interested parties to submit the complaints to the Czech National Bank, they can take action according to Section of Act 500/2004 which contains the rules of administrative procedure. Act 284/2009, S. 135e, second sentence transposes Article 80(2) of Directive 2007/64/EC in a conform manner.

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					odst. 1	<p>Sections 126, 131, 132, and 134 of Act 284/2009 transpose Article 81(1) of Directive 2007/64/EC in a conform manner. These provisions provide for sanctions for all of the persons, legal or moral, addressed by this act for committing the offences described in these provisions. The analysis of these provisions shows that the penalties proposed therein are effective, proportionate and dissuasive as required by Article 81(1) of Directive 2007/64/EC.</p> <p>Article 81(2) of Directive 200/64/EC sets out a direct information obligation which rests upon the relative Member State. Consequently, the Directive article is not required to be transposed into Czech national law.</p> <p>Section 135e of Act 284/2009 transposes Article 82(1) of Directive 2007/64/EC in a conform manner. According to this provision the Czech National Bank is the competent body for hearing the administrative infractions under Sections 126, 131, 132, 134 of Act 284/2009.</p> <p>Section 135(4) of Act 284/2009 transposes Article 82(2) of Directive 2007/64/EC in a conform manner. According to this provision, the administrative offences pursuant to Sections 126, 131, 132, and 134 shall be heard by the Czech National Bank.</p> <p>Section 1(1)(b) and Section 20(1) of Act 229/2002 transpose Article 83 of Directive 2007/64/EC in a conform manner. The body competent for the out-of-court settlement of the disputes between the electronic money</p>

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						issuers and electronic money holders is the financial arbitrator. Section 1(1) (b) of Act 229/2002 provides for the possibility of financial arbitration also for resolution of disputes between electronic money issuers and electronic money holders. Section 20(1) of Act 229/2009 provides for the cooperation of financial arbitration bodies in the European Union as well as in the European Economic Area.
Art. 16(1)	<p>TITLE IV FINAL PROVISIONS AND IMPLEMENTING MEASURES</p> <p>Article 16 Full harmonisation</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>HLAVA IV ZÁVĚREČNÁ USTANOVENÍ A PROVÁDĚCÍ OPATŘENÍ</p> <p>Článek 16 Plná harmonizace</p> <p>1. Aniž je dotčen čl. 1 odst. 3, čl. 3 odst. 3 šestý pododstavec, čl. 5 odst. 7, čl. 7 odst. 4, článek 9 a čl. 18 odst. 2, a v míře, ve které tato směrnice stanoví harmonizaci, nesmějí členské státy zachovávat ani zavádět jiná ustanovení, než která jsou stanovena v této směrnici.</p>	N/A	N/A	N/A	<p>CONFORM</p> <p>There are no provision which extend the scope of the Directive provisions (with the exceptions of those listed in this Directive provision), or that would introduce provisions other than those laid down in the Directive.</p> <p>Based on the above-mentioned observation, the NIMs conform to Article 16(1) of the Directive.</p>
Art. 16(2)	<p>2. Member States shall ensure that an electronic money issuer does not derogate, to the detriment of an electronic money</p>	<p>2. Členské státy zajistí, aby se vydavatelé elektronických peněz neodchylovali v neprospěch držitelů</p>	N/A	N/A	N/A	<p>CONFORM</p> <p>No provision of Czech legislation transposes Article 16(2) of the Directive. However, Part VI, namely Section 135a to 135f of Act 284/2009 confers significant powers to the</p>

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	holder, from the provisions of national law implementing or corresponding to provisions of this Directive except where explicitly provided for therein.	elektronických peněz od ustanovení vnitrostátních právních předpisů, kterými se provádějí ustanovení této směrnice nebo která jim odpovídají, není-li v nich výslovně stanoveno jinak.				Czech National Bank with regard to the supervision of the activity of the electronic money institutions and their respect of the rules set in compliance with the Directive.
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</p>	<p><i>Článek 18</i> Přechodná ustanovení</p> <p>1. Členské státy povolí institucím elektronických peněz, které před 30. dubnem 2011 zahájily činnosti v souladu s vnitrostátními právními předpisy provádějícími směrnicí 2000/46/ES v členském státě, ve kterém mají ústředí, aby pokračovaly v těchto činnostech v daném členském státě a v jakémkoli jiném členském státě v souladu s úpravou vzájemného uznávání obsaženou ve směrnici 2000/46/ES, aniž by byly povinny žádat o povolení podle článku 3 této směrnice a splňovat ostatní ustanovení hlavy II této směrnice nebo ustanovení, na něž uvedená hlava odkazuje.</p>	Act 284/2009, S. 144(1) and (2)	Act 139/2011, Art. II(1) 1. Electronic money institution or foreign electronic money institution that was at the day of entry into force of this Act entitled to issue electronic money according to the existing legislation may, from the entry into force of this Act to 30 October 2011 issue electronic money on the basis of its existing authorisation to carry out the activities of the electronic money institution. At the same time it proceeds according to the existing legislation, without prejudice to point 5.	Zákon č. 139/2011 Sb., čl. II odst. 1 1. Instituce elektronických peněz nebo zahraniční instituce elektronických peněz, která byla ke dni nabytí účinnosti tohoto zákona oprávněna vydávat elektronické peníze podle dosavadních právních předpisů, může ode dne nabytí účinnosti tohoto zákona do 30. října 2011 vydávat elektronické peníze na základě svého dosavadního povolení k činnosti instituce elektronických peněz. Přitom postupuje podle dosavadních právních předpisů; bod 5 tím není dotčen.	CONFORM Article II(1) of Act 139/2011 and Section 144(1) of Act 284/2009 transpose Article 18(1), first subparagraph of the Directive. Act 139/2011 is an act amending Act 284/2009 which transposes the Directive. Act 139/2011 entered into force on 27 April 2011. Its Article II(2) therefore concerns electronic money institutions or foreign electronic money institutions which, by 27 April 2011, were entitled to issue electronic money on the basis of their authorisation. As suggested in recital 23, such electronic money institutions and foreign electronic money institutions may issue electronic money on the basis of their existing provision until 30 October 2011. Therefore, Article 18(1), first subparagraph is complied with. Based on the above-mentioned observations, Article II(1) of Act 139/2011 conforms to Article 18(1), first subparagraph of the Directive.

