Conformity Assessment of Directive 2009/110/EC
IRELAND

Final Report
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NATIONAL IMPLEMENTING MEASURES	
List of the national implementing measures notified to the European Commission	**General observations**
European Communities (Electronic Money) Regulations 2011, S.I. No. 183 of 2011 (hereinafter referred to in this report as S.I. No. 183 of 2011)	The European Communities (Electronic Money) Regulations 2011 are secondary legislation in the form of regulations undertaken as a Statutory Instrument. Statutory Instruments are not enacted by the Oireachtas, which is also known as the Irish Parliament, but allow persons or bodies to whom legislative power has been delegated by statute to legislate in relation to detailed day-to-day matters arising from the operation of the relevant primary legislation. Thus, in this instance, the Minister for Finance through the powers inferred upon him in Section 3 (as amended by section 2 of the European Communities Act 2007 (No. 18 of 2007)) of the European Communities Act 1972 (No. 27 of 1972) made these Regulations to transpose 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 (hereinafter referred to in this report as the Directive) into Irish law. This Statutory Instrument designates the Central Bank of Ireland as the competent authority for the purposes of Directive 2009/110/EC. S.I. No. 183 of 2011 contains provisions regarding the requirements for taking up, pursuit and prudential supervision of business of electronic money institutions; issuance and redeemability of electronic money; powers and duties of the Central Bank; offences and transitional arrangements. As this is the only piece of legislation directly implementing Directive 2009/110/EC, it is pertinent to the conformity assessment. S.I. No. 183 of 2011 came into effect on 30 April 2011. S.I. No. 183 of 2011 can be found at the following address: http://www.irishstatutebook.ie/pdf/2011/en.si.2011.0183.pdf

List of additional national implementing measures referred to in the conformity assessment	General observations
European Communities (Payment Services) Regulations 2009, S.I. No. 383 of 2009 (hereinafter referred to in this report as S.I. No. 383 of 2009)	The European Communities (Electronic Money) Regulations 2011 are secondary legislation in the form of regulations undertaken as a Statutory Instrument. Statutory Instruments are not enacted by the Oireachtas, which is also known as the Irish Parliament, but allow persons or bodies to whom legislative power has been delegated by statute to legislate in relation to detailed day-to-day matters arising from the operation of the relevant primary legislation. This Statutory Instrument transposes Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directive 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC. In particular, this secondary legislation needed to be assessed in conjunction with the assessment of Article 3(1) of the Directive. S.I. No. 383 of 2009 came into effect on 1 November 2009. S.I. No. 383 of 2009 can be found at the following address: http://www.irishstatutebook.ie/pdf/2009/en.si.2009.0383.pdf
European Communities (Capital Adequacy of Credit Institutions) Regulations 2006, S.I. No. 661 of 2006 (hereinafter referred to in this report as S.I. No. 661 of 2006)	The European Communities (Capital Adequacy of Credit Institutions) Regulations 2006 transposed Directive 2006/48/EC into Irish law. This secondary legislation needed to be assessed in conjunction with the assessment of Article 4 of the Directive in order to determine the meaning of initial capital. S.I. No. 661 of 2006 came into effect on 1 January 2007, with Regulations 32 and 51 of the Statutory Instrument coming into effect on 1 January 2008. S.I. No. 661 of 2006 can be found at the following address: http://www.finance.gov.ie/documents/publications/legi/SI_661_2006.pdf
Central Bank Act, 1942	The Central Bank Act, 1942 is a primary piece of legislation whose assessment is necessary in conjunction with the assessment of Article 3(1) of the Directive. In particular, this secondary legislation needed to be assessed in conjunction with the assessment of Article 3(1) of the Directive. The Central Bank Reform Act, 2010 amended significant aspects of the Central Bank Act, 1942.

Central Bank Reform Act, 2010	The Central Bank Reform Act is a primary piece of legislation that came into force on 1 October 2010. The effect of this primary piece of legislation is to reform the regulatory structure for financial services. The Act also confers more stringent and comprehensive powers of investigation and enforcement on the Central Bank. It was assessed for the purposes of this conformity assessment as it was necessary to examine the powers and duties of the Central Bank concerning Article 3(1) of the Directive. The Central Bank Act, 2010 came into force on 1 October 2010. The Central Bank Act, 2010 can be found at the following address: http://www.irishstatutebook.ie/pdf/2010/en.act.2010.0023.PDF
Credit Union Act, 1997 (as amended)	This piece of primary legislation regulates credit unions. It was assessed in relation to Article 1(3) of the Directive in order to understand the applicable procedure concerning the provision of additional services by credit unions. The Credit Union Act, 1997 was amended Central Bank and Financial Services Authority of Ireland Acts of 2003 and 2004. A copy of the Credit Union Act, 1997 (as amended) can be found at the following address: http://webcache.googleusercontent.com/search?q=cache:eoCVVYK7LicJ:www.finance.gov.ie/documents/publications/legi/finregcredtuact97.rtf+&cd=2&hl=en&ct=clnk&gl=be
Central Bank and Financial Services Authority of Ireland Act, 2004	The Central Bank and Financial Services Authority of Ireland Act, 2004 is a piece of primary legislation that amends the certain sections of the Credit Union Act, 1997. It was assessed in relation to Article 1(3) of the Directive in order to understand the applicable procedure concerning the provision of additional services by credit unions. The majority of the provisions of the Act came into force on 1 August 2004, with certain sections having effect as of 1 October 2004 and with remaining sections coming into force on 1 January 2005. The Central Bank and Financial Services Authority of Ireland Act, 2004 can be found at the following address: http://www.irishstatutebook.ie/pdf/2004/en.act.2004.0021.pdf
Central Bank and Financial Services Authority of Ireland Act, 2003	The Central Bank and Financial Services Authority of Ireland Act, 2003 is a piece of primary legislation that amends the certain sections of the Credit Union Act, 1997. It was assessed in relation to Article 1(3) of the Directive in order to understand the applicable procedure concerning the provision of additional services by credit unions. The Central Bank and Financial Services Authority of Ireland Act, 2003 came into force on 1 May 2003. The Central Bank and Financial Services Authority of Ireland Act, 2003 can be found at the following address: http://www.irishstatutebook.ie/pdf/2003/EN.ACT.2003.0012.pdf

SUMMARY

1. Executive summary

A brief explanation regarding the National Implementing Measures (hereinafter referred to in this report as "NIMs") analysed and the manner in which they have transposed the Directive provisions is presented as well as the explanation of the main conclusion of the analysis. Thereafter, cases of non-conformity/partial conformity revealed throughout the analysis, terminological discrepancies, scope of application as well as other discovered shortcomings will be outlined.

The general outcome of the conformity assessment is that of conformity.

Directive 2009/110/EC is primarily transposed into Irish law by the European Communities (Electronic Money) Regulations 2011 (hereinafter referred to in this report as S.I. No. 183 of 2011). This Statutory Instrument is a new piece of legislation governing electronic money in Ireland.

The European Communities (Payment Services) Regulations 2009 (hereinafter referred to in this report as S.I. No. 383 of 2009) transposed Directive 2007/64/EC into Irish law. Article 3(1) of Directive 2009/110/EC states that certain provisions of Directive 2007/64/EC shall apply *mutatis mutandis* to Directive 2009/110/EC. Largely, identical provisions to those found in S.I. No. 383 of 2009 were found within S.I. No. 183 of 2011.

However there are some Directive provisions, in particular Article 3(1), which required an assessment of further national legislation. These extra NIMs are presented in the list of additional NIMs above.

S.I. No. 183 of 2011 is structured in 7 parts with various chapters and its structure follows that of the Directive. There are various instances of literal transposition with minor linguistic differences between the Directive provision and the regulation. However, there are instances within S.I. No. 183 of 2011 when inferences are necessary. For example, it is necessary to read Regulation 14(1) and (2) of S.I. No. 183 of 2011 which transposes Article 5(1) of Directive 2009/110/EC, in conjunction with Regulation 27(1)(b)(i) of S.I. No. 183 of 2011 in order to infer the continuous own finds threshold requirement of at least EUR 350 000. Furthermore, Section 2.2 of this summary on terminology outlines shortcomings discovered as regards the terminology used in S.I. No. 183 of 2011.

The Central Bank of Ireland is the competent authority in Ireland for the purposes of Directive 2009/110/EC. The Central Bank of Ireland is governed by the Central Bank Acts 1942 to 2010. Since 2010, the Central Bank is responsible for both central banking and financial regulation. This new structure replaces the previous related entities of the Central Bank and the Financial Services Authority of Ireland and the Financial Regulator.

2. The implementation of Directive 2009/110/EC

2.1. Scope

There are two issues with the scope of application. First, Regulation 6(1)(e) of S.I. No. 183 of 2011 contains the term 'a Member State'. This could mean either all Member States of the European Economic Area including Ireland, or all other Member States of the European Economic Area excluding Ireland. Given the two different possible interpretations, it can be doubted whether Irish regional and local authorities when acting in their capacity as public authorities actually fall under the scope of S.I. No. 183 of 2011 and can thus be recognised as an electronic money issuer.

It should be noted that S.I. No. 183 of 2011 is silent as to whether credit unions must fulfil all or part of the provisions under Title II of Directive 2009/110/EC in order to be

approved as an electronic money issuer. The explanatory note, which has no legal force, accompanying S.I. No. 183 of 2011 states the two requirements that a credit union must fulfil in order to issue electronic money.

Either of the waivers under Articles 1(3) or 9(1) of Directive 2009/110/EC could apply to credit unions. However, as Ireland has chosen not to transpose Article 1(3), this only leaves the optional waiver under Article 9(1). Article 9(1) of Directive 2009/110/EC only allows waiver of all or part of the procedures and requirements under Articles 3, 4, 5 and 7 of Directive 2009/110/EC. Credit unions only have to fulfil the requirements pursuant to Article 7 of Directive 2009/110/EC. This thus leaves an issue regarding the application of Articles 6 and 8 of Directive 2009/110/EC in relation to credit unions.

Friendly societies are also not covered by S.I. No. 183 of 2011 nor within the measures which transposed Directives 2006/48/EC and Directive 2007/64/EC into Irish law. Thus, friendly societies are not exempt from all or part of the requirements pursuant to Title II of Directive 2009/110/EC.

2.2. Terminology

Generally, the terminology used in S.I. No. 183 of 2011 is similar to that of Directive 2009/110/EC. It should be noted that there are discrepancies within Regulations 58 and 59(1) of S.I. No. 183 of 2011. These Regulations transpose Article 21(1), first and second subparagraphs of Directive 2007/64/EC under Article 3(1) of Directive 2009/110/EC into Irish law. Both of these provisions apply to electronic money issuers as opposed to electronic money institutions. This discrepancy in terminology results in the risk that electronic money institutions that are authorised do not fall under the remit of the supervisory facility. Consequently, Regulation 58 of S.I. No. 183 of 2011was found to be not conform while Regulation 59(1) of S.I. No. 183 of 2011 was found partially conform. Similarly, Regulation 55(2)(b) of S.I. No. 183 of 2011, which transposes Article 11(6) of Directive 2009/110/EC, refers to electronic money issuers as opposed to institutions. Reference to Regulation 28(1)(e) of S.I. No. 183 of 2011which applies in respect of electronic money institutions facilitates an inference of conformity with the Directive provision.

The term ‘person’ is used instead of ‘electronic money institution’ throughout S.I. No. 183 of 2011, for example in Regulations 6 and 17 of S.I. No. 183 of 2011 which transpose Articles 1(1) and 5(4) of the Directive respectively into Irish law. In spite of this, such usage does not challenge conformity.

2.3. Explanatory note on the assessment

Conformity applies to cases whereby the national provisions follow all requirements of the corresponding provision of Directive 2009/110/EC. Some requirements of the Directive provision may not be explicitly transposed. National provisions can however be considered as conform as far as the silence does not affect the proper implementation of all requirements and that the missing ones can be inferred.
Partial conformity applies to cases whereby the national provisions do not follow all the requirements of the Directive provision, or are silent about requirements, which are considered minor but necessary. In cases of partial conformity, the interpretation of the national provision does not hamper the proper implementation of the Directive provision as a whole, and, missing requirements cannot be inferred.
Non-conformity applies to cases whereby the Directive provision is not transposed or the national provisions do not follow either, all requirements of the Directive provision, or, the main ones. In cases of non-conformity, the interpretation of the national provisions hamper the proper implementation of the Directive provision as a whole, and missing requirements cannot be inferred either. Also considered are additional requirements and exemptions, which hamper the proper implementation of the Directive provision.
The cases where there are no headings relate to options laid down by the Directive provision that Member States has not chosen to apply, or, to obligations resting upon the European Commission.

2.4. Legal analysis

2.4.1. Title I – Scope and definitions

Title I of the Directive is mainly transposed by Regulations 3(1) and 6(1) of S.I. No. 183 of 2011.

The main issue concerning the scope of application of the Directive is the ambiguity of the term ‘Member State’ in relation to the transposition of Article 1(1)(e) of the Directive into

Irish law by Regulation 6(1)(e) of S.I. No. 183 of 2011.

2.4.1.1. Article 1 – Subject

Article 1 of Directive 2009/110/EC is transposed in an overall conform manner by Regulations 6(1), 7(1) to (3), 5(a) and (b) and by Part 2 of S.I. No. 183 of 2011.

Article 1(1)(e) of Directive 2009/110/EC as regards the recognition of Member States or their regional or local authorities when acting in their capacity as public authorities as an electronic money issuer is transposed in a partially conform manner by Regulation 6(1)(e) of S.I. No. 183 of 2011. This is due to the indistinctness of the term 'a Member State', which has two different possible interpretations. The term 'a Member State' could mean either all Member States of the EEA including Ireland, or all other Member States of the EEA excluding Ireland. Given the two different interpretations, it can be doubted whether Irish regional and local authorities when acting in their capacity as public authorities actually fall under the scope of this of Regulation 6(1)(e) of S.I. No. 183 of 2011and can thus be recognised as an electronic money issuer

Ireland has chosen not to apply the option in Article 1(3) of Directive 2009/110/EC. Consequently, Ireland has not waived the requirement for credit unions and friendly societies to comply with all, or part, of the provisions of Title II of the Directive.

2.4.1.2. Article 2 – Definitions

Article 2 of Directive 2009/110/EC is transposed in an overall conform manner by Regulations 3(1) and (3) and 6(1) of S.I. No. 183 of 2011.

It should also be noted that S.I. No. 183 of 2011 also contains other relevant definitions:

- A 'prescribed percentage' is defined in Regulation 37 of S.I. No. 183 of 2011 defines a 'prescribed percentage'.
- Regulation 37 of S.I. No. 183 of 2011 defines a 'qualifying holding'.
- Regulation 3(1) of S.I. No. 183 of 2011 contains a definition of an 'agent'.
- Regulation 3(1) of S.I. No. 183 of 2011 defines a distributor. It is worth noting that Directive 2009/110/EC does not refer to distributors.

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

In principle, the provisions of Title II have been transposed in an overall conform manner. However, some issues of partially conformity and one instance of non-conformity have been detected in this part.

2.4.2.1. Article 3 – General prudential rules

Article 3 of Directive 2009/110/EC is transposed in an overall conform manner.

In relation to Article 3(1) of Directive 2009/110/EC, Article 21(1), first subparagraph of Directive 2007/64/EC is not transposed in a conform manner by Regulation 58 of S.I. No. 183 of 2011. Regulation 58 of S.I. No. 183 of 2011 applies to electronic money issuers as opposed to electronic money institutions. There is a risk that electronic money institutions that are authorised do not fall under the remit of this supervisory facility. Furthermore, Regulation 58 of S.I. No. 183 of 2011 covers infringement or suspected infringement by electronic money issuers while Article 21(1) first subparagraph of Directive 2007/64/EC applies to risks to which payment institutions may be exposed to.

In relation to Article 21 (1), second subparagraph of Directive 2007/64/EC is transposed in a partially conform manner by Regulation 59(1) of S.I. No. 183 of 2011. Regulation 59(1) of S.I. No. 183 of 2011applies to electronic money issuers as opposed to electronic money institutions. There is a risk that electronic money institutions that are authorised do not fall

under the remit of this supervisory facility.

Ireland has chosen to apply the option in Article 3(3), sixth subparagraph of Directive 2009/110/EC by transposing it by Regulation 51 of S.I. No. 183 of 2011.

In relation to the transposition of Article 3(4) of Directive 2009/110/EC, it should be noted that while the Directive refers only to agents, S.I. No. 183 of 2011 refers to both agents and distributors.

2.4.2.2. Article 4 – Initial capital

Article 4 of Directive 2009/110/EC is transposed in an overall conform manner by Regulation 13 of S.I. No. 183 of 2011.

2.4.2.3. Article 5 – Own funds

Article 5 of Directive 2009/110/EC is transposed in an overall conform manner by Regulations 14(1), (2) and (5) and 15 to 17 of S.I. No. 183 of 2011. Pursuant to Regulation 16(2) of S.I. No. 183 of 2011, the Central Bank, as the competent authority, shall instruct the applicant in writing as to whether Method A, B or C must be employed.

Ireland has chosen to apply the option in Article 5(5) of the Directive 2009/110/EC by transposing it by Regulation 14(4) of S.I. No. 183 of 2011.

In relation to the transposition of Article 5(6)(b) of Directive 2009/110/EC, Regulation 16(4)(b) of S.I. No. 183 of 2011goes slightly further than the Directive provision. Article 5(6)(b) of the Directive only applies to electronic money institutions that carry out activities other than the issuance of electronic money. On the other hand, Regulation 16(4)(b) of S.I. No. 183 of 2011is applicable to those electronic money institutions which carry out activities other than the issuance of electronic money or the provision of payment services.

Ireland has chosen to apply the option in Article 5(7) of the Directive 2009/110/EC by transposing it by Regulation 14(5) of S.I. No. 183 of 2011.

2.4.2.4. Article 6 – Activities

Article 6 of Directive 2009/110/EC is transposed in an overall conform manner by Regulation 28 of S.I. No. 183 of 2011.

2.4.2.5. Article 7 – Safeguarding requirements

Article 7 of Directive 2009/110/EC is transposed in an overall conform manner by Regulations 29 and 30(1) to (6) of S.I. No. 183 of 2011.