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	this Directive.					
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.	Členské státy uloží těmto institucím elektronických peněz povinnost předložit veškeré potřebné informace příslušným orgánům, které do 30. října 2011 posoudí, zda tyto instituce splňují požadavky této směrnice, a pokud ne, jaká opatření musí být přijata, aby bylo jejich splnění zajištěno, nebo zda je vhodné povolení odejmout.	Act 139/2011, Art. II(3)	Act 139/2011, Art. II(3) 3. The application for the authorisation to operate as an electronic money institution that was submitted before the entry into force of this Act, or which has not been decided upon by the entry into force of this Act, shall be, as from the entry into force of this Act, be deemed as an application to operate as an electronic money institutions according to Section 47 of Act 284/2009; without prejudice to point 4.	Zákon č. 139/2011 Sb., čl. II odst. 3 3. Žádost o povolení k činnosti instituce elektronických peněz podaná přede dnem nabytí účinnosti tohoto zákona, o které nebylo rozhodnuto do dne nabytí účinnosti tohoto zákona, se dnem nabytí účinnosti tohoto zákona považuje za žádost o povolení k činnosti instituce elektronických peněz podle § 47 zákona č. 284/2009 Sb., o platebním styku, ve znění účinném ode dne nabytí účinnosti tohoto zákona; bod 4 tím není dotčen.	CONFORM Article II(3) of Act 139/2011 transposes Article 18(1), second subparagraph of the Directive. Although this provision is more general, it stipulates that the application for the authorisation to operate as an electronic money institution submitted before the entry into force of this act, or not decided by that date, shall be considered an application to operate as an electronic money institution under this act. The procedure will be therefore the same as for the applicant that submitted the application according to this date, including the assessment of compliance with all the necessary requirements. With regard to the deadline of 30 October 2011, this provision has to be read together with Article II(1) of Act 139/2011, which allows electronic money institutions and foreign electronic money institutions that were entitled to issue electronic money by 27 April 2011 to issue electronic money on the basis of its existing authorisation until 30 October 2011. After this date a new authorisation is necessary. Based on the above-mentioned observations, Article II(3) of Act 139/2011 conforms to Article 18(1), second subparagraph of the Directive.

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Art. 18(1) 3rd subpar a.	Compliant electronic money institutions shall be granted authorisation, shall be entered in the register, and shall be required to comply with the requirements in Title II. Where electronic money institutions do not comply with the requirements laid down in this Directive by 30 October 2011, they shall be prohibited from issuing electronic money.	Institucím elektronických peněz, které splňují požadavky, se udělí povolení, zapíše se do rejstříku a jsou povinny splňovat požadavky stanovené v hlavě II. Pokud instituce elektronických peněz nesplní požadavky stanovené v této směrnici do 30. října 2011, je jim zakázáno vydávat elektronické peníze.	Act 139/2011, Art. II(3)	Act 139/2011, Art. II(3) 3. The application for the authorisation to carry out the activities of the electronic money institution that was submitted before the entry into force of this Act, or which has not been decided upon by the entry into force of this act, shall be, as from the entry into force of this Act, be deemed as an application to carry out activities of electronic money institutions according to Section 47 of Act 284/2009; without prejudice to point 4.	Zákon č. 139/2011 Sb., čl. II odst. 3 3. Žádost o povolení k činnosti instituce elektronických peněz podaná přede dnem nabytí účinnosti tohoto zákona, o které nebylo rozhodnuto do dne nabytí účinnosti tohoto zákona, se dnem nabytí účinnosti tohoto zákona považuje za žádost o povolení k činnosti instituce elektronických peněz podle § 47 zákona č. 284/2009 Sb., o platebním styku, ve znění účinném ode dne nabytí účinnosti tohoto zákona; bod 4 tím není dotčen.	CONFORM Article II(3) of Act 139/2011 transposes Article 18(1), third subparagraph of the Directive. Although this provision is more general, it stipulates that the application for the authorisation to operate as an electronic money institution submitted before the entry into force of this act, or not decided by that date, shall be considered an application to operate as an electronic money institution under this act. The procedure will be therefore the same as for the applicant that submitted the application according to this date, including the entry into the register of electronic money institutions of those applicant that comply with the relevant requirements laid down in Act 284/2009, and such institutions have the obligation to comply with the current legislation. If the authorisation to operate as an electronic money institution has not been granted, the applicants may not issue electronic money. With regard to the deadline of 30 October 2011, this provision has to be read together with Article II(1) of Act 139/2011, which allows electronic money institutions and foreign electronic money institutions that were entitled to issue electronic money by 27 April 2011 to issue electronic money on the basis of its existing authorisation until 30 October 2011. After this date a new authorisation is necessary. Based on the above-mentioned observations,