Ireland has chosen to apply the option in Article 7(2), third subparagraph of the Directive 2009/110/EC by transposing it by Regulation 29(5) of S.I. No. 183 of 2011.

Ireland has chosen to apply the option in Article 7(3) of the Directive 2009/110/EC by transposing it by Regulation 30(1) to (6) of S.I. No. 183 of 2011.

Ireland has chosen to apply the option in Article 7(4) of the Directive 2009/110/EC by transposing it by Regulations 29(7) and 30(7) of S.I. No. 183 of 2011.

2.4.2.6. Article 8 – Relations with third countries

Article 8 of Directive 2009/110/EC is transposed in an overall conform manner by Regulations 11(1) and (9) and 28(7) of S.I. No. 183 of 2011.

2.4.2.7. Article 9 – Optional exemptions

Article 9 of Directive 2009/110/EC is transposed in an overall conform manner by Regulations 32 to 36 of S.I. No. 183 of 2011.

As regards the transposition of Article 9(1), first subparagraph (a) of the Directive, Regulation 33(1)(a) and (b) of S.I. No. 183 of 2011has a slightly broader scope than that of the

Directive provision. Pursuant to Regulation 33(1) of S.I. No. 183 of 2011, the waiver shall only be granted where two prerequisites are fulfilled whereas the Directive provision only foresees one prerequisite. First, the institution did not, prior to the time of registration, generate average outstanding electronic money exceeding EUR 1 million. This EUR 1 million threshold is considerably lower than the EUR 5 million threshold prescribed for under the Directive provision.

Ireland has chosen to apply the option in Article 9(1), first subparagraph of Directive 2009/110/EC by transposing it by Regulations 33(1) and (2) of S.I. No. 183 of 2011.

Ireland has chosen not to apply the option in Article 9(1), third subparagraph of Directive 2009/110/EC.

Ireland has chosen to apply the option in Article 9(4) of Directive 2009/110/EC by transposing it by Regulation 33(5) of S.I. No. 183 of 2011.

Article 9(9) of Directive 2009/110/EC regarding concerning the obligation, for Member States, to notify the Commission of the decision to implement the waiver is transposed in a conform manner despite the absence of a specific provision transposing Article 9(9) in the national law.

2.4.3. Title III – Issuance and redeemability of electronic money

Title III has been transposed in a conform manner. No discrepancies have been observed with regard to the wording used.

2.4.3.1. Article 10 – Prohibition from issuing electronic money

Article 10 of Directive 2009/110/EC is transposed in a conform manner by Regulation 6(1) of S.I. No. 183 of 2011.

2.4.3.2. Article 11 - Issuance and redeemability

Article 11 of Directive 2009/110/EC is transposed in an overall conform manner by Regulations 52 to 56 of S.I. No. 183 of 2011. In principle, the transposition is almost literal.

2.4.3.3. Article 12 – Prohibition of interest

Article 12 of Directive 2009/110/EC is transposed in a conform manner by Regulation 57 of S.I. No. 183 of 2011.

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

No text providing for a direct transposition of Article 13 of the Directive has been found in Irish legislation, nevertheless as shown below the provisions that transposed Chapter 5 of Title IV of Directive 2007/64/EC into Irish law also apply in respect of Directive 2009/110/EC.

2.4.4. Title IV – Final provisions and implementing measures

Title IV has been transposed in a conform manner. No discrepancies have been observed with regard to the wording used.

2.4.4.1. Article 16 – Full harmonisation

Article 16 (1) of Directive 2009/110/EC does not require transposition into Irish law.

No text providing for a direct transposition of Article 16(2) of Directive 2009/110/EC has been found in Irish legislation, nevertheless the competent authority has been conferred with powers under Regulations 58 to 65 of S.I. No. 183 of 2011 in order to ensure that the electronic money institutions do not derogate from the rules set out in S.I. No. 183 of 2011.

2.4.4.2. Article 18 – Transitional provisions

Article 18 of Directive 2009/110/EC is transposed in an overall conform manner by Regulations 77 and 78 of S.I. No. 183 of 2011.

Ireland has chosen not to apply the option in Article 18(2) of Directive 2009/110/EC.

3. Conclusions on conformity

3.1. Cases of partial conformity

Regulation 6(1)(e) of S.I. No. 183 of 2011 was found to partially conform to **Article 1(1)(e) of Directive 2009/110/EC**, which recognises Member States or their regional or local authorities when acting in their capacity as public authorities as a category of electronic money issuer. The term 'a Member State' within Regulation 6(1)(e) of S.I. No. 183 of 2011 is ambiguous and has two different interpretations. The term could encompass either all Member States of the EEA including Ireland, or all other Member States of the EEA excluding Ireland.

In respect of the transposition of **Article 21(1), second subparagraph of Directive 2007/64/EC**, regarding the steps a competent authority shall take in order to ensure a payment institution's compliance with Title II of Directive 2007/64/EC, Regulation 59(1) of S.I. No. 183 of 2011 applies to electronic money issuers as opposed to electronic money institutions. There is a risk that electronic money institutions that are authorised do not fall under the remit of this supervisory facility.

3.2. Cases of non-conformity

Article 21(1), first subparagraph of Directive 2007/64/EC provides that the competent authorities' controls for checking compliance with Title II of Directive 2007/64/EC must be proportionate, adequate and responsive to the risks to which payment institutions are exposed. Regulation 58 of S.I. No. 183 of 2011 does not conform to the Directive provision. Unlike Article 21(1), first subparagraph of Directive 2007/64/EC, Regulation 58 of S.I. No. 183 of 2011confers supervisory powers on the Central Bank of Ireland in respect of electronic money issuers. There is a risk that electronic money institutions that are authorised do not fall under the remit of this supervisory facility. Regulation 58 of S.I. No. 183 of 2011covers infringement or suspected infringement by electronic money issuers while Article 21(1) first subparagraph of Directive 2007/64/EC applies to risks to which payment institutions may be exposed to.

3.3. Option ('May' clause)

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

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

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

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

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

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

Article 7(3) of the Directive – Application of safeguarding requirements only to funds that individually exceed EUR 600.

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

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

Article 9(4) of the Directive – Limitation on the activities carried out by entities waived under Article 26.

Article 18(2) of the Directive – Transitional period.

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

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

Article 9(1), third subparagraph of the Directive – Additional requirement of a maximum storage.

Article 18(2) of the Directive– Transitional period.

4. List of acronyms

Art.: Article

Arts: Articles

Central Bank: Central Bank of Ireland

Commission: European Commission

EEA: European Economic Area

NIM: National Implementing Measure

Para.: Paragraph

Pt.: Point

Reg.: Regulation

Regs: Regulations

Subpara.: Subparagraph

Directive 2009/110/EC		National Implementing Measures		Conformity Assessment
Article No.	**EN**	**Act, Article No.**	**EN**	**Observations**
Art. 1(1) intr. wording	TITLE I **SCOPE AND DEFINITIONS** *Article 1* **Subject matter and scope** 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:	**Reg. 6(1), intr. wording of S.I. No. 183 of 2011**	**Regulation 6(1) of S.I. No. 183 of 2011** A person shall not issue electronic money unless the person is—	**CONFORM** Regulation 6(1) of S.I. No. 183 of 2011 transposes Article 1(1), introductory wording of the Directive. Regulation 6(1) of S.I. No. 183 of 2011 sets out the categories of electronic money issuers that are recognised under Irish law. However, while Directive recognises five categories of electronic money issuers, S.I. No. 183 of 2011 refers to nine categories. While those issuers referred to in Regulation 6(1)(a) and (c) to (e) of S.I. No. 183 of 2011are not required to seek authorisation under Title II of the Directive, they nevertheless must comply with certain provisions of the Directive. On the basis of the above, Regulation 6(1), introductory wording of S.I. No. 183 of 2011 conforms 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;	**Regs 6 (1)(a) and 3(1) of S.I. No. 183 of 2011**	**Regulation 6(1)(a) of S.I. No. 183 of 2011** (a) a credit institution within the meaning of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (including a branch, within the meaning of point 3 of Article 4 of that Directive, located in a Member State of a credit institution having its head office in or,	**CONFORM** Regulation 6(1)(a) of S.I. No. 183 of 2011 transposes Article 1(1)(a) of the Directive. Regulation 6(1)(a) of S.I. No. 183 of 2011states that a credit institution shall have the same meaning as that provided under Directive 2006/48/EC. As Regulation 6(1)(a) of S.I. No. 183 of 2011expressly refers to Articles 4(3) and 38 of Directive 2006/48/EC, the general reference to Directive 2006/48/EC at the start of the provision includes the definition contained within Article 4(1)(a) of Directive 2006/48/EC. Given that the Directive applies to the whole European Economic Area (hereinafter referred to in this report as EEA), it is worth noting that pursuant

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			in accordance with Article 38 of that Directive, elsewhere than in a Member State), **Regulation 3(1) of S.I. No. 183 of 2011** "Member State" means a Member State of the European Communities and includes a contracting party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992 (as adjusted by the Protocol signed at Brussels on 17 March 1993),as amended from time to time;	to S.I. No. 183 of 2011 a Member State means an EU Member State or Iceland, Liechtenstein or Norway. While credit institutions are exempt from the authorisation process under Title II of the Directive, they are nevertheless subject to other provisions of the Directive. It should also be noted that credit institutions in Ireland encompasses both banks and building societies. On the basis of the above, Regulation 6(1)(a) of S.I. No. 183 of 2011 conforms to Article 1(1)(a) of the Directive.
Art. 1(1)(b)	(b) electronic money institutions as defined in point 1 of Article 2 of this Directive including, in accordance with Article 8 of this Directive and national law, a branch thereof, where such a branch is located within the Community and its head office is located outside the Community;	**Regs 6(1)(b) and 11(1)(b) of S.I. No. 183 of 2011**	**Regulation 6(1)(b) of S.I. No. 183 of 2011** (b) an electronic money institution as defined in Article 2 of the Electronic Money Directive, **Regulation 11(1)(b) of S.I. No. 183 of 2011** 11. (1) The Bank shall grant an authorisation only to— (…) (b) a legal person which has a branch that is located in the State and whose head office is situated in a territory that is outside the European Economic Area.	**CONFORM** Regulation 6(1)(b) of S.I. No. 183 of 2011 transposes Article 1(1)(b) of the Directive. The definition of an electronic money institution pursuant to Regulation 6(1)(b) of S.I. No. 183 of 2011 corresponds with the definition of an electronic money institution under Article 2 of the Directive. Pursuant to Regulation 11(1)(b) of S.I. No. 183 of 2011, the definition of electronic money institutions under Irish law also includes branches of electronic money institutions located within the EEA whose head office is located outside the EEA. On the basis of the above, Regulation 6(1)(b) of S.I. No. 183 of 2011 conforms to Article 1(1)(b) of the Directive.

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Art. 1(1)(c)	(c) post office giro institutions which are entitled under national law to issue electronic money;	**Reg. 6 (1)(c) of S.I. No. 183 of 2011**	**Regulation 6(1)(c) of S.I. No. 183 of 2011** (c) An Post in its capacity as an issuer of electronic money, or the postal authority of another Member State in its capacity as an issuer of electronic money,	**CONFORM** Regulation 6(1)(c) of S.I. No. 183 of 2011 transposes Article 1(1)(c) of the Directive. Regulation 6(1)(c) of S.I. No. 183 of 2011 confers electronic money issuing powers on An Post, the national postal authority of Ireland. The provision also recognises postal authorities of other Member States that have the capacity to issue electronic money. On the basis of the above, Regulation 6(1)(c) of S.I. No. 183 of 2011 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;	**Reg. 6(1)(d) of S.I. No. 183 of 2011**	**Regulation 6(1)(d) of S.I. No. 183 of 2011** (d) the Bank, the European Central Bank or the central bank of another Member State, that is not acting in its capacity as a monetary authority, or other public authority,	**CONFORM** Regulation 6(1)(d) of S.I. No. 183 of 2011 transposes Article 1(1)(d) of the Directive. 'The Bank' according to Regulation 3(1) of S.I. No. 183 of 2011 is the Central Bank of Ireland. Regulation 6(1)(d) of S.I. No. 183 of 2011 also applies to the national central banks of other Member States. The ECB and central banks are excluded from the scope of the Directive when acting in their capacity as authority and exempt from licensing requirements when not acting in their capacity as authority, but Member States or their regional or local authorities are only exempt from licensing requirements when acting in their capacity as authorities. On the basis of the above, Regulation 6(1)(d) of S.I. No. 183 of 2011 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.	**Reg. 6(1)(e) of S.I. No. 183 of 2011**	**Regulation 6(1)(e) of S.I. No. 183 of 2011** (e) a Member State, or a regional or local authority of a Member State, that is acting in its capacity as a public authority,	**PARTIALLY CONFORM** Regulation 6(1)(e) of S.I. No. 183 of 2011 transposes Article 1(1)(e) of the Directive. However, Regulation 6(1)(e) of S.I. No. 183 of 2011contains an ambiguous term which consequently affects the transposition of Article 1(1)(e) of the Directive into Irish law.

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				The term 'a Member State' could mean either all Member States of the EEA including Ireland, or all other Member States of the EEA excluding Ireland. Given the two different interpretations, it can be doubted whether Irish regional and local authorities when acting in their capacity as public authorities actually fall under the scope of this of Regulation 6(1)(e) of S.I. No. 183 of 2011and can thus be recognised as an electronic money issuer. It is worth noting that in Regulation 6(1)(c) and (d) of S.I. No. 183 of 2011, the reference to 'another Member State' clearly all denotes other Member States of the EEA excluding Ireland. On the basis of the above ambiguity, Regulation 6(1)(e) of S.I. No. 183 of 2011 partially conforms to Article 1(1)(e) of the Directive.
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.	**N/A**	N/A	**CONFORM** Part 2 of S.I. No. 183 of 2011 transposes Title II of the Directive. Part 2 of S.I. No. 183 of 2011 provides the requirements for the taking up, pursuit and prudential supervision of business or electronic money institutions.
Art. 1(3)	3. Member States may waive the application of all or part of the provisions of Title II of this Directive to the institutions referred to in Article 2 of Directive 2006/48/EC, with the exception of those referred to in the first and second indents of that Article.	**Regs 6(1)(f) and 7(1) – (3) of S.I. No. 183 of 2011; ss. 48 – 52 of the Credit Union Act, 1997 (as amended); Items 26 – 29 of**	**Regulation 6(1)(f) of S.I. No. 183 of 2011** 6. (1) A person shall not issue electronic money unless the person is— (f) a credit union (within the meaning of the Credit Union Act 1997 (No. 15 of 1997)), **Regulation 7(1) to (3) of S.I. No. 183 of 2011** 7. (1) The Bank shall maintain a public register (in these Regulations called "the Register") of—	Article 1(3) of the Directive lays down an option. Ireland did not elect to apply the option provided for in the Directive article as no corresponding provision could be found within Irish legislation. Article 2 of Directive 2006/48/EC provides that credit unions and friendly societies are not credit institutions within the meaning of that Directive. Thus, this Directive option would allow Ireland to waive the requirement for credit unions and friendly societies to comply with all, or part, of the provisions of Title II of the Directive. A similar option waiving the requirement of credit unions and friendly societies from all or part of Directive 2007/64/EC in order to be recognised as a payment service provider is contained within Article 2(3) of Directive 2007/64/EC. Pursuant to Regulation 6(1)(f) of S.I. No. 183 of 2011, a credit union may be recognised as an electronic money issuer. However, Regulation 7(1) of S.I. No. 183 of 2011 provides that credit unions that have been approved as

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		Part 24 of Central Bank and Financial Services Authority of Ireland Act, 2003	(a) electronic money institutions and their agents and branches, (b) credit unions that have been approved to issue electronic money as an additional service under the Credit Union Act 1997, and (c) persons who have been registered after qualifying as a small electronic money institution under Regulation 33 and their agents and branches. (2) The Register shall specify the payment services for which an electronic money institution is authorised or for which a person referred to in paragraph (1)(c) has been registered. (3) Electronic money institutions, credit unions referred to in paragraph(1)(b) and the persons referred to in paragraph (1)(c) shall be separately registered. **Sections 48 to 52 of the Credit Union Act, 1997 (as amended)** **48.**—(1) Subject to the following provisions of this Part, a credit union may provide, as principal or agent, additional services of a description that appears to the Bank to be of mutual benefit to its members. (2) In this section and the following	electronic money issuers shall be listed on the public register of electronic money issuers. The provisions of S.I. No. 183 of 2011 are silent as to whether credit unions must fulfil all or part of the provisions under Title II of the Directive in order to be approved as an electronic money issuer. However, the explanatory note accompanying the Statutory Instrument states the two requirements that a credit union must fulfil in order to issue electronic money. Approval by the Registrar of Credit Unions to issue electronic money under the Credit Union Act, 1997 must have been received and the fulfilment of the safeguarding requirements of Chapter 6 of the Statutory Instrument which transposes Article 7 of the Directive are necessary in order to be recognised as an electronic money issuer. The explanatory note has no legal force. Regulation 7(1) of S.I. No. 183 of 2011 mentions the additional service provisions under the Credit Union Act, 1997. A credit union may only provide additional services of a description that the Registrar of Credit Unions regards to be of mutual benefit to its members. The provision of additional services is provided for under Sections 48 to 52 of the Credit Union Act, 1997. A credit union must apply for permission from the Registrar of Credit Unions prior to providing additional services. They also must amend their standard rules. There are two application forms which a credit union must complete. The Registrar of Credit Unions shall give a preliminary view as to whether and to what extent an additional service would be likely to be approved. Once a positive preliminary view has been received from the Registrar, the credit union can then proceed with giving notice of the resolution for the proposed service to its members. Upon the resolution being passed at either an annual general meeting or a special general meeting, the credit union then completes the formal application form. The Registry of Credit Unions can then register the rule amendment. It should be noted that pursuant to Items 26 to 29 of Part 24 Amendment to Credit Union Act, 1997 of Central Bank and Financial Services Authority of Ireland Act, 2003 the word 'Bank' within Sections 48 to 50 and 52 of the Credit Union Act, 1997 should now read 'Registrar' meaning the Registrar of Credit Unions.

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			provisions of this Part, "additional services", in relation to a credit union, means any services other than those— (*a*) for which provision is made by the preceding provisions of this Part; or (*b*) which are prescribed for the purposes of this section as being services the provision of which appears to the Bank to involve no risk to the assets of the credit union or the funds of its members; and regulations made under section 182 for the purposes of *paragraph* (*b*) may make the exclusion of any services from being additional services conditional on compliance with such conditions as may be prescribed. (3) Nothing in this section or the following provisions of this Part affects the operation of any enactment which is not contained in this Act and which, in whole or in part, relates to the provision of financial or other services of any description. (4) In order to enable a credit union to provide additional services of any description— (*a*) the credit union must adopt a decision to provide	Similarly, there are no provisions within S.I. No. 383 of 2009, which transposed Directive 2007/64/EC into Irish law, that explicitly state whether credit unions are exempt from all or part of the provisions of that Directive. The Credit Union Act, 1997 (as amended) also fails to refer to a credit union being capable of issuing electronic money. Thus, in light of the above, Ireland has decided not to waive requirement for credit unions to comply with all, or part, of the provisions of Title II of the Directive pursuant to Article 1(3) of the Directive. Either of the waivers under Articles 1(3) or 9(1) of the Directive could apply to credit unions. However, as Ireland has chosen not to transpose Article 1(3) of the Directive, this leaves only the optional waiver under Article 9(1) of the Directive. However, Article 9(1) of the Directive only allows the Central Bank to waive all or part of the procedures and requirements under Article 3, 4, 5 and 7 of the Directive. It should be remembered that a credit union does take deposits and other repayable funds from the public. Yet in relation to Article 6 of the Directive, Regulation 33(4) of S.I. No. 183 of 2011states that a small electronic money institution may only provide payment services not related to the issuance of electronic money unless the conditions of Regulation 35 of S.I. No. 383 of 2009 are met. In addition, Regulation 33(5) of S.I. No. 183 of 2011provides that the Central Bank may decide what activities under Article 6(1) of the Directive a small electronic money institution may engage in. Thus, it is recommended that the Commission seeks clarification from Ireland as to which waiver of the Directive is applied in relation to credit unions. Moreover, there is no mention of friendly societies neither within S.I. No. 183 of 2011 nor within the measures which transposed Directives 2006/48/EC and Directive 2007/64/EC into Irish law. While friendly societies have numerous purposes, they are mainly to provide small life assurance benefits, sick benefits and death benefits to members, to provide benefits to non-members or to promote particular activities or interests. Friendly societies must have at least seven members, a set of rules and must

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			additional services of that description by a resolution passed by not less than two-thirds of the members present and voting at an annual general meeting or at a special general meeting called for the purpose of considering the resolution; (*b*) the provision of the services must be approved by the Bank in accordance with *section 49* and the services must be provided in accordance with the terms and conditions of the approval; and (*c*) the rules of the credit union must specify the provision of services of that description among the objects of the credit union. (5) Notice shall be given of a resolution under *subsection (4)(a)* in accordance with the rules of the credit union or, if the rules do not make special provision as to notice of such a resolution, the like notice shall be given as is required by the rules for a resolution to amend the rules; and notice of the resolution shall contain or be accompanied by a statement giving— (*a*) a description of the	pay a fee in order to be registered with the Registrar of Friendly Societies. Once registered, they are required to file annual returns to the Registrar for Friendly Societies. However, there are no requirements regarding initial capital. The Central Bank of Ireland does not recognise a friendly society as capable of being a moneylender. (http://www.centralbank.ie/regulation/industry-sectors/money-lenders/pages/faqs.aspx) Examples of friendly societies include the Irish Creamery Milk Suppliers Association, Irish Grocers' Benevolent Fund, Literary Teachers Friendly Society, etc. Thus, by virtue of the silence of S.I. No. 183 of 2011 and of the legislation regarding friendly societies, friendly societies are not exempt from all or part of the requirements pursuant to Title II of the Directive. Moreover, given their nature and purpose as outlined above, friendly societies cannot be electronic money institutions. Lastly, the legislative silence consequently creates a legislative void regarding friendly societies. On the basis of the above, Ireland has not waived the requirement for credit unions and friendly societies to comply with all, or part, of the provisions of Title II of the Directive.

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			services which it is proposed to provide; (*b*) an assessment of the financial and other implications for the credit union of the provision of those services; and (*c*) details of such other matters as the Bank may by notice in writing require to be brought to the attention of the members of the credit union concerned. (6) Before giving notice of a-resolution as mentioned in *subsection (5)*, a credit union shall consult the Bank and the Bank shall give a preliminary view as to whether and to what extent the provision of the service would be likely to be approved by it; but the giving of such a preliminary view shall not prejudice the decision of the Bank under *section 49 (3)*. (7) The Bank may, by directions, specify such requirements as it considers necessary for credit unions providing additional services; and different requirements may be so specified in relation to different descriptions of additional services. (8) A credit union shall not be able or, as the case may be, shall cease to	

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			be able to provide additional services of a description to which requirements under *subsection (7)* apply if— (*a*) the credit union does not satisfy those requirements; or (*b*) within the period of 12 months beginning on the date on which approval for the provision of the services is given under *section 49*, the credit union does not begin to provide those services; but, if a credit union ceases to comply with any of those requirements, the cessation shall not, of itself, impose an obligation to dispose of any property or right acquired in connection with the provision of the additional services concerned. **49.**—(1) An application by a credit union for the approval of the provision of additional services of any description (in this section referred to as an "approval application") shall be made to the Bank in such manner as it may by rules direct, and shall be accompanied by such information as may be so specified. (2) Without prejudice to the generality of the powers of the Bank under *subsection (1)*, an approval	

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			application shall include information about— (*a*) the protection of members for whom the services are to be provided from conflicts of interest that might otherwise arise in connection with the provision of the services; (*b*) the provision proposed for securing that adequate compensation is available to those members in respect of negligence, fraud or other dishonesty on the part of officers or voluntary assistants of the credit union in connection with the provision of the services; (*c*) the extent to which and the manner in which the provision of the services will require the involvement of persons with particular qualifications or experience; (*d*) the cost of providing the services; (*e*) the income expected to accrue from any charges made for the services; and (*f*) the credit union's proposed principal, in a case where the approval application relates to the provision of services by the	

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			credit union as agent for another; and, where an approval application relates to the provision of additional services of more than one description, the information referred to above shall be given separately in respect of each description of services. (3) Having considered an approval application (which complies with *subsections (1)* and *(2)*), the Bank shall give notice, either— (*a*) granting approval; (*b*) refusing to grant approval; or (*c*) granting approval subject to whatever conditions (including restrictions or exclusions) it considers appropriate; and the Bank shall not grant an approval application in respect of any description of additional services unless it is satisfied that the resolution required by *section 48 (4) (a)* in relation to services of that description has been passed. (4) In making its decision on an approval application, the Bank shall have regard to the interests of the public and of the members and	

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			creditors of the credit union, to the orderly and proper regulation of the business of the credit union and to such other considerations as it thinks proper. (5) Subject to *subsection (6)*, within four months of the date on which it receives an approval application, the Bank shall either notify the credit union of its decision on the application or require the credit union to supply to it such additional information as it considers necessary to enable it to reach a decision and, where the Bank requires the provision of such additional information, it shall notify the credit union of its decision on the approval application not later than four months from the date of its receipt of that additional information. (6) Where an approval application relates to the provision of services by the credit union as agent (and not also as principal), *subsection (5)* shall have effect with the substitution for any reference to four months of a reference to two months. (7) Without prejudice to the generality of *subsection (3)(c)*, the conditions which the Bank may impose in granting an approval application may, in particular, include	

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			provisions about— (*a*) the amount of funds that may be applied by the credit union to the services; (*b*) whether the credit union may act as principal or agent in providing the services; (*c*) the period during which the services may be provided; (*d*) limits on any guarantees, bonds, contracts of suretyship or indemnities given or entered into by the credit union; (*e*) whether and to what extent the approval of the Bank is to be obtained in respect of particular proposals; (*f*) the qualifications required to be held by officers or voluntary assistants of the credit union providing the services; (*g*) the avoidance of conflicts of interest; (*h*) the charges to be made in relation to the provision of any services; (*i*) the preparation of accounts in respect of services being provided; and different conditions may be so imposed in relation to different	

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			descriptions of additional services. (8) If, before the date on which this section comes into force, a credit union was providing a service which is an additional service, that service shall cease unless, within the period of twelve months after that date, the credit union makes an approval application with respect to that service and complies with *subsections (4)(a)*, *(5)* and *(6)* of *section 48*; and, where such an application is made, the credit union may by virtue of this subsection continue to provide that service during that period. **50.**—(1) In the exercise of its powers under *sections 48* and *49* and this section, the Bank may at any time consult the Advisory Committee and such other bodies as appear to it to be expert or knowledgeable in matters relating to credit unions. (2) Without prejudice to the generality of *subsection (1)*, the Bank may commission an independent assessment of the capacity of a credit union to provide any or each description of the additional services in respect of which it has made an approval application; and, if the Bank so directs, the credit union shall defray	

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			the costs of such an assessment. (3) If it appears to it appropriate to do so, the Bank may at any time by notice— (*a*) withdraw an approval granted under *section 49*; (*b*) revoke or vary any conditions imposed on such an approval; or (*c*) impose new conditions on such an approval; but any such action by the Bank shall not require the disposal of any property or right already acquired. (4) In this section "approval application" has the same meaning as in *section 49*. **51.**—(1) A credit union shall not make or offer to make a loan to t a member subject to a condition that any additional services which the member may require (whether or not in connection with the loan) shall be provided by (or through the agency or assistance of) the credit union. (2) Where, in connection with a loan by a credit union, any additional services are made available by a credit	

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			union, the credit union shall not make those services available except on terms which distinguish the consideration applicable to each service which is so made available. **52**.—The following decisions are appealable decisions for the purposes of Part VIIA of the Central Bank Act 1942: (a) a decision of the Bank under section 49(3)(b) to refuse to grant approval; (b) a decision of the Bank under section 50(3)(a) to withdraw an approval granted under section 49; (c) a decision of the Bank under section 50(3)(b) to vary any condition imposed on such an approval; (d) a decision to impose any condition on such an approval (whether at the time the approval is granted or later by virtue of section 50 (3)(c)). **Items 26 to 29 of Part 24 Amendment of Credit Union Act, 1997 of Central Bank and Financial Services Authority of Ireland Act, 2003** **26. Section 48** (a) Substitute ‘‘Bank’’ for	

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			‘‘Registrar’’, wherever occurring; (b) in subsection (2)(b), substitute ‘‘Bank’’ for ‘‘Minister’’; (c) in subsection (2), insert ‘‘under section 182’’ after ‘‘regulations made’’; (d) in subsection (6), substitute ‘‘it’’ for ‘‘him’’; (e) in subsection (7), substitute ‘‘it’’ for ‘‘he’’. **27. Section 49** (a) Substitute ‘‘Bank’’ for ‘‘Registrar’’, wherever occurring; (b) substitute ‘‘it’’ for ‘‘he’’, wherever occurring; (c) substitute ‘‘its’’ for ‘‘his’’, wherever occurring; (d) in subsection (5), substitute ‘‘it’’ for ‘‘him’’. **28. Section 50** (a) Substitute ‘‘Bank’’ for ‘‘Registrar’’, wherever occurring; (b) substitute ‘‘it’’ for ‘‘him’’, wherever occurring; (c) in subsection (1), substitute ‘‘its’’ for ‘‘his’’	

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			29. Section 52 Substitute ‘‘Bank’’ for ‘‘Registrar’’, wherever occurring.	
Art. 1(4)	4. This Directive does not apply to monetary value stored on instruments exempted as specified in Article 3(k) of Directive 2007/64/EC.	**Reg. 5(a) of S.I. No. 183 of 2011**	**Regulation 5(a) of S.I. No. 183 of 2011** These Regulations do not apply to— (a) monetary value stored on instruments that can be used to acquire goods or services only— (i) in the premises used by the electronic money issuer, or (ii) under a commercial agreement with the electronic money issuer within a limited network of service providers or for a limited range of goods or services	**CONFORM** Regulation 5(a) of S.I. No. 183 of 2011 transposes Article 1(4) of the Directive. This Regulation literally transposes the exemptions regarding certain instruments as provided for under Article 3(k) of Directive 2007/64/EC. On the basis of the above, Regulation 5(a) of S.I. No. 183 of 2011 conforms to Article 1(4) of the Directive.
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.	**Reg. 5(b) of S.I. No. 183 of 2011**	**Regulation 5(b) of S.I. No. 183 of 2011** (b) monetary value that is used to make payment transactions executed by means of any telecommunication, digital or information technology device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or information technology device, on the condition that the telecommunication, digital or information technology operator does not act only as an intermediary	**CONFORM** Regulation 5(b) of S.I. No. 183 of 2011 transposes Article 1(5) of the Directive. Regulation 5(b) literally transposes the exemptions regarding certain payment transactions as provided for under Article 3(l) of Directive 2007/64/EC. On the basis of the above, Regulation 5(b) of S.I. No. 183 of 2011 conforms to Article 1(5) of the Directive.

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			between the electronic money user and the supplier of goods and services.	
Art. 2 intr. wording	*Article 2* **Definitions** For the purposes of this Directive, the following definitions shall apply:	**Reg. 3(1), intr. wording of S.I. No. 183 of 2011**	**Regulation 3(1) of S.I. No. 183 of 2011** 3. (1) In these Regulations—	**CONFORM** Regulation 3(1), introductory wording of S.I. No. 183 of 2011 transposes Article 2, introductory wording of the Directive. Regulation 3 of S.I. No. 183 of 2011 is the interpretative Regulation of the Statutory Instrument and contains various definitions that apply to S.I. No. 183 of 2011. On the basis of the above, Regulation 3(1) of S.I. No. 183 of 2011 conforms to Article 2, introductory wording of the Directive.
Art. 2 pt (1)	1. "electronic money institution" means a legal person that has been granted authorisation under Title II to issue electronic money;	**Reg. 6(1)(b) of S.I. No. 183 of 2011**	**Regulation 6(1)(b) of S.I. No. 183 of 2011** (b) an electronic money institution as defined in Article 2 of the Electronic Money Directive	**CONFORM** Regulation 6(1)(b) of S.I. No. 183 of 2011 transposes Article 2, point (1) of the Directive Regulation 6(1)(b) of S.I. No. 183 of 2011 foresees that the definition of 'electronic money institution' shall have the same meaning as it has in point 1 of Article 2 of the Directive. Unlike credit institutions, electronic money institutions must be authorised under Title II of the Directive prior to issuing electronic money. It is worth noting that recital 25 of the Directive notes that Directive 2006/48/EC considers electronic money institutions to be credit institutions. Consequently, recital 25 of the Directive highlights the need to amend the definition of a credit institution so that electronic money institutions cannot be considered credit institutions under the application of this Directive. On the basis of the above, Regulation 6(1)(b) of S.I. No. 183 of 2011 conforms to Article 2, point 1 of the Directive.
Art. 2 pt (2)	2. "electronic money" means electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is	**Reg. 3(1) of S.I. No. 183 of 2011**	**Regulation 3(1) of S.I. No. 183 of 2011** "electronic money" means electronically (including magnetically)	**CONFORM** Regulation 3(1) of S.I. No. 183 of 2011 almost literally transposes Article 2, point (2) of the Directive.

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	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;	**Reg. 3(3) of S.I. No. 383 of 2009**	stored monetary value as represented by a claim on the electronic money issuer which— (a) is issued on receipt of funds for the purpose of making payment transactions, (b) is accepted by a person other than the electronic money issuer, and (c) is not excluded by Regulation 5 **Regulation 3(3) of S.I. No. 383 of 2009** (3) Unless the contrary intention appears, a word or expression used in these Regulations and also in the Payment Services Directive has in these Regulations the same meaning as it has in that Directive.	Regulation 3(1) of S.I. No. 183 of 2011 defines electronic money as both electronically and magnetically stored value as represented by a right over the electronic money issuer. The definition contained in this Regulation ensures additional clarity by stating that the claim is on an electronic money issuer. Albeit there is no referral to the definition of payment transactions in Regulation 3(1) of S.I. No. 183 of 2011, nevertheless S.I. No. 383 of 2009, which transposed Directive 2007/64/EC into Irish law, provides that the term 'payment transaction' shall have the same meaning as the term has under Directive 2007/64/EC. The definition, provided for under Regulation 3(1) of S.I. No. 183 of 2011, does not differentiate between a legal and a natural person. However, it can be assumed that the provision applies to both legal and natural persons. Unlike the Directive, Regulation 3(1) of S.I. No. 183 of 2011also states that the definition does not apply to electronic money value that is used to make payment transactions exempted under Regulation 5 of S.I. No. 183 of 2011. As per recital 7 of the Directive, definition provided for by Regulation 3(1) of S.I. No. 183 of 2011 is technically neutral. Furthermore, the definition ensures certainty regarding the products which fall under the scope of the Statutory Instrument. Moreover, the definition brings account-based electronic money products within scope. The definition of electronic money under Regulation 3(1) of S.I. No. 183 of 2011 clearly adheres to the suggestion of recital 8 of the Directive that the definition should extend to both electronic money held on payment device in the electronic money holder's possession or stored remotely at a server but managed by the electronic money holder via a specific electronic money account. On the basis of the above, Regulation 3(1) of S.I. No. 183 of 2011 conforms 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	**Reg. 6(1) of S.I. No. 183 of 2011**	**Regulation 6(1) of S.I. No. 183 of 2011** 6. (1) A person shall not issue	**CONFORM** Regulation 6(1) of S.I. No. 183 of 2011 transposes Article 2, point (3) of the Directive. Regulation 6(1) of S.I. No. 183 of 2011 sets out the categories of electronic

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	9;		electronic money unless the person is— (a) a credit institution within the meaning of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (including a branch, within the meaning of point 3 of Article 4 of that Directive, located in a Member State of a credit institution having its head office in or, in accordance with Article 38 of that Directive, elsewhere than in a Member State), (b) an electronic money institution as defined in Article 2 of the Electronic Money Directive, (c) An Post in its capacity as an issuer of electronic money, or the postal authority of another Member State in its capacity as an issuer of electronic money, (d) the Bank, the European Central Bank or the central bank of another Member State, that is not acting in its capacity as a monetary authority, or other public authority, (e) a Member State, or a regional or local authority of a Member State, that is acting in its capacity as a public authority, (f) a credit union (within the meaning of the Credit Union Act 1997 (No. 15	money issuers which are recognised under Irish law. However, while the Directive recognises five categories of electronic money issuers, S.I. No. 183 of 2011 refers to nine categories. The additional four categories provided for under Irish law are: - credit unions, - electronic money institutions recognised as small electronic money institutions under Regulation 33, - electronic money issuers active before 30 April 2011 and certain small electronic money issuers active before 30 April 2011, and - electronic money institutions authorised as such in another Member State in accordance with the Directive. Ireland has not transposed the option under Article 1(3) of the Directive which would allow Ireland to waive the requirement for credit unions and friendly societies to comply with all or part of the provisions of Title II of the Directive. It should also be remembered that the interpretation of Regulation 6(1)(e) of S.I. No. 183 of 2011, which transposes Article 1(1)(e) of the Directive, is ambiguous. Another EEA Member State or a regional or local authority of another EEA Member State when acting in their capacity as a public authority are recognised as electronic money issuers pursuant to Article 1(1)(e) of the Directive. What is doubted is whether Irish regional and local authorities when acting in their capacity as public authorities are subsumed under Regulation 6(1)(e) of S.I. No. 183 of 2011. Nevertheless, on the basis of the above, Regulation 6(1) of S.I. No. 183 of 2011 conforms to Article 2, point (3) of the Directive.

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			of 1997)), (g) a person that has been registered after qualifying as a small electronic money institution under Regulation 33, (h) a person for the time being permitted under Part 6 to issue electronic money, or (i) an electronic money institution authorised as such in another Member State pursuant to a law giving effect to the Electronic Money Directive.	
Art. 2 pt (4)	4. "average outstanding electronic money" means the average total amount of financial liabilities related to electronic money in issue at the end of each calendar day over the preceding six calendar months, calculated on the first calendar day of each calendar month and applied for that calendar month.	**Reg. 3(1) of S.I. 183 of 2011**	**Regulation 3(1) of S.I. No. 183 of 2011** "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 6 calendar months, calculated on the first calendar day of each calendar month and applied for that calendar month;	**CONFORM** Regulation 3(1) of S.I. No. 183 of 2011 literally transposes Article 2, point (4) of the Directive.
Art. 3(1)	TITLE II **REQUIREMENTS FOR THE TAKING UP, PURSUIT AND PRUDENTIAL SUPERVISION OF THE BUSINESS OF ELECTRONIC MONEY INSTITUTIONS** *Article 3* **General prudential rules**	**Regs 8; 6(2) – (6); 11(1) – (8); 12; 27(1), (4) – (5); 7; 18; 19; 22; 24; 25; 3(1) and 4 of**	**Regulation 8 – Applications for authorisation** 8. (1) An application for authorisation as an electronic money institution shall be in the form directed by the Bank and shall contain or be accompanied by— (k) the applicant's legal status and memorandum and articles of association or other constitutional	**CONFORM** Various different regulations and sections which follow the system as laid down by Directive 2007/64/EC transpose Article 3(1) of the Directive. In order to be authorised as an electronic money institution under Irish law, the applicant must satisfy the same requirements as those which an applicant who seeks authorisation as a payment institution under Directive 2007/64/EC must satisfy. This authorisation process thus gives effect to recital 9 of the Directive which notes that the relevant provisions of Directive 2007/64/EC in relation to a prudential supervisory scheme should

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	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 *mutatis mutandis*.	**S.I. No. 183 of 2011; s. 23(6)(1A) of Central Bank Act, 1942; Regs 58 – 67; 58; 59(1); 27; 68 – 76 of S.I. No. 183 of 2011; Part IIIC of Central Bank Act, 1942; Reg. 59(2) of S.I. No. 183 of 2011; Section 33AK of Central Bank Act, 1942; Regs 67; 61 and 26 of S.I. No. 183**	documents, and **Regulation 6(2) – (6) – Persons that may issue electronic money** **Regulation 11 (1) – (8) – Conditions for granting of authorisation** **Regulation 12 – Communication of the decision** **Regulation 27 (1), (4) and (5) – Withdrawal of authorisation** 27. (1) The Bank may withdraw an authorisation issued to an electronic money institution— (a) if the institution— (i) does not engage in the business of the issuance of electronic money, or the provision of payment services, in accordance with the authorisation within 12 months, expressly renounces the authorisation or ceases to engage in that business for more than 6 months, **Regulation 7 – The Register** **Regulation 18 – Maintenance of authorisation** **Regulation 19 – Accounting and audit** **Regulation 22 – Outsourcing of functions** **Regulation 24 – Liability** 24. (1) If an electronic money	apply mutatis mutandis to electronic money institutions. Regulation 8 of S.I. No. 183 of 2011 transposes Article 5 of Directive 2007/64/EC in a conform manner. Article 5(k) of Directive 2007/64/EC requires that the applicant's legal status and articles of association are submitted with the applicant's application for authorisation as a payment institution. In addition to this, the Regulation 8(1)(k) of S.I. No. 183 of 2011 states that the applicant's memorandum of association must also be submitted with the applicant's application for authorisation as an electronic money institution. It is worth noting that Regulation 8(1)(k) of S.I. No. 183 of 2011 also provides that an applicant can submit other constitutional documents instead of a memorandum and articles of association. However, given that the memorandum and articles of association are the documents that form a company's constitution under Irish company law, it is unknown which documents 'other constitutional documents' refers to. Nevertheless, Regulation 8 of S.I. No. 183 of 2011 conforms to Article 5 of Directive 2007/64/EC. Regulation 6(2) to (6) of S.I. No. 183 of 2011 transpose Article 10(1) of Directive 2007/64/EC in a conform manner. Regulation 11(1) to (8) of S.I. No. 183 of 2011 transpose Article 10 (2) to (8) of Directive 2007/64/EC in a conform manner. Regulation 12 of S.I. No. 183 of 2011 transposes Article 11 of Directive 2007/64/EC in a conform manner. Regulation 27 (1), (4) and (5) of S.I. No. 183 of 2011 transpose Article 12 of Directive 2007/64/EC in a conform manner. Regulation 27(1)(a)(i) of S.I. No. 183 of 2011 which transposes Article 12(1)(a) of Directive 2007/64/EC additionally provides that authorisation may be withdrawn by the Central Bank where the electronic money institution renounces the authorisation. Regulation 27(b)(i) of S.I. No. 183 of 2011 expands on the requirements in Article 12(1)(c) of Directive 2007/64/ECby stating that the Bank must be satisfied on 'reasonable grounds' before satisfying this provision.

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		of 2011.	institution relies on a third party for the performance of an operational function, the electronic money institution shall take reasonable steps to ensure that the third party complies with the requirements of these Regulations so far as those requirements are capable of application to the third party. (2) An electronic money institution remains fully liable for any acts of— (a) its employees, or (b) any distributor, agent, branch or entity to which activities are outsourced. **Regulation 25 – Record-keeping** **Regulation 3(1) – Interpretation** **Regulation 4 – Bank to be competent authority** **Section 23(6)(1A) of the Central Bank Act 1942 (as amended by the Central Bank Reform Act 2010)** (1A) Nothing in the Central Bank Acts 1942 to 2010 affects the independence of the Bank, the Governor and the Commission required by the Rome Treaty and the ESCB Statute. **Regulation 58 – Bank as competent authority** **Regulation 59 – Supervision** **Regulation 60 – Bank's power to**	Furthermore, the Regulation lays down more detailed scenarios wherein the conditions for authorisation are no longer fulfilled. Nevertheless, Regulation 27 (1), (4) and (5) of S.I. No. 183 of 2011 conforms to Article 12 of Directive 2007/64/EC. Regulation 7 of S.I. No. 183 of 2011 transposes Article 13 of the Directive in a conform manner. Regulation 18 of S.I. No. 183 of 2011 transposes Article 14 of Directive 2007/64/EC in a conform manner. Regulation 19 of S.I. No. 183 of 2011 transposes Article 15 of Directive 2007/64/EC in a conform manner . Regulation 22 of S.I. No. 183 of 2011 transposes Article 17(7) of Directive 2007/64/EC in a conform manner. Regulation 24 of S.I. No. 183 of 2011 transposes Article 18 of Directive 2007/64/EC in a conform manner. It may be worth noting that there is one provision in Regulation 24(1) of S.I. No. 183 of 2011 that is not present in the Directive. Regulation 24(1) of S.I. No. 183 of 2011 provides that third parties must comply with the requirements of the Regulations so far as the requirements are capable of applying to the third party. Moreover, pursuant to Regulation 18(2) of S.I. No. 183 of 2011, electronic money institutions are fully liable for any acts of any distributors. A distributor under Regulation 3(1) of S.I. No. 183 of 2011 means a person acting on behalf of the electronic money institution and who is engaged by the electronic money institution to distribute and redeem electronic money. Distributors are not referred to in Directive 2007/64/EC. Article 19 of Directive 2007/64/EC is transposed by Regulation 25 of S.I. No. 183 of 2011 transposes Article 19 of Directive 2007/64/EC in a conform manner. Regulation 4 of S.I. No. 183 of 2011 transposes Article 20(1), (4) and (5) of Directive 2007/64/EC in a conform manner. The competent authority in Ireland is the Bank as defined under Regulation 3(1) of S.I. No. 183 of 2011

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			give directions **Regulation 61 – Exchange of information** **Regulation 62 – Interpretation (Chapter 2)** **Regulation 63 – Power to appoint authorised officers** **Regulation 64 – Powers of authorised officers** **Regulation 65 – Warrants** **Regulation 66 – Out-of-court redress** **Regulation 67 – Appealable decisions** **Regulation 58 – Bank as a competent authority** 58. The powers of the Bank extend to cover infringement or suspected infringement of Part 3 by electronic money issuers authorised or registered in the State and distributors, agents and branches in the State of electronic money issuers authorised in another Member State. **Regulation 59(1) – Supervision** 59. (1) The Bank— (a) may require an electronic money issuer to provide such information as it requires to monitor the institution's compliance with these Regulations,	as meaning the Central Bank of Ireland. Section 23(6)(1A) of the Central Bank Reform Act 1942 (as amended) transposes Article 20(1), second subparagraph of Directive 2007/64/EC in a conform manner . Regulations 58 to 67 of S.I. No. 183 of 2011 transpose Article 20(2) of Directive 2007/64/EC in a conform manner. As Ireland has not nominated another competent authority, Article 20(3) of Directive 2007/64/EC does not require transposition into Irish law. Regulation 58 of S.I. No. 183 of 2011 transposes Article 21(1), first subparagraph of Directive 2007/64/EC in a partially conform manner. Regulation 58 of S.I. No. 183 of 2011 confers supervisory powers on the Central Bank in respect of electronic money issuers authorised or registered in Ireland and distributors, agents and branches of electronic money issuers in Ireland who are authorised in another Member State. Distributors do not fall within the scope of Directive 2007/64/EC. However, the Directive provision applies to payment institutions, which in terms of electronic money should be understood as electronic money institutions. Electronic money institutions are legal persons authorised under Title II of S.I. No. 183 of 2011 to issue electronic money. However, electronic money issuers do not require authorisation, and are listed in Regulation 6(1) of S.I. No. 183 of 2011. Electronic money issuers include those who are waived under Regulation 32 of S.I. No. 183 of 2011. Hence, there is a risk that electronic money institutions that are authorised do not fall under the remit of this supervisory facility. Moreover, Regulation 58 of S.I. No. 183 of 2011 covers infringement or suspected infringement by electronic money issuers while Article 21(1) first subparagraph of Directive 2007/64/EC applies to risks which payment institutions may be exposed to. Regulation 58 of S.I. No. 183 of 2011 does not transpose the main requirements of the Directive provision. Thus, Regulation 58 of S.I. No. 183 of 2011 does not conform to Article 21(1), first subparagraph of Directive 2007/64/EC. Regulation 59(1) of S.I. No. 183 of 2011 transposes Article 21(1), second

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			(b) may carry out on-site inspections at— (i) the premises of an electronic money issuer, (ii) any distributor, agent or branch issuing electronic money or providing payment services under the responsibility of an electronic money issuer, (iii) the premises of any entity to which an electronic money issuer's activities are outsourced, and (iv) any premises at which the issuance of electronic money or payment services are, or are suspected of being, conducted, and (c) may issue recommendations and guidelines. **Regulation 27 – Withdrawal of authorisation** **Regulation 68 – Offence — operation as an electronic money institution without authorisation, etc.** **Regulation 69 – Offence — false or misleading information in application, etc.** **Regulation 70 – Offence — misappropriation of users' funds** **Regulation 71 – Offence — failure to**	subparagraph of Directive 2007/64/EC in a conform manner. Similar to Regulation 58 of S.I. No. 183 of 2011, Regulation 59(1) of S.I. No. 183 of 2011 applies to electronic money issuers yet the second subparagraph of Article 21(1) of Directive 2007/64/EC concerns electronic money institutions. The Regulation refers to carrying out on-site inspections at the premises of an electronic money issuer. However, Regulation 59(1)(a) of S.I. No. 183 of 2011 provides that electronic money issuers shall provide the Central Bank with information so as to assist the Central Bank in its monitoring of an electronic money institution's compliance with S.I. No. 183 of 2011. Thus, Regulation 59(1) of S.I. No. 183 of 2011partially conforms to Article 21(1), second subparagraph of Directive 2007/64/EC. Regulation 27 of S.I. No. 183 of 2011 transposes Article 21 (1), second subparagraph, point (d) of Directive 2007/64/EC in a conform manner. On the basis of the above, Regulations 58 and 59(1) of S.I. No. 183 of 2011 partially conform to Article 21(1) of Directive 2007/64/EC. Regulations 68 to 76 of S.I. No. 183 of 2011 and by Part IIIC of the Central Bank Act 1942 transpose Article 21(2) of Directive 2007/64/EC in a conform manner. Regulation 59(2) of S.I. No. 183 of 2011 transpose Article 21(3) of Directive 2007/64/EC in a conform manner. On the basis of the above, Article 21 is partially transposed into Irish law. Article 22(1) and (2) of Directive 2007/64/EC is transposed by Section 33AK of the Central Bank Act 1942 transposes Article 22(1) and (2) of Directive 2007/64/EC in a conform manner. Article 22(3) of Directive 2007/64/EC lays down an option. Ireland did not elect to apply the option provided for in the Directive article. Regulation 67 of S.I. No. 183 of 2011 transposes Article 23 of Directive 2007/64/EC in a conform manner. In relation to Article 23(2) of Directive 2007/64/EC, it should be noted no corresponding provision could be located in any of the National

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			keep appropriate records, etc. **Regulation 72 - Offences — obstruction of authorised officer, etc.** **Regulation 73 – Offence — provision of false or misleading information under these Regulations** **Regulation 74 – Penalties** **Regulation 75 – Prosecution of offences** **Regulation 76 – Offences — directors and others of bodies corporate and unincorporated bodies** **Part IIIC Central Bank Act 1942:** **Interpretation (Part IIIC).** 33AN.—In this Part "contravene" includes fail to comply, and also includes (a) attempting to contravene, and (b) aiding and abetting and counseling and procuring a person to commit a contravention, and (c) inducing, or attempting to induce, a person (whether by threats or promises or otherwise) to commit a contravention, and (d) being (directly or indirectly) knowingly concerned in, or a party to, a contravention, and	Implementing Measures. However, Part IIIC of the Central Bank and Financial Services Authority of Ireland Act 2004 provides an application can be made for leave to apply for judicial review of a decision of the Regulatory Authority. Regulation 61 of S.I. No. 183 of 2011 transposes Article 24 of Directive 2007/64/EC in a conform manner. Regulation 26 of S.I. No. 183 of 2011 transposes Article 25 of Directive 2007/64/EC in a conform manner. Article 25(4) of Directive 2007/64/EC covers infringements and suspected infringements by an agent, a branch or an entity to which activities are outsourced. It is worth noting that Regulation 26(6) of S.I. No. 183 of 2011 in transposing Article 25(4) of Directive 2007/74/EC expands the applicability to include distributors to which activities are outsourced. Although Regulation 26(7) of S.I. No. 183 of 2011 refers to the obligations of the Central Bank under any law regarding money-laundering or terrorist activity instead of expressly stating the Directives referred to in Article 25(7) of Directive 2007/74/EC.

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			(e) conspiring with others to commit a contravention; […] **CHAPTER 2** **Power of Regulatory Authority to hold inquiries** Regulatory Authority may hold inquiry into conduct of regulated financial service provider or person concerned in its management. […] 33AR.—(1) If, in a case where the Regulatory Authority suspects on reasonable grounds that a regulated financial service provider is committing or has committed a prescribed contravention, the financial service provider acknowledges that the financial service provider is committing or has committed the contravention, the Regulatory Authority may […] **Power of Regulatory Authority to resolve suspected contraventions, etc.** 33AV.—(1) If the Regulatory Authority suspects on reasonable grounds that (a) a regulated financial service provider is committing or has committed a prescribed contravention,	

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			or (b) a person concerned in the management of the financial service provider is participating or has participated in such a contravention, it may enter into an agreement in writing with the financial service provider or person to resolve the matter. **Regulation 59(2) – Supervision** **Section 33AK of the Central Bank Act 1942 – Disclosure of information** **Regulation 67 – Appealable decisions** **Regulation 61 – Exchange of information** **Regulation 26 – Obligation to give notice of intention to commence providing certain services in another Member State** (6) The Bank shall provide the competent authorities of the host Member State with all essential and relevant information, in particular information about infringements or suspected infringements by any distributor, agent, branch or entity to which activities are outsourced. The Bank shall communicate all relevant information upon request, and all essential information on its own initiative. (7) Paragraphs (1) to (6) do not affect any obligation of the Bank to	

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			supervise or monitor an electronic money institution's compliance with the requirements of any law in relation to money-laundering or terrorist financing.	
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.	**Reg. 31 of S.I. No. 183 of 2011**	**Regulation 31 of S.I. No. 183 of 2011** 31. Where any material change will affect the accuracy of information and evidence provided by an electronic money institution in measures taken for safeguarding of funds in exchange for electronic money issued, the institution shall inform the Bank in advance and in writing accordingly.	**CONFORM** Regulation 31 of S.I. No. 183 of 2011 almost literally transposes Article 3(2) of the Directive. Regulation 31 of S.I. No. 183 of 2011 provides that an electronic money institution must inform the Central Bank in advance and in writing of material change in measures taken for safeguarding of funds in exchange for electronic money issued which will impact upon the accuracy of information and evidence provided previously by the electronic money institution. Regulation 31 of S.I. No. 183 of 2011 goes further than the Directive provision by stating that such notice must be in writing. It also specifies that any material change that will impact upon the accuracy of information and evidence provided previously by the institution falls under this notification requirement. Thus, Regulation 31 of S.I. No. 183 of 2011 reflects recital 14 of the Directive which states that given the importance of safeguarding funds of an electronic money holder, the competent authority must be informed of any material change of measures taken to safeguard funds in advance. On the basis of the above, Regulation 31 of S.I. No. 183 of 2011 conforms to Article 3(2) of the Directive.
Art. 3(3) 1st subpara.	3. Any natural or legal person who has taken a decision to acquire or dispose of, directly or indirectly, a qualifying holding within the meaning of point 11 of Article 4 of Directive 2006/48/EC in an electronic money institution, or to further increase or reduce, directly or indirectly, such qualifying holding	**Regs 37 and 38 of S.I. No. 183 of 2011**	**Regulation 37 of S.I. No. 183 of 2011** 37. In this Chapter— "prescribed percentage" means 20%, 30% or 50%; "proposed acquirer" means a person who proposes to acquire or increase a qualifying holding in an electronic	**CONFORM** Regulations 37 and 38 of S.I. No. 183 of 2011 transpose Article 3(3), first subparagraph of the Directive. First, the definition of a qualifying holding contained within Regulation 37 of S.I. No. 183 of 2011 corresponds with the definition provided under Article 4, point 11 of Directive 2006/48/EC. Secondly, Regulation 37 of S.I. No. 183 of 2011 defines a prescribed

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	as a result of which the proportion of the capital or of the voting rights held would reach, exceed or fall below 20 %, 30 % or 50 %, or so that the electronic money institution would become or cease to be its subsidiary, shall inform the competent authorities of their intention in advance of such acquisition, disposal, increase or reduction.		money institution, and includes a group of persons acting in concert to acquire or increase such a holding; "proposed acquisition" means— (a) the proposed acquisition of a qualifying holding in an electronic money institution, or (b) a proposed increase in a qualifying holding in such an institution that results in the size of the holding reaching or exceeding a prescribed percentage; "qualifying holding", in relation to an electronic money institution, means a direct or indirect holding— (a) that represents 10% or more of the capital of, or the voting rights in, the electronic money institution, or (b) that makes it possible to exercise a significant influence over the management of the electronic money institution. **Regulation 38 of S.I. No. 183 of 2011** 38. (1) A proposed acquirer shall not, directly or indirectly, acquire a qualifying holding in an electronic money institution without having previously notified the Bank in writing of the intended size of the holding. (2) A proposed acquirer who has a qualifying holding in an electronic	percentage as 20%, 30% or 50%. Regulation 38 of S.I. No. 183 of 2011 requires that the Central Bank must be notified of direct and indirect acquisitions and disposals of qualifying holdings in electronic money institutions in the following instances. Notification in all instances must be in advance and in writing. The Directive provision does not expressly specify in what form the notification must be. Pursuant to Regulation 38(1) of S.I. No. 183 of 2011, a proposed acquirer must inform the Central Bank of their intention to acquire, directly or indirectly, a qualifying holding in an electronic money institution. Similarly, a person must notify the bank of their intention to dispose, directly or indirectly, of a qualifying holding in an electronic money institution according to Regulation 38(3) of S.I. No. 183 of 2011. Moreover, the Central Bank must be notified if a proposed acquirer who already has a qualifying holding in an electronic money institution wishes to directly or indirectly increase the size of the holding and whereby as a result of the increase the proposed acquirer's percentage of voting rights in or of the capital of the electronic money institution would reach or exceed 20%, 30% or 50%. Notification is also necessary in the event that the proposed acquirer is a company or some other corporate body and whereby as a result of the increase the electronic money institution would become a subsidiary of the proposed acquirer. In the event of a disposal of a qualifying holding and whereby as a result of the disposal the person's percentage of voting rights in or of the capital of the electronic money institution would fall to or below 20%, 30% or 50%. Notification is also necessary in the event that the proposed acquirer is a company or some other corporate body and whereby as a result of the disposal the electronic money institution would cease to be a subsidiary of the person. While the Directive provision refers to natural and legal persons, Regulation 38 of S.I. No. 183 of 2011makes reference to a proposed acquirer and to a person, both of which can be construed as encompassing natural and legal persons. On the basis of the above, Regulations 37 and 38 of S.I. No. 183 of 2011

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			money institution shall not, directly or indirectly, increase the size of the holding without having previously notified the Bank in writing of the intended size of the holding if, as a result of the increase— (a) the percentage of the capital of, or the voting rights in, the electronic money institution that the proposed acquirer holds would reach or exceed a prescribed percentage, or (b) in the case of a proposed acquirer that is a company or other body corporate, the electronic money institution would become the proposed acquirer's subsidiary. (3) A person shall not, directly or indirectly, dispose of a qualifying holding in an electronic money institution without having previously notified the Bank in writing of the intended size of the holding. (4) A person shall not, directly or indirectly, dispose of part of a qualifying holding in an electronic money institution without having previously notified the Bank in writing of the intended size of the holding if, as a result of the disposal— (a) the percentage of the capital of, or the voting rights in, the electronic money institution that the person holds would fall to or below a prescribed percentage, or	conforms to Article 3(3), first subparagraph of the Directive.

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			(b) in the case of a person that is a company or other body corporate, the electronic money institution would cease to be the person's subsidiary. (5) A notification under paragraph (1) or (2) shall include sufficient information to enable the Bank to consider the proposed acquisition according to the nature of the proposed acquirer and the proposed acquisition, and in particular shall include information on who the proposed acquirers are, the individuals to be responsible for their management, how the proposed acquisition is to be financed (including details of any proposed issue of financial instruments) and the structure of the resulting group. (6) The information to be provided in a notification under paragraph (1) or (2) is the same as that required by the form of notification published by the Bank on 25 May 2009 entitled "Acquiring Transaction Notification Form", and includes any document in relation to the proposed acquisition or proposed acquirer concerned required by that form.	
Art. 3(3) 2nd subpara.	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	**Reg. 38 (5) and (6) of S.I. No. 183 of**	**Regulation 38(5) and (6) of S.I. No. 183 of 2011** (5) A notification under paragraph (1) or (2) shall include sufficient information to enable the Bank to	**CONFORM** Regulation 38 (5) and (6) of S.I. No. 183 of 2011 transpose Article 3(3), second subparagraph of the Directive. Regulation 38 (1) and (2) of S.I. No. 183 of 2011provides that the proposed acquirer must notify the bank of the intended size of the qualifying holding.

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	Directive 2006/48/EC.	**2011**	consider the proposed acquisition according to the nature of the proposed acquirer and the proposed acquisition, and in particular shall include information on who the proposed acquirers are, the individuals to be responsible for their management, how the proposed acquisition is to be financed (including details of any proposed issue of financial instruments) and the structure of the resulting group. (6) The information to be provided in a notification under paragraph (1) or (2) is the same as that required by the form of notification published by the Bank on 25 May 2009 entitled "Acquiring Transaction Notification Form", and includes any document in relation to the proposed acquisition or proposed acquirer concerned required by that form.	Additionally, Regulation 38(5) of S.I. No. 183 of 2011requires that the notification shall also include information regarding the identity of the proposed acquirers, individuals who will be responsible for their management, details on the financing of the acquisition and the structure of any resulting group. Regulation 38(6) of S.I. No. 183 of 2011states that the information to be submitted accompanying a notification under Regulation 38(1) or (2) of S.I. No. 183 of 2011 shall be the same as that required in accordance with the Acquiring Transaction Notification Form. This form is published by the Central Bank and states what information must be provided in order for the Central Bank to carry out an assessment. Consequently, this form is in line with Article 19a(4) of Directive 2006/48/EC which provides that the Member States shall establish a list specifying the information that is necessary to carry out the assessment and that must be provided to the competent authorities. A copy of the Acquiring Transaction Notification Form is available at the following link: http://www.centralbank.ie/regulation/industry-sectors/investment-firms/mifid-firms/Documents/Acquisition%20Form%2025%20May%202009.pdf On the basis of the above, Regulation 38 (5) and (6) of S.I. No. 183 of 2011 conforms to Article 3(3), second subparagraph of the Directive.
Art. 3(3) 3rd subpara.	Where the influence exercised by the persons referred to in the second subparagraph is likely to operate to the detriment of the prudent and sound management of the institution, the competent authorities shall express their opposition or take other appropriate measures to bring that situation to an end. Such measures may include injunctions, sanctions against directors or managers, or the suspension of the exercise of the	**Regs 11(5), 41(1) and (2), 45, 50(1) and (3) of S.I. No. 183 of 2011**	**Regulation 11 (5) of S.I. No. 183 of 2011** (5) The Bank shall refuse to grant an authorisation if, taking into account the need to ensure the sound and prudent management of an electronic money institution, it is not satisfied as to the suitability of any shareholder or member that has a qualifying holding within the meaning of Regulation 37.	**CONFORM** Regulations 11(5), 41 (1) and (2), 45(a) and 50 (1) and (3) of S.I. No. 183 of 2011 transpose Article 3(3), third subparagraph of the Directive. Regulation 11(5) of S.I. No. 183 of 2011provides that the Central Bank may refuse to authorise a proposed acquisition of a qualifying holding if it is not satisfied regarding the suitability of any shareholder or member that has a qualifying holding. Furthermore, Regulation 41(1) of S.I. No. 183 of 2011states that the guaranteeing of sound and prudent management of an electronic money institution is at the core of the assessment of the proposed acquisition. In its

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	voting rights attached to the shares held by the shareholders or members in question.		**Regulation 41(1) and (2) of S.I. No. 183 of 2011** 41. (1) The objective of the assessment of a proposed acquisition is to ensure the sound and prudent management of the electronic money institution concerned. (2) In assessing a proposed acquisition, the Bank— (a) shall have regard to the likely influence of the proposed acquirer concerned on the electronic money institution concerned, and (b) shall appraise the suitability of the proposed acquirer and the financial soundness of the proposed acquisition concerned against all of the following criteria: (i) the reputation of the proposed acquirer; (ii) the reputation and experience of the individuals who will direct the business of the institution as a result of the proposed acquisition; (iii) the financial soundness of the proposed acquirer, in particular in relation to the type of business pursued and envisaged in the institution; (iv) whether the institution will be able to comply and continue to comply with the prudential requirements of	assessment, the Central Bank may consider the likely influence of the proposed acquirer on the electronic money institution. This provision also lists a set of criteria against which the suitability of the proposed acquirer and the financial soundness of the proposed acquisition will be benchmarked. Pursuant to Regulation 45(a) of S.I. No. 183 of 2011, the Central Bank's refusal to authorise a proposed acquisition of a qualifying holding must be based on either reasonable grounds on the basis of the assessment under Regulation 41(1) and (2) or on the basis of the submission of incomplete information. Under Regulation 50(1) of S.I. No. 183 of 2011, the Central Bank may apply for a court order when it reasonably believes that the influence exercised by a person who has a qualifying holding in an electronic money institution is to the detriment the prudent and sound management of the electronic money institution. If the court finds in the Central Bank's favour, the court may make either all or any of the three orders provided for under Regulation 50(3) of S.I. No. 183 of 2011. The orders available to the court are an order instructing the person to dispose of all or part of their holding, the suspension of the exercise of voting rights attached to the relevant shares and the invalidation of votes exercised by holders of those relevant shares. On the basis of the above, Regulations 11(5), 41 (1) and (2), 45(a) and 50 (1) and (3) of S.I. No. 183 of 2011 conform to Article 3(3), third subparagraph of the Directive.

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			existing legislation; (v) whether the group of which it will become a part has a structure that makes it possible to exercise effective supervision, effectively exchange information among the competent authorities and determine the allocation of responsibilities among the competent authorities; and (vi) whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or terrorist financing (within the meaning of Article 1 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing) is being or has been committed or attempted, or that the proposed acquisition could increase the risk of money laundering or terrorist financing. **Regulation 45 of S.I. No. 183 of 2011** 45. The Bank may oppose a proposed acquisition only if— (a) there are reasonable grounds for doing so on the basis of the criteria in paragraph (1) or (2) of Regulation 41, or (b) the information provided by the	

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			proposed acquirer in its notification under Regulation 38 is incomplete, or the proposed acquirer has not provided information in response to a request under paragraph (5) or (8) of Regulation 40. **Regulation 50(1) and (3) of S.I. No. 183 of 2011** 50. (1) If the Bank reasonably believes that the control exercised by a person who has a qualifying holding in an electronic money institution is inconsistent with the prudent and sound management of the institution, it may apply to the court for an order under paragraph (3). (3) On the hearing of an application under paragraph (1), the court may, on being satisfied that the Bank's belief is substantiated, make all or any of the following orders: (a) an order directing the respondent to dispose of the holding or a specified part of it; (b) an order suspending the exercise of the voting rights attached to the relevant shares; (c) an order invalidating votes already exercised by holders of those shares.	
Art. 3(3) 4th	Similar measures shall apply to natural or legal persons who fail to comply	**Reg. 38(2)(b)**	**Regulation 38(2)(b) and (4)(b) of S.I. No. 183 of 2011**	**CONFORM** Although Article 3(3), fourth subparagraph is not expressly transposed by

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subpara.	with the obligation to provide prior information, as laid down in this paragraph.	**and 4(b) and 50(1) of S.I. No. 183 of 2011**	(2) A proposed acquirer who has a qualifying holding in an electronic money institution shall not, directly or indirectly, increase the size of the holding without having previously notified the Bank in writing of the intended size of the holding if, as a result of the increase— (…) (b) in the case of a proposed acquirer that is a company or other body corporate, the electronic money institution would become the proposed acquirer's subsidiary. (4) A person shall not, directly or indirectly, dispose of part of a qualifying holding in an electronic money institution without having previously notified the Bank in writing of the intended size of the holding if, as a result of the disposal— (…) (b) in the case of a person that is a company or other body corporate, the electronic money institution would cease to be the person's subsidiary. **Regulation 50(1) of S.I. No. 183 of 2011** 50. (1) If the Bank reasonably believes that the control exercised by a person who has a qualifying holding in an electronic money institution is	S.I. No. 183 of 2011, nevertheless its transposition can be implied through an interpretation of Regulations 38(2)(b) and (4)(b) and 50(1) of S.I. No. 183 of 2011. The Statutory Instrument does not expressly define a proposed acquirer as capable of meaning both natural and legal persons. However, Regulation 38(2)(b) and (4)(b) of S.I. No. 183 of 2011provides for the scenario whereby the proposed acquirer or the person in the event of a disposal of a qualifying holding is a legal person. Moreover, Regulation 50(1) of S.I. No. 183 of 2011 refers to the existing holder of a qualifying holding in an electronic money institution as a person. A person in this context can be construed on the basis of Regulation 38 of S.I. No. 183 of 2011 as meaning both natural and legal persons. The court may make certain orders in relation to these holders. Thus, the same measures shall apply irrespective of the legal status of the person. On the basis of the above, Regulations 38(2)(b) and (4)(b) and 50 (1) of S.I. No. 183 of 2011 conform to Article 3(3), third subparagraph of the Directive.

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			inconsistent with the prudent and sound management of the institution, it may apply to the court for an order under paragraph (3).	
Art. 3(3) 5th subpara.	If a holding is acquired despite the opposition of the competent authorities, those authorities shall, regardless of any other sanction to be adopted, provide for the exercise of the voting rights of the acquirer to be suspended, the nullity of votes cast or the possibility of annulling those votes.	**Reg. 50 (3) (b) and (c) of S.I. No. 183 of 2011**	**Regulation 50(3)(b) and (c) of S.I. No. 183 of 2011** (3) On the hearing of an application under paragraph (1), the court may, on being satisfied that the Bank's belief is substantiated, make all or any of the following orders: (…) (b) an order suspending the exercise of the voting rights attached to the relevant shares; (c) an order invalidating votes already exercised by holders of those shares.	**CONFORM** Regulation 50(3)(b) and (c) of S.I. No. 183 of 2011 transpose Article 3(3), fifth subparagraph of the Directive. Regulation 50(3)(b) of S.I. No. 183 of 2011 provides for the suspension of the exercise of voting rights attached to the shares in question. The Directive provision which provides for either the nullification or annulment of votes already exercised by the holders of the shares in question is transposed by Regulation 50(3)(c) of S.I. No. 183 of 2011which recognises such votes as invalid. On the basis of the above, Regulation 50(3)(b) and (c) of S.I. No. 183 of 2011 conforms to Article 3(3), third subparagraph of the Directive.
Art. 3(3) 6th subpara.	The Member States may waive or allow their competent authorities to waive the application of all or part of the obligations pursuant to this paragraph in respect of electronic money institutions that carry out one or more of the activities listed in Article 6(1)(e).	**Reg. 51 of S.I. No. 183 of 2011**	**Regulation 51 of S.I. No. 183 of 2011** 51. The Bank may waive the application of all or part of the obligations pursuant to this Chapter in respect of electronic money institutions that carry out one or more of the business activities which fall within Regulation 28(1)(e).	**CONFORM** Article 3(3), sixth subparagraph of the Directive lays down an option. Ireland has chosen to apply this option as Regulation 51 of S.I. No. 183 of 2011 transposes Article 3(3), sixth subparagraph of the Directive. Regulation 51 of S.I. No. 183 of 2011 provides that the Central Bank as the competent authority may choose to waive all or part of the obligations under the chapter of S.I. No. 183 of 2011 regarding restrictions on acquiring and disposing of qualifying holdings in electronic money institutions. This waiver applies only to firms that engage in activities other than the issuance of electronic money and non-electronic money payment services. Non-electronic money payment services are namely the provision of payment services that are unrelated to the issuance of electronic money. Hence, such firms may not have to provide advance details of qualifying shareholders (10%) and shareholders whose holdings reach, exceed or fall below 20%,

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				30% and 50%. On the basis of the above, Regulation 51 of S.I. No. 183 of 2011 conforms to Article 3(3), sixth subparagraph of the Directive.
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.	**Regs 20(1) and (3) and 26 of S.I. No. 183 of 2011**	**Regulation 20(1) and (3) of S.I. No. 183 of 2011** 20. (1) An electronic money institution may distribute or redeem electronic money through a distributor or agent. (3) An electronic money institution may engage a distributor or an agent to distribute or redeem electronic money in the exercise of its passport rights. **Regulation 26 of S.I. No. 183 of 2011** 26. (1) An electronic money institution intending to— (a) commence providing electronic money issuance, redemption or distribution services in another Member State, or (b) commence payment services in another Member State, shall so notify the Bank in writing at least one month before the date that it proposes to commence providing those services in the other Member State. (2) Within one month of receiving the notification referred to in paragraph (1), the Bank shall inform the competent authorities of the host	**CONFORM** Regulations 20(1) and (3) and 26 of S.I. No. 183 of 2011 transpose Article 3(4) of the Directive. Regulation 20(1) of S.I. No. 183 of 2011 permits electronic money institutions to distribute and redeem electronic money through the use of agents or distributors. Thus, similar to recital 10 of the Directive, Regulation 20(1) of S.I. No. 183 of 2011 recognises that electronic money institutions distribute electronic to the public through both natural and legal persons. Such persons distribute and redeem electronic money on behalf of the electronic money institutions. It is worth noting that an agent pursuant to Regulation 3(1) of S.I. No. 183 of 2011 means a person who provides payment services on behalf of an electronic money institution. On the other hand, a distributor is defined in Regulation 3(1) of S.I. No. 183 of 2011 as a person acting on behalf of an electronic money institution and is engaged by the institution to distribute and redeem electronic money. Whereas the Directive refers only to agents, the Statutory Instrument extends to both agents and distributors. It should be remembered that although agents are exempt from the authorisation requirements, unlike agents providing services for payment institutions under Directive 2007/64/EC, the electronic money institution will nonetheless need to submit certain information to the Central Bank in advance of seeking registration of the proposed agent. Additionally, proposals to appoint a distributor must be notified to the Central Bank prior to the appointment. The relevant forms which must be submitted to the Central Bank are available at the following link: http://www.centralbank.ie/regulation/industry-sectors/electronic-money-institutions/Pages/forms.aspx Corresponding to the Directive, the Statutory Instrument provides for the

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			Member State of— (a) the name and address of the electronic money institution, (b) the names of the individuals to be responsible for the management of the branch, (c) its organisational structure, and (d) the kind of services referred to in paragraph (1) that it intends to provide in the host Member State. (3) If an electronic money institution authorised in the State wishes to establish a branch in another Member State or wishes to engage an agent to provide payment services in another Member State, and the competent authorities of that Member State inform the Bank that those competent authorities have reasonable grounds to suspect that, in connection with the intended establishment of the branch or the engagement of the agent, as the case may be— (a) money laundering or terrorist financing is taking place, has taken place or has been attempted, or (b) the establishment of the branch or the engagement of the agent, as the case may be, could increase the risk of money laundering or terrorist financing, the Bank may refuse to register the agent or branch. (4) The Bank shall cooperate with the	situation whereby an electronic money institution seeks to distribute electronic money in another Member State through the use of agents and distributors. Thus, Regulation 26 of S.I. No. 183 of 2011 sets out the notification procedure that must be complied with when an electronic money institution wishes to intend to commence certain services in another Member State. Regulation 26 of S.I. No. 183 of 2011 transposes Article 25 of Directive 2007/64/EC. Regulation 26 of S.I. No. 183 of 2011 goes further than necessary with regards to the notice requirement to be given to the Central Bank. The electronic money institution must notify the Central Bank in writing and at least one month prior to the date in which it proposes to commence providing services. Moreover, as in line with the rest of the Statutory Instrument, distributors also fall under the scope of Regulation 26 of S.I. No. 183 of 2011. On the basis of the above, Regulation 20(1) and (3) and 26 of S.I. No. 183 of 2011 conform to Article 3(4) of the Directive.

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			competent authorities of the host Member State. (5) The Bank shall notify the competent authorities of the host Member State whenever it intends to carry out an on-site inspection in the territory of the latter. However, if it so wishes, the Bank may delegate to the competent authorities of the host Member State the task of carrying out on-site inspections of the institution concerned. (6) The Bank shall provide the competent authorities of the host Member State with all essential and relevant information, in particular information about infringements or suspected infringements by any distributor, agent, branch or entity to which activities are outsourced. The Bank shall communicate all relevant information upon request, and all essential information on its own initiative. (7) Paragraphs (1) to (6) do not affect any obligation of the Bank to supervise or monitor an electronic money institution's compliance with the requirements of any law in relation to money-laundering or terrorist financing. **Regulation 3(1) of S.I. No. 183 of 2011**	

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			3. (1) In these Regulations— "agent" means a person who provides payment services on behalf of an electronic money institution; "distributor" means a person— (a) acting on behalf of an electronic money institution, and (b) engaged by the institution to distribute and redeem electronic money	
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.	**Regs 20 (2), (4) and (5) and 21 of S.I. No. 183 of 2011**	**Regulation 20(2), (4) and (5) of S.I. No. 183 of 2011** **(**2) An electronic money institution shall not issue electronic money through a distributor, agent or any other entity acting on its behalf. (4) An electronic money institution may provide payment services in the State through an agent only if the agent is included on the Register. (5) An electronic money institution may provide payment services in the exercise of its passport rights through an agent only if the agent is included on the Register. **Regulation 21 of S.I. No. 183 of 2011** 21. (1) If an electronic money institution intends to provide payment services through an agent it shall, at least 30 calendar days before the agent	**CONFORM** Regulations 20(2) and 21 of S.I. No. 183 of 2011 transpose Article 3(5) of the Directive. Regulation 20(2) of S.I. No. 183 of 2011 explicitly states that an electronic money institution is not permitted to issue electronic money through a distributor, agent or any other entity acting on its behalf. However, Regulation 20(4) and (5) of S.I. No. 183 of 2011 provide that an electronic money institution may only provide payment services through an agent if the agent is registered. Thus, Regulation 20(4) and (5) of S.I. No. 183 of 2011 mirror recital 10 of the Directive which states that although agents should not be permitted to issue electronic money on behalf of electronic money institutions, nevertheless agents can provide payment services listed in the Annex to Directive 2007/64/EC upon the fulfilment of the conditions of Article 17 of Directive 2007/64/EC. The requirement for agents to be registered is provided for in Regulation 21 of S.I. No. 183 of 2011. This provision stipulates that where an electronic money institution wishes to provide payment services that are unrelated to the issuance of electronic money by an agent, such agents must be registered with the Central Bank prior to the commencement of the payment services. The relevant form which must be submitted to the Central Bank is available at the following link:

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			commences to provide the service, notify the Bank in writing of the following: (a) the name and address of the agent; (b) a description of the internal control mechanisms that will be used by the agent to comply with the electronic money institution's obligations in relation to money laundering and terrorist financing; (c) the names of directors and persons responsible for the management of the agent; and (d) evidence that they are fit and proper persons. (2) When the Bank receives the information required by paragraph (1) it may list the agent in the Register. (3) Before listing the agent in the Register, the Bank may, if it considers that the information provided to it is incorrect, take action to verify the information. (4) If, after taking action to verify the information, the Bank is not satisfied that the information provided to it pursuant to paragraph (1) is correct, it may refuse to list the agent in the Register. (5) If an electronic money institution wishes to provide payment services in another Member State by engaging an agent, before the Bank registers the	http://www.centralbank.ie/regulation/industry-sectors/electronic-money-institutions/Pages/forms.aspx Regulation 21 of S.I. No. 183 of 2011, which almost literally corresponds to Article 17 of Directive 2007/64/EC, provides which information must be notified to the Central Bank in writing and outlines the conditions of the registration procedure. According to Regulation 21(6) of S.I. No. 183 of 2011, an electronic money institution is responsible for ensuring that any agent acting of its behalf informs payment service users of the fact that is providing payment services on behalf of an electronic money institution. On the basis of the above, Regulations 20(2) and 21 of S.I. No. 183 of 2011 conform to Article 3(5) of the Directive.

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			agent, the Bank shall inform the competent authorities of the host Member State of its intention to register the agent and shall take their opinion into account. (6) An electronic money institution shall ensure that any agent acting on its behalf informs payment service users that it is acting on behalf of the electronic money institution.	
Art. 4	*Article 4* **Initial capital** Member States shall require electronic money institutions to hold, at the time of authorisation, initial capital, comprised of the items set out in Article 57(a) and (b) of Directive 2006/48/EC, of not less than EUR 350000.	**Reg. 13 of S.I. No. 183 of 2011** **Reg. 3(1)(a) and (b), (3) and (4) of S.I. No. 661 of 2006**	**Regulation 13 of S.I. No. 183 of 2011** 13. (1) The Bank shall not authorise an applicant as an electronic money institution unless the applicant holds initial capital of at least €350,000. (2) For the purposes of calculating an applicant's initial capital, only the elements of its own funds described in subparagraphs (a) and (b) of Regulation 3(1) of the European Communities (Capital Adequacy of Credit Institutions) Regulations 2006 (S.I. No. 661 of 2006) shall be taken into account. **Regulation 3(1)(a) and (b), (3) and(4) of S.I. No. 661 of 2006** 3. (1) Subject to the limits imposed in Regulation 11, the unconsolidated own funds of a credit institution shall consist of the following items: (a) capital within the meaning of	**CONFORM** Regulation 13 of S.I. No. 183 of 2011 transposes Article 4 of the Directive. Regulation 13(1) of S.I. No. 183 of 2011 provides that authorisation as an electronic money institution shall not be granted by the Central Bank without the required initial capital of at least EUR 350 000. This amount of money is identical to that provided for under Article 4 of the Directive. Such an initial capital requirement is a step towards ensuring the sound and prudent operation of electronic money institutions which in turn also protects consumers as referred to in recital 11 of the Directive. Moreover, Regulation 13(2) of S.I. No. 183 of 2011 foresees that in the calculation of the initial capital amount, only the capital and reserve elements of the applicant's own funds shall be taken into account. Both Article 4 of the Directive and Regulation 13(2) of S.I. No. 183 of 2011 provide that the 'capital' shall have its meaning within Article 22 of Directive 86/635/EEC and 'reserves' within Article 23 of Directive 86/635/EEC. Articles 22 and 23 of Directive 86/635/EEC are referred to in the Directive provision by reference to Article 57(a) and (b) of Directive 2006/48/EC. Regulation 13(2) of S.I. No. 183 of 2011 refers to Regulation 3(1)(a) and (b) of S.I. No. 661 of 2006 which was one of the Statutory Instruments which transposed Directive 2006/48/EC into Irish law. On the basis of the above, Regulation 13 of S.I. No. 183 of 2011 conforms to Article 4 of the Directive.

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			Article 22 of Directive 86/635/EEC of the European Parliament and of the Council of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions, in so far as it has been paid up, plus share premium accounts but excluding cumulative preferential shares, (b) subject to paragraphs (3) and (4), reserves within the meaning of Article 23 of Directive 86/635/EEC and profits and losses brought forward as a result of the application of the final profit or loss, (…) (3) For the purposes of paragraph (1)(b), interim profits may be included before a formal decision has been taken if those profits have been verified by persons responsible for the auditing of the accounts and if it is proved to the satisfaction of the Bank that the amount thereof has been evaluated in accordance with the principles set out in Directive 86/635/EEC and is net of any foreseeable charge or dividend. (4) In the case of a credit institution which is the originator of a securitisation, net gains arising from the capitalisation of future income from the securitised assets and providing credit enhancement to positions in the securitisation shall be	

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			excluded from the item specified in paragraph (1)(b).	
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.	**Regs 14(1) and (2) and 27(1)(b)(i) of S.I. No. 183 of 2011**	**Regulation 14(1) and (2) of S.I. No. 183 of 2011** 14. (1) The Bank shall not authorise an applicant as an electronic money institution unless the applicant holds own funds of at least— (a) the higher of— (i) the amount required by virtue of Regulation 13 as its initial capital, and (ii) the amount calculated— (I) in respect of the issuance of electronic money, by Method D, and (II) if it proposes to engage in payment services which are not related to the issuance of electronic money, by whichever of Methods A, B or C the Bank directs the institution, under Regulation 16(2), to use. (b) if the Bank so permits under paragraph (5), the amount required by virtue of Regulation 13 as the applicant's initial capital. (2) Method D is set out in Regulation 15. **Regulation 27(1)(b)(i) of S.I. No. 183 of 2011** 27. (1) The Bank may withdraw an	**CONFORM** Regulation 14(1) and (2) of S.I. No. 183 of 2011 transpose Article 5(1) of the Directive. Regulation 14(1) of S.I. No. 183 of 2011 stipulates that authorisation as an electronic money institution shall not be granted by the Central Bank unless the applicant holds own funds of at least the initial capital amount of EUR 350 000 as laid down in Regulation 13 of S.I. No. 183 of 2011 or own funds calculated in accordance with Method D, as laid down in Regulation 15 of S.I. No. 183 of 2011, whichever is the higher amount. Method D provides that the own funds shall amount to at least 2% of the average outstanding electronic money. Thus, Regulation 14(1) of S.I. No. 183 of 2011 provides for two different methods of calculating ongoing capital for electronic money institutions. Method D is an alternative calculation method to the three calculation methods, namely Method A, Method B and Method C, established under the Directive 2006/48/EC. Thus, the Regulation reflects recital 11 of the Directive which notes the importance of providing an alternative method of calculating ongoing capital due to the specificity of electronic money. However, Regulation 14(1)(a)(ii)(II) of S.I. No. 183 of 2011 states that where the electronic money institution seeks to engage in unrelated payment services, then either Method A, B or C instead of Method D shall be the applicable ongoing capital calculation method. Regulation 14 of S.I. No. 183 of 2011 does not refer to the definition of 'own funds' as set out in the Directive 2006/48/EC. It is also worth noting that Regulation 14 of S.I. No. 183 of 2011 does not expressly state the continuous nature of the own funds requirement. A reading of Regulation 14(1) of S.I. No. 183 of 2011 on its own could lead one to believe that the own funds requirement is only necessary at the time of authorisation given that both the initial funds and own funds requirements fall under the heading of 'conditions of authorisation' under S.I. No. 183 of

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			authorisation issued to an electronic money institution— (b) on being satisfied on reasonable grounds that— (i) the holder of the authorisation has contravened or is contravening, or has failed or is failing to comply, with a provision of this Part, a condition of the authorisation or a requirement imposed by or under this Part,	2011. However, in accordance with Regulation 27(1)(b)(i) of S.I. No. 183 of 2011, the Central Bank may withdraw an authorisation granted to an electronic money institution if the electronic money institution has contravened, is contravening, has failed, or is failing to comply with a condition of the authorisation. The own funds requirement is a condition of authorisation. Thus, reading Regulation 14(1) of S.I. No. 183 of 2011 in conjunction with Regulation 27(1)(b)(i) of S.I. No. 183 of 2011 it can be inferred that the own funds requirement is a continuous threshold of at least EUR 350 000. On the basis of the above, Regulation 14(1) and (2) of S.I. No. 183 of 2011 conforms to Article 5(1) of the Directive.
Art. 5(2) 1st subpara.	2. In regard to the activities referred to in Article 6(1)(a) that are not linked to the issuance of electronic money, the own funds requirements of an electronic money institution shall be calculated in accordance with one of the three methods (A, B or C) set out in Article 8(1) and (2) of Directive 2007/64/EC. The appropriate method shall be determined by the competent authorities in accordance with national legislation.	**Regs 14(1)(a)(ii)(II), 16(2) and (3) of S.I. No. 183 of 2011**	**Regulation 14(1)(a)(ii)(II) of S.I. No. 183 of 2011** 14. (1) The Bank shall not authorise an applicant as an electronic money institution unless the applicant holds own funds of at least— (a) the higher of— (i) the amount required by virtue of Regulation 13 as its initial capital, and (ii) the amount calculated— (I) in respect of the issuance of electronic money, by Method D, and (II) if it proposes to engage in payment services which are not related to the issuance of electronic money, by whichever of Methods A, B or C the Bank directs the institution, under Regulation 16(2), to use. **Regulation 16 (2) of S.I. No. 183 of**	**CONFORM** Regulations 14(1)(a)(ii)(II) and 16(2) of S.I. No. 183 of 2011 transpose Article 5(2), first subparagraph of the Directive. Regulation 14(1)(a)(ii)(II) of S.I. No. 183 of 2011 provides that where the electronic money institution seeks to engage in payment services which are not related to issuing electronic money, then either Method A, B or C instead of Method D shall be the applicable ongoing capital calculation method. Thus, the Regulation reflects recital 11 of the Directive which notes that the method of calculation should attempt to accommodate the specific business situation of an electronic money institution. Pursuant to Regulation 16(2) of S.I. No. 183 of 2011, the Central Bank, as the competent authority, shall instruct the applicant in writing as to which method must be employed. Furthermore, Regulation 16(3) of S.I. No. 183 of 2011 stipulates that only the components referred to Regulation 3 of S.I. No. 661 of 2006, which regulates unconsolidated own funds of credit institutions, and Regulation 9 of S.I. No. 661 of 2006, which regulates fixed-term cumulative preferential shares and subordinated loan capital, may be taken into account by the electronic money institution in the calculation of the own funds amount. Regulation 16(2) of S.I. No. 183 of 2011 applies irrespective of the method employed. As a consequence of the required employment of either Method A, B or C instead of Method D by those applicants who wish to engage in payment

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			2011 (2) Subject to Regulation 14(5), the Bank shall direct an applicant in writing to employ Method A, Method B or Method C to calculate the amount of own funds that the applicant must hold in respect of payment services in which an electronic money institution may engage which are not related to the issuance of electronic money. (3) Methods A, B and C are set out in Regulations 14, 15 and 16 respectively of the Payment Services Regulations. **Regulation 16 (3) of S.I. No. 183 of 2011** (3) Regardless of the method that an applicant is to use in calculating own funds, in doing so, the applicant may take into account only components referred to in Regulations 3 and 9 of the European Communities (Capital Adequacy of Credit Institutions) Regulations 2006, subject to Regulations 7 and 8 and the limits set out in Regulation 11, of those Regulations.	services which are not related to issuing electronic money, the Central Bank is ensuring that Method D covers the specific business situation of an electronic money institution. On the basis of the above, Regulations 14(1)(a)(ii)(II) and 16(2) of S.I. No. 183 of 2011 conform to Article 5(2), first subparagraph of the Directive.
Art. 5(2) 2nd subpara.	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.	**Reg. 16(1) of S.I. No. 183 of 2011**	**Regulation 16(1) of S.I. No. 183 of 2011** 16. (1) Subject to Regulation 14(4) and (5), the Bank shall direct an applicant in writing to employ Method D to calculate the amount of own funds that	**CONFORM** Regulation 16(1) of S.I. No. 183 of 2011 transposes Article 5(2), second subparagraph of the Directive. In establishing that Method D is the applicable own funds calculation method in respect of those applicants issuing electronic money, Regulation

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			the applicant must hold in respect of the issuance of electronic money.	16(1) of S.I. No. 183 of 2011clearly transposes the Directive provision. On the basis of the above, Regulations 14(1)(a)(ii)(II) and 16(2) of S.I. No. 183 of 2011conform to Article 5(2), first subparagraph of the Directive.
Art. 5(2) 3rd subpara.	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.	**Reg. 27(1)(b)(i) of S.I. No. 183 of 2011**	**Regulation 27(1)(b)(i) of S.I. No. 183 of 2011** 27. (1) The Bank may withdraw an authorisation issued to an electronic money institution— (b) on being satisfied on reasonable grounds that— (i) the holder of the authorisation has contravened or is contravening, or has failed or is failing to comply, with a provision of this Part, a condition of the authorisation or a requirement imposed by or under this Part,	**CONFORM** Albeit there is no explicit transposition of Article 5(2), third subparagraph of the Directive within S.I. No. 183 of 2011, conformity with the Directive provision can be inferred from Regulation 27(1)(b)(i) of S.I. No. 183 of 2011. In accordance with Regulation 27(1)(b)(i) of S.I. No. 183 of 2011, the Central Bank may withdraw an authorisation granted to an electronic money institution if the electronic money institution has contravened or is contravening or has failed or is failing to comply with a condition of the authorisation. The own funds requirement is a condition of authorisation. Thus, by reading Regulation 14(1) and (2) of S.I. No. 183 of 2011 in conjunction with Regulation 27(1)(b)(i) of S.I. No. 183 of 2011it can be inferred that the own funds requirement is a continuous threshold of at least EUR 350 000. On the basis of the above, Regulation 27(1)(b)(i) of S.I. No. 183 of 2011 conforms to Article 5(2), third subparagraph of the Directive.
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.	**Reg. 15 of S.I. No. 183 of 2011**	**Regulation 15 of S.I. No. 183 of 2011** 15. For Method D, the amount is at least 2% of the average outstanding electronic money.	**CONFORM** Regulation 15 of S.I. No. 183 of 2011 transposes Article 5(3) of the Directive. Regulation 15 of S.I. No. 183 of 2011 stipulates that the own funds of an electronic money institutions shall not fall below 2% of the average outstanding electronic money. As an alternative to the Method A, Method B and Method C, methods which were established under Directive 2007/64/EC, Method D respects both the specificity of electronic money and the specific business situation of an electronic money institution as mentioned in recital 11 of the Directive. On the basis of the above, Regulation 15 of S.I. No. 183 of 2011 conforms to

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				Article 5(3) of the Directive.
Art. 5(4)	4. Where an electronic money institution carries out any of the activities referred to in Article 6(1)(a) that are not linked to the issuance of electronic money or any of the activities referred to in Article 6(1)(b) to (e) and the amount of outstanding electronic money is unknown in advance, the competent authorities shall allow that electronic money institution to calculate its own funds requirements on the basis of a representative portion assumed to be used for the issuance of electronic money, provided such a representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the competent authorities. Where an electronic money institution has not completed a sufficient period of business, its own funds requirements shall be calculated on the basis of projected outstanding electronic money evidenced by its business plan subject to any adjustment to that plan having been required by the competent authorities.	**Reg. 17 of S.I. No. 183 of 2011**	**Regulation 17 of S.I. No. 183 of 2011** 17. (1) Where— (a) a person carries out payment services that are not related to the issuance of electronic money or carries out any of the activities which fall within Regulation 28(1)(b) to (e), and (b) the amount of outstanding electronic money is unknown in advance, the person may make an assessment for the purposes of Regulation 14(1)(a) on the basis of a representative portion assumed to be used for the issuance of electronic money, provided that the representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the Bank. (2) Where a person has not completed a sufficiently long period of business to compile historical data adequate to make the assessment under paragraph (1), the person must make the assessment on the basis of projected outstanding electronic money as evidenced by its business plan, subject to any adjustments to that plan which are, or have been, required by the Bank.	**CONFORM** Regulation 17 of S.I. No. 183 of 2011 almost literally transposes Article 5(4) of the Directive . It should be noted that Regulation 17 of S.I. No. 183 of 2011 applies to those persons that carry out payment services which are unrelated to issuance of electronic money or that carry out the activities referred to in Regulation 28(1)(b) to (e) of S.I. No. 183 of 2011. 'Persons' in this instance should be understood to mean electronic money institutions. On the basis of the above, Regulation 17 of S.I. No. 183 of 2011 conforms to Article 5(4) of the Directive.

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Art. 5(5)	5. On the basis of an evaluation of the risk-management processes, of the risk loss databases and internal control mechanisms of the electronic money institution, the competent authorities may require the electronic money institution to hold an amount of own funds which is up to 20 % higher than the amount which would result from the application of the relevant method in accordance with paragraph 2, or permit the electronic money institution to hold an amount of own funds which is up to 20 % lower than the amount which would result from the application of the relevant method in accordance with paragraph 2.	**Reg. 14(4) of S.I. No. 183 of 2011**	**Regulation 14(4) of S.I. No. 183 of 2011** (4) On the basis of an evaluation of the risk-management processes, risk-loss database and internal control mechanisms of an electronic money institution, the Bank may require an applicant to hold an amount of own funds that is up to 20% higher than, or permit it to hold an amount of own funds that is up to 20% lower than, the amount that results from the application of the method directed by the Bank under Regulation 16(1) and, if applicable, Regulation 16(2).	**CONFORM** Article 5(5) of the Directive lays down an option. Ireland has chosen to apply this option as Regulation 14(4) of S.I. No. 183 of 2011 almost literally transposes Article 5(5) of the Directive. Based on an assessment of the electronic money institution's risk management and internal control mechanisms, the Central Bank may decide to increase or decrease the calculated own funds requirement by 20%. On the basis of the above, Regulation 14(4) of S.I. No. 183 of 2011conforms 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:	**Reg. 16 (4) of S.I. No. 183 of 2011**	**Regulation 16(4) of S.I. No. 183 of 2011** Regardless of the method that an applicant is to use in calculating own funds, in doing so—	**CONFORM** Regulation 16(4) of S.I. No. 183 of 2011 transposes Article 5(6), introductory wording of the Directive. Regulation 16(4)(a) and (b) of S.I. No. 183 of 2011both stipulate in the calculation of own funds, an electronic money institution shall not take into account elements which either also form part of a calculation of own funds for another member of the group or those elements that attributable to other activities. Regulation 16(4), introductory wording of S.I. No. 183 of 2011states that this applies irrespective of the method applied by the electronic money institution to calculate its own funds. On the basis of the above, Regulation 16(4) of S.I. No. 183 of 2011 conforms to Article 5(6), introductory wording of the Directive.
Art. 5(6)(a)	(a) where the electronic money institution belongs to the same group as another electronic money institution, a credit institution, a	**Reg. 16(4)(a) of S.I. No. 183**	**Regulation 16(4)(a) of S.I. No. 183 of 2011** (a) where the applicant belongs to the	**CONFORM** Regulation 16(4)(a) of S.I. No. 183 of 2011 almost literally transposes Article 5(6)(a) of the Directive.

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	payment institution, an investment firm, an asset management company or an insurance or reinsurance undertaking;	**of 2011**	same group as another electronic money institution, credit institution, payment institution, investment firm, asset management company or insurance or reinsurance undertaking, the applicant shall not take into account elements that also form part of a calculation of own funds for another member of the group, or	There are mere phrasing differences between the Directive provision and the national one.
Art. 5(6)(b)	(b) where an electronic money institution carries out activities other than the issuance of electronic money.	**Reg. 16(4)(b) of S.I. No. 183 of 2011**	**Regulation 16(4)(b) of S.I. No. 183 of 2011** (b) where the applicant carries out activities other than the issuance of electronic money or the provision of payment services, it shall not, in calculating own funds, take into account elements that are properly attributable to any of those other activities.	**CONFORM** Regulation 16(4)(b) of S.I. No. 183 of 2011 transposes Article 5(6)(b) of the Directive . Regulation 16(4)(b) of S.I. No. 183 of 2011goes slightly further than Article 5(6)(b) of the Directive. The Directive provision only applies to electronic money institutions that carry out activities other than the issuance of electronic money. On the other hand, Regulation 16(4)(b) of S.I. No. 183 of 2011is applicable to those electronic money institutions which carry out activities other than the issuance of electronic money or the provision of payment services. On the basis of the above, Regulation 16(4)(b) of S.I. No. 183 of 2011 conforms to Article 5(6)(b) of the Directive.
Art. 5(7)	7. Where the conditions laid down in Article 69 of Directive 2006/48/EC are met, Member States or their competent authorities may choose not to apply paragraphs 2 and 3 of this Article to electronic money institutions which are included in the consolidated supervision of the parent credit institutions pursuant to Directive 2006/48/EC.	**Reg. 14(5) of S.I. No. 183 of 2011**	**Regulation 14(5) of S.I. No. 183 of 2011** (5) The Bank may permit an applicant, on a case by case basis, not to hold own funds in accordance with paragraph (1)(a) if the electronic money institution is included in the consolidated supervision of a parent credit institution and meets the following conditions: (a) there is no current or foreseen	**CONFORM** Article 5(7) of the Directive lays down an option. Ireland has chosen to apply this option as Regulation 14(5) of S.I. No. 183 of 2011 transposes Article 5(7) of the Directive. This option relates to electronic money institution being waived from the own funds requirement where a parent credit institution meets the conditions set out under Article 69 of Directive 2006/48/EC. Such decisions shall be made by the Central Bank on an individual basis. It is worth noting that the conditions (a) to (d) as laid down in Regulation 14(5) of S.I. No. 183 of 2011 are a literal transposition of the conditions

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			material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities by the parent credit institution; (b) either the parent credit institution satisfies the Bank regarding the prudent management of the electronic money institution and has declared, with the consent of the Bank, that it guarantees the commitments entered into by the electronic money institution, or the risks in the electronic money institution are of negligible interest; (c) the risk-evaluation, measurement and control procedures of the parent credit institution cover the electronic money institution; and (d) the parent credit institution holds more than 50% of the voting rights attaching to shares in the capital of the electronic money institution, or has the right to appoint or remove a majority of the members of the management body of the electronic money institution.	under Article 69 of Directive 2006/48/EC. On the basis of the above, Regulation 14(5) of S.I. No. 183 of 2011 conforms to Article 5(7) of the Directive.
Art. 6(1) 1st subpara.	*Article 6* **Activities** 1. In addition to issuing electronic money, electronic money institutions shall be entitled to engage in any of the following activities:	**Reg. 28(1) of S.I. No. 183 of 2011**	**Regulation 28(1) of S.I. No. 183 of 2011** 28. (1) Apart from the issuance of electronic money, an electronic money institution may engage in the following activities:	**CONFORM** Regulation 28 (1) of S.I. No. 183 of 2011 almost literally transposes Article 6(1), first subparagraph of the Directive. There are mere structural differences between the Directive provision and the national one.

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Art. 6(1) 1st subpara. (a)	(a) the provision of payment services listed in the Annex to Directive 2007/64/EC;	**Regs 28(1)(a) and 3(1) of S.I. No. 183 of 2011**	**Regulation 28(1)(a) of S.I. No. 183 of 2011** (a) the provision of payment services; **Regulation 3(1) of S.I. No. 183 of 2011** "payment service" means each business activity listed in Schedule 1 to the Payment Services Regulations;	**CONFORM** Regulation 28 (1)(a) of S.I. No. 183 of 2011 almost literally transposes Article 6(1), first subparagraph, letter (a) of the Directive. Although Regulation 28 (1)(a) of S.I. No. 183 of 2011makes no reference to Annex to Directive 2007/64, payment service is defined within Regulation 3(1) of S.I. No. 183 of 2011as meaning each business listed in Schedule 1 to S.I. No. 383 of 2009. S.I. No. 383 of 2009 transposed Directive 2007/64/EC into Irish law. On the basis of the above, Regulation 28(1)(a) of S.I. No. 183 of 2011 conforms to Article 6(1), first subparagraph, letter (a) of the Directive.
Art. 6(1) 1st subpara. (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;	**Reg. 28(1)(b) and (3) of S.I. No. 183 of 2011**	**Regulation 28(1)(b) of S.I. No. 183 of 2011** (b) the granting of credit related to a payment service subject to paragraph (3); **Regulation 28(3) of S.I. No. 183 of 2011** (3) An electronic money institution may grant credit related to a payment service referred to in point 4, 5 or 7 of Schedule 1 to the Payment Services Regulations only if the following conditions are met: (a) the credit shall be ancillary and granted exclusively in connection with the execution of a payment transaction; (b) notwithstanding any law in relation to providing credit by means of credit cards, the credit shall be repaid within	**CONFORM** Regulation 28 (1)(b) of S.I. No. 183 of 2011 almost literally transposes Article 6(1), first subparagraph, letter (b) of the Directive. Regulation 28(1)(b) of S.I. No. 183 of 2011is subject to the application of Regulation 28(3) of S.I. No. 183 of 2011. The latter stipulates that an electronic money institution may only grant credit related to a payment service referred to in point 4, 5 or 7 of Schedule 1 to S.I. No. 383 of 2009 if certain conditions are met. Schedule 1 of S.I. No. 383 of 2009 transposes the Annex to Directive 2007/64/EC into Irish law. The conditions listed within Regulation 28(3) of S.I. No. 183 of 2011 are a literal transposition of Article 16(3) of Directive 2007/64/EC. Although the Regulation does not make specific reference to Article 16(5) of Directive 2007/64/EC, this is perhaps not necessary given that Article 16(5) was previously transposed into Irish law within the S.I. No. 383 of 2009. On the basis of the above, Regulation 28(1)(b) of S.I. No. 183 of 2011 conforms to Article 6(1), first subparagraph, letter (b) of the Directive.

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			a short period that is not to be longer than 12 months; (c) credit shall not be granted from funds received or held for the purpose of executing a payment transaction; and (d) the own funds of the electronic money institution shall at all times and to the satisfaction of the Bank be appropriate in view of the overall amount of credit granted.	
Art. 6(1) 1st subpara. (c)	(c) the provision of operational services and closely related ancillary services in respect of the issuing of electronic money or to the provision of payment services referred to in point (a);	**Reg. 28(1)(c) of S.I. No. 183 of 2011**	**Regulation 28(1)(c) of S.I. No. 183 of 2011** (c) the provision of operational and closely related ancillary services such as ensuring the execution of payment transactions, foreign exchange services, safekeeping activities, and the storage and processing of data, in respect of the issuance of electronic money or to the provision of payment services referred to in subparagraph (a);	**CONFORM** Regulation 28 (1)(c) of S.I. No. 183 of 2011 almost literally transposes Article 6(1), first subparagraph, letter (c) of the Directive. Regulation 28(1)(c) of S.I. No. 183 of 2011 ensures clarity by giving examples of closely related ancillary services in respect of the issuance of electronic money. Services such as foreign exchange services and safekeeping services are considered closely related ancillary services pursuant to Regulation 28(1)(c) of S.I. No. 183 of 2011. On the basis of the above, Regulation 28(1)(c) of S.I. No. 183 of 2011 conforms to Article 6(1), first subparagraph, letter (c) of the Directive.
Art. 6(1) 1st subpara. (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;	**Reg. 28(1)(d) and (7) of S.I. No. 183 of 2011**	**Regulation 28(1)(d) of S.I. No. 183 of 2011** (d) the operation of payment systems referred to in point 6 of Article 4 of the Payment Services Directive and without prejudice to Article 28 of that Directive; **Regulation 28(7) of S.I. No. 183 of**	**CONFORM** Regulation 28 (1)(d) of S.I. No. 183 of 2011 almost literally transposes Article 6(1), first subparagraph, letter (d) of the Directive. The mere difference between both provisions is that the Statutory Instrument refers to the name of the Directive 2007/64/EC instead of its natural number. It is also worth noting that S.I. No. 183 of 2011 also provides for the branches of non-EEA electronic money institutions. In this instance, Regulation 28(7) of S.I. No. 183 of 2011states that such electronic money institutions may only provide payment services if they are linked to the

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			2011 (7) An electronic money institution which has a branch which is located in the State and whose head office is situated in a territory which is outside the European Economic Area may only provide payment services if those services are related to the issuance of electronic money.	issuance of electronic money. These electronic money institutions cannot provide any other payment services not linked to the issuance of electronic money. On the basis of the above, Regulation 28(1)(d) of S.I. No. 183 of 2011 conforms to Article 6(1), first subparagraph, letter (d) of the Directive.
Art. 6(1) 1st subpara. (e)	(e) business activities other than issuance of electronic money, having regard to the applicable Community and national law.	**Reg. 28(1)(e) of S.I. No. 183 of 2011**	**Regulation 28(1)(e) of S.I. No. 183 of 2011** (e) business activities other than issuance of electronic money and the provision of payment services.	**CONFORM** Regulation 28 (1)(e) of S.I. No. 183 of 2011 transposes Article 6(1), first subparagraph, letter (e) of the Directive. Regulation 28(1)(e) of S.I. No. 183 of 2011has a broader scope than the Directive provision. Whilst the latter applies to business activities other than the issuance of electronic money, Regulation 28(1)(e) of S.I. No. 183 of 2011 applies in respect of business activities other than the issuance of electronic money and the provision of payment services. Albeit Regulation 28(1)(e) of S.I. No. 183 of 2011 does not refer to the obligation to consider the applicable Community and national law, it can be inferred that the provision is transposed given that it is a negating provision. On the basis of the above, Regulation 28(1)(e) of S.I. No. 183 of 2011 conforms to Article 6(1), first subparagraph, letter (e) of the Directive.
Art. 6(1) 2nd subpara.	Credit referred to in point (b) of the first subparagraph shall not be granted from the funds received in exchange of electronic money and held in accordance with Article 7(1).	**Reg. 28(3)(c) of S.I. No. 183 of 2011**	**Regulation 28(3)(c) of S.I. No. 183 of 2011** (3) An electronic money institution may grant credit related to a payment service referred to in point 4, 5 or 7 of Schedule 1 to the Payment Services Regulations only if the following conditions are met: (…)	**CONFORM** Regulation 28 (3) of S.I. No. 183 of 2011 transposes Article 6(1), second subparagraph of the Directive. Recital 13 of the Directive states that credit cannot be granted by electronic money institutions from funds received or held for the purpose of issuing electronic money. Regulation 28(1), first subparagraph (b) of S.I. No. 183 of 2011provides that an electronic money institution may grant credit related to a payment service only if the requirements under Regulation 28(3) of S.I. No. 183 of 2011 are

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			(c) credit shall not be granted from funds received or held for the purpose of executing a payment transaction; and	fulfilled. Regulation 28(3)(c) of S.I. No. 183 of 2011clearly states that an electronic money institution shall not grant credit from funds received or held for the purpose of executing a payment transaction. Although there is no express reference to Regulation 29 of S.I. No. 183 of 2011 which transposed Article 7(1) of the Directive into Irish law, it can nevertheless be inferred that the safeguarding requirements pursuant to that Regulation apply in this instance. On the basis of the above, Regulation 28(3)(c) of S.I. No. 183 of 2011 conforms to Article 6(1), second subparagraph of the Directive.
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.	**Reg. 28(4) of S.I. No. 183 of 2011**	**Regulation 28(4) of S.I. No. 183 of 2011** (4) An electronic money institution shall not engage in the business of taking deposits or other repayable funds.	**CONFORM** Regulation 28(4) of S.I. No. 183 of 2011 transposes Article 6(2) of the Directive. Article 5 of Directive 2006/48/EC provides that Member States shall prohibit persons or undertakings that are not credit institutions from carrying on the business of taking deposits or other repayable funds from the public. Given how similar the wording utilised in Regulation 28(4) of S.I. No. 183 of 2011 is to that used in Article 5 of Directive 2006/48/EC, it may not have been necessary to directly refer to Article 5 within the Regulation. The logic behind this provision lies in recital 13 of the Directive. Recital 13 of the Directive notes that electronic money is intended to be a replacement for coins and banknotes in making payments. Furthermore, the recital mentions that electronic money is normally of a limited amount and it is not intended that it is to be used as a means of saving. On the basis of the above, Regulation 28(4) of S.I. No. 183 of 2011 conforms to Article 6(1), second subparagraph of the Directive.
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	**Reg. 28(2) of S.I. No. 183 of 2011**	**Regulation 28(2) of S.I. No. 183 of 2011** (2) The receipt of funds by an electronic money institution from an electronic money holder shall— (a) be exchanged for electronic money	**CONFORM** Regulation 28(2) of S.I. No. 183 of 2011 transposes Article 6(3) of the Directive. Regulation 28(2) of S.I. No. 183 of 2011 does not refer to the meaning of deposit or other repayable funds received from the public within the meaning of Article 5 of Directive 2006/48/EC. Nevertheless, Regulation 28(2) of S.I.

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	meaning of Article 5 of Directive 2006/48/EC.		without delay, and (b) not constitute the taking of a deposit or other repayable funds.	No. 183 of 2011 transposes the spirit of Article 6(3) of the Directive. On the basis of the above, Regulation 28(2) of S.I. No. 183 of 2011 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.	**Reg. 28 (5) and (6) of S.I. No. 183 of 2011**	**Regulation 28(5) and (6) of S.I. No. 183 of 2011** (5) When an electronic money institution engages in the provision of one or more payment services that are not linked to the issuance of electronic money, it may hold only payment accounts used exclusively for payment transactions. (6) The receipt of funds by an electronic money institution with a view to the provision of a payment service does not constitute— (a) the taking of a deposit or other repayable funds, or (b) electronic money.	**CONFORM** Regulation 28(5) and (6) of S.I. No. 183 of 2011 transpose Article 6(4) of the Directive. Regulation 28(5) of S.I. No. 183 of 2011almost literally transposes Article 16(2) of Directive 2007/64/EC. Thus, an electronic money institution is only entitled to hold payment accounts used exclusively for payment transactions when the electronic money institution is providing one or more payment services that are not linked to the issuance of electronic money. Regulation 28(6) of S.I. No. 183 of 2011 transposes the scope and the spirit of Article 16(4) of the Directive. Regulation 28(6) of S.I. No. 183 of 2011explicitly states that funds received by electronic money institutions in relation to the provision of payment services neither constitute the taking of a deposit or other repayable funds nor electronic money. On the basis of the above, Regulation 28(5) and (6) of S.I. No. 183 of 2011 conforms to Article 6(4) of the Directive.
Art. 7(1)	*Article 7* **Safeguarding requirements** 1. Member States shall require an electronic money institution to safeguard funds that have been received in exchange for electronic money that has been issued, in accordance with Article 9(1) and (2) of Directive 2007/64/EC. Funds received in the form of payment by payment instrument need not be safeguarded until they are credited to the electronic money institution's payment account	**Reg. 29 (2) – (4) and (6) of S.I. No. 183 of 2011**	**Regulation 29(2) to (4) and (6) of S.I. No. 183 of 2011** (2) Subject to paragraph (3), an electronic money institution that is engaged in the issuance of electronic money shall safeguard users' funds in either of the following ways: (a) users' funds— (i) shall not be mixed at any time with the funds of any person other than the electronic money holder's on whose	**CONFORM** Article 7(1) of the Directive lays down an option. Ireland has chosen to apply this option by transposing as Regulation 29 (2) to (4) and (6) of S.I. No. 183 of 2011 transpose Article 7(1) of the Directive . Pursuant to Article 7(1) of the Directive, electronic money institutions must safeguard funds received in exchange for electronic money that has been issued. The methods, namely the segregation of funds and the cover by an insurance policy or a comparable guarantee, prescribed in order to safeguard funds under Article 9(1) of Directive 2007/64/EC, are transposed by Regulation 29 (2) to (4) of S.I. No. 183 of 2011. Article 9(2) of Directive 2007/64/EC is an option which is transposed by Regulation 29(6) of S.I. No. 183 of 2011. This option concerns the

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	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.		behalf the funds are held, and (ii) if still held by the electronic money institution and not yet delivered to the payee or transferred to another electronic money institution by the end of the business day after the day of receipt, shall be deposited in a separate account in a credit institution or invested in assets accepted by the Bank as secure and low-risk; or (b) users' funds shall be insured by an insurance company, or guaranteed by a credit institution, that does not belong to the same group as the electronic money institution, payable in the event that the electronic money institution is unable to meet its financial obligations, for an amount equal to that which would have been segregated if the method set out in subparagraph (a) had been used. (3) Where an electronic money institution referred to in subparagraph (2) receives users' funds in the form of a payment instrument— (a) such funds do not need to be safeguarded until they are credited to the electronic money institution's payment account or are otherwise made available to the institution, and (b) such funds shall be safeguarded by no later than 5 business days after the issuance of the electronic money	calculation of safeguarding requirements when funds can be used for future payment transactions and for non-payment transactions. Although there is a slight difference in the overall phrasing of the criteria in Regulation 29(6) of S.I. No. 183 of 2011, nevertheless its requirements are identical to those of Article 9(2) of the Directive. Regulation 29(3) of S.I. No. 183 of 2011almost literally transposes the requirements of Article 7(1) as to when users' funds in the form of a payment instrument must be safeguarded. The compulsory five day deadline is transposed in Regulation 29(3)(b) of S.I. No. 183 of 2011. The Directive provision refers to the execution time provided for payment transactions as defined within Directive 2007/64/EC. Funds "otherwise made available" refer to card transactions. For these transactions, it is up to the contractual freedom between merchant and its payment service provider when the funds are "made available". It should be noted that whatever the contractual arrangements are for cards, funds have to be safeguarded within 5 business days after issuance of electronic money. On the basis of the above, Regulation 29 (2) to (4) and (6) of S.I. No. 183 of 2011 conforms to Article 7(1) of the Directive.

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			concerned. (4) No liquidator, receiver, administrator, examiner or creditor of an electronic money institution, nor the Official Assignee in Bankruptcy, has any recourse or right against users' funds held in accordance with paragraph (2)(a)(ii) received from electronic money holders or through a payment service provider until all proper claims of electronic money holders or of their heirs, successors or assigns against users' funds relating to such electronic money have been satisfied in full. (…) (6) Where an electronic money institution that is required to safeguard users'funds receives funds from an electronic money holder and part of those funds is to be used for future electronic money transactions and the remainder for activities other than the issuance of electronic money, the electronic money institution shall protect the part of the funds to be used for future electronic money transactions in accordance with paragraph (2). Where that part is variable or not known in advance, the electronic money institution may safeguard a representative part likely to be used for electronic money transactions if such a representative part can be reasonably estimated on	

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			the basis of historical data to the satisfaction of the Bank.	
Art. 7(2) 1st subpara.	2. For the purposes of paragraph 1, secure, low-risk assets are asset items falling into one of the categories set out in Table 1 of point 14 of Annex I to Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment 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.	**Reg. 29(1)(a) of S.I. No. 183 of 2011**	**Regulation 29(1)(a) of S.I. No. 183 of 2011** (1) In this Regulation— "electronic money institution" includes a credit union; "secure and low-risk", in relation to assets, means that the assets are— (a) asset items falling into one of the categories set out in Table 1 of point 14 of Annex I to Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast) 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, or	**CONFORM** Regulation 29(1)(a) of S.I. No. 183 of 2011 literally transposes Article 7(2), first subparagraph of the Directive .
Art. 7(2) 2nd subpara.	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.	**Reg. 29(1)(b) and 3(1) of S.I. No. 183 of 2011**	**Regulation 29(1)(b) of S.I. No. 183 of 2011** (1) In this Regulation— "electronic money institution" includes a credit union; "secure and low-risk", in relation to assets, means that the assets are— (b) UCITS which invests solely in assets as specified in paragraph (a);	**CONFORM** Regulation 29(1)(b) of S.I. No. 183 of 2011 almost literally transposes Article 7(2), second subparagraph of the Directive. Regulation 3(1) of S.I. No. 183 of 2011 defines UCITS as units in an undertaking for collective investment in transferable securities. Thus, the definition provided for under the Statutory Instrument corresponds to the Directive's definition. On the basis of the above, Regulation 29(1)(b) of S.I. No. 183 of 2011 conforms to Article 7(2), second subparagraph of the Directive.

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			Regulation 3(1) of S.I. No. 183 of 2011 "UCITS" means units in an undertaking for collective investment in transferable securities	
Art. 7(2) 3rd subpara.	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.	**Reg. 29(5) of S.I. No. 183 of 2011**	**Regulation 29(5) of S.I. No. 183 of 2011** (5) In exceptional circumstances, the Bank may determine that the assets specified in paragraph (2)(a)(ii) do not constitute secure and low-risk assets for the purposes of safeguarding if— (a) the determination is based on an evaluation of security, maturity, value or other risk element of the assets, and (b) there is adequate justification for the determination.	**CONFORM** Article 7(2), third subparagraph of the Directive lays down an option. Ireland has chosen to apply this option as Regulation 29(5) of S.I. No. 183 of 2011 transposes Article 7(2), third subparagraph of the Directive. According to Regulation 29(5) of S.I. No. 183 of 2011, the Central Bank may determine that assets selected by an electronic money institution for safeguarding purposes are not appropriately classified as low risk assets. In line with the Directive provision, there must be adequate justification for the determination and the determination must be based on an evaluation of certain elements of the assets. It should be noted that the Statutory Instrument does not define 'exceptional circumstances'. Hence, in light of this, it will fall upon the Central Bank to decide when such situations arise. On the basis of the above, Regulation 29(5) of S.I. No. 183 of 2011 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.	**Reg. 30 (1) – (6) of S.I. No. 183 of 2011**	**Regulation 30(1) to (6) of S.I. No. 183 of 2011** 30. (1) In this Regulation— "secure and low-risk", in relation to assets, means that the assets are— (a) asset items falling into one of the categories set out in Table 1 of point 14 of Annex I to Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 for which the specific risk capital charge is no higher	**CONFORM** Article 7(3) of the Directive lays down an option. Ireland has chosen to apply this option as Regulation 30(1) to (6) of S.I. No. 183 of 2011 transpose Article 7(3) of the Directive. Regulation 30(1) to (6) of S.I. No. 183 of 2011 almost literally transposes Article 9 of Directive 2007/64/EC in relation to the safeguarding for electronic money institutions engaged in payment services not related to the issuance of electronic money. There are merely insignificant phrasing differences between the Regulation and Article 9. Pursuant to Regulation 30(6) of S.I. No. 183 of 2011, the Central Bank can decide to limit the application of safeguarding requirements to an electronic

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			than 1.6%, but excluding other qualifying items as defined in point 15 of that Annex, or (b) UCITS which invests solely in assets as specified in paragraph (a); "users' funds" means funds that have been received by an electronic money or payment institution from payment service users or through another payment service provider for the execution of payment transactions. (2) An electronic money institution that is engaged in payment services that are not related to the issuance of electronic money shall safeguard users' funds in either of the following ways: (a) users' funds— (i) shall not be mixed at any time with the funds of any person other than the payment service users on whose behalf the funds are held, and (ii) if still held by the electronic money institution and not yet delivered to the payee or transferred to another payment service provider by the end of the business day after the day of receipt, shall be deposited in a separate account in a credit institution or invested in assets accepted by the Bank as secure and low-risk; or (b) users' funds shall be insured by an	money institution to users' funds that individually exceed EUR 600. On the basis of the above, Regulation 30(1) to (6) of S.I. No. 183 of 2011 conforms to Article 7(3) of the Directive.

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			insurance company, or guaranteed by a credit institution, that does not belong to the same group as the electronic money institution, payable in the event that the electronic money institution is unable to meet its financial obligations, for an amount equal to that which would have been segregated if the method set out in subparagraph (a) had been used. (3) No liquidator, receiver, administrator, examiner or creditor of an electronic money institution, nor the Official Assignee in Bankruptcy, has any recourse or right against users' funds held in accordance with paragraph (2)(a)(ii) received from payment service users or through another payment service provider until all proper claims of payment service users or of their heirs, successors or assigns against users' funds relating to such payment services have been satisfied in full. (4) Where an electronic money institution that is required to safeguard users' funds receives funds from a payment service user and part of those funds is to be used for future payment transactions and the remainder for non-payment services, the electronic money institution shall protect the part of the funds to be used for future payment transactions that are not related to the issuance of electronic money in accordance with paragraph	

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			(2). Where that part is variable or not known in advance, the electronic money institution may safeguard a representative part likely to be used for payment services that are not related to the issuance of electronic money if such a representative part can be reasonably estimated on the basis of historical data to the satisfaction of the Bank. (5) The Bank may require an electronic money institution that is not engaged in business activities which fall within Regulation 27(1)(c) of the Payment Services Regulations to comply with the requirements of paragraph (2). (6) The Bank may limit the application to an electronic money institution of a requirement under this Regulation to users' funds of payment service users each of whom has deposited more than €600 with the institution.	
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.	**Regs 29(7) and 30(7) of S.I. No. 183 of 2011**	**Regulation 29(7) of S.I. No. 183 of 2011** (7) The Bank may determine the method of safeguarding to be used in instances where the Bank has concerns that an electronic money institution has not taken adequate measures for the purpose of safeguarding electronic money holders' funds in accordance with this Regulation. The Bank shall communicate those concerns to the	**CONFORM** Article 7(4) of the Directive lays down an option. Ireland has chosen to apply this option by transposing as Regulations 29(7) and 30(7) of S.I. No. 183 of 2011 transpose Article 7(4) of the Directive . Pursuant to Regulations 29(7) and 30(7) of S.I. No. 183 of 2011, the Central Bank is permitted to select the method of safeguarding to be used by electronic money institutions. This determination is to be exercised on a case by case basis where the Central Bank has concerns that the electronic money institution has not taken the appropriate measures in order to safeguard users' funds.

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			electronic money institution prior to determining the method. **Regulation 30(7) of S.I. No. 183 of 2011** (7) The Bank may determine the method of safeguarding to be used in instances where the Bank has concerns that an electronic money institution has not taken adequate measures for the purpose of safeguarding electronic money holders' funds in accordance with this Regulation. The Bank shall communicate those concerns to the electronic money institution prior to determining the method.	The Central Bank is obliged to communicate their concerns to the electronic money institution prior to determining the safeguard method. It should be noted that both Regulations 29(7) and 30(7) of S.I. No. 183 of 2011 are literally identical. On the basis of the above, Regulations 29(7) and 30(7) of S.I. No. 183 of 2011 conform to Article 7(4) of the Directive.
Art. 8(1)	*Article 8* **Relations with third countries** 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.	**Regs 11 (1) and 28(7) of S.I. No. 183 of 2011**	**Regulation 11(1) of S.I. No. 183 of 2011** 11. (1) The Bank shall grant an authorisation only to— (a) a legal person established in the State that has its head office and its registered office in the State, or (b) a legal person which has a branch that is located in the State and whose head office is situated in a territory that is outside the European Economic Area. **Regulation