Directive 2009/110/EC			National Implementing Measures			Conformity Assessment
						Article II(3) of Act 139/2011 conforms to Article 18(1), third subparagraph of the Directive.
Art. 18(2)	2. Member States may provide for an electronic money institution to be automatically granted authorisation and entered in the register provided for in Article 3 if the competent authorities already have evidence that the electronic money institution concerned complies with the requirements laid down in Articles 3, 4 and 5. The competent authorities shall inform the electronic money institutions concerned before the authorisation is granted.	2. Členské státy mohou stanovit, že instituce elektronických peněz automaticky získají povolení a zapíší se do rejstříku uvedeného v článku 3, pokud příslušné orgány již mají doklad, že dotčená instituce elektronických peněz splňuje požadavky stanovené v člancích 3, 4 a 5. Příslušné orgány vyrozumí dotčené instituce elektronických peněz před udělením povolení.	N/A	N/A	N/A	Article 18(2) of the Directive sets out an option. Owing to this option, the Czech Republic does not seem to have chosen to apply it.
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	3. Členské státy povolí institucím elektronických peněz, které před 30. dubnem 2011 zahájily činnosti v souladu s vnitrostátními právními předpisy, kterými se provádí článek 8 směrnice 2000/46/ES, aby pokračovaly ve své činnosti na území dotčeného členského státu	Act 139/2011, Art. II(2)	Act 139/2011, Art. II(2) (2) A small electronic money issuer, that was on the day of entry into force of this Act, entitled to issue electronic money according to the existing legislation, may as from the entry into force of this Act until 30 April 2012 issue electronic money on the basis of its existing	Zákon č. 139/2011 Sb., čl. II odst. 2 2. Vydavatel elektronických peněz malého rozsahu, který byl ke dni nabytí účinnosti tohoto zákona oprávněn vydávat elektronické peníze podle dosavadních právních předpisů, může ode dne nabytí účinnosti tohoto zákona do 30.	CONFORM Article II(2) of Act 139/2011 transposes Article 18(3) of the Directive. Act 139/2011 is an act amending Act 284/2009 which transposes the Directive. Act 139/2011 entered into force on 27 April 2011. Its Article II(2) therefore concerns small electronic money issuers which, by 27 April 2011, were entitled to issue electronic money according to the existing legislation This provision stipulates that such small

Directive 2009/110/EC		National Implementing Measures		Conformity Assessment
until 30 April 2012, without being required to seek authorisation under Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive. Electronic money institutions which, during that period, have been neither authorised nor waived within the meaning of Article 9 of this Directive, shall be prohibited from issuing electronic money.	v souladu se směrnicí 2000/46/ES do 30. dubna 2012, aniž by byly povinny žádat o povolení podle článku 3 této směrnice a splňovat ostatní ustanovení hlavy II této směrnice nebo ustanovení, na něž uvedená hlava odkazuje. Institucím elektronických peněz, kterým v uvedené lhůtě není uděleno povolení ani výjimka podle článku 9, je zakázáno vydávat elektronické peníze.	registration of the small electronic money issuer. At the same time it shall proceed according to the existing legislation, this is without prejudice to point 5.	dubna 2012 vydávat elektronické peníze na základě své dosavadní registrace vydavatele elektronických peněz malého rozsahu. Přitom postupuje podle dosavadních právních předpisů; bod 5 tím není dotčen.	<p>electronic money issuers may, from 27 April 2011 to 30 April 2012 issue electronic money on the basis of its existing registration of the small electronic money issuer.</p> <p>There is no provision transposing the last sentence of the Directive provision, however, according to Act 28/2009 either the authorisation to operate as an electronic money institution or the entry into the register of the small electronic money issuers is required in order to be entitled to issue electronic money.</p> <p>Based on the above-mentioned observations, Article II(2) of Act 139/2011 conforms to Article 18(3) of the Directive.</p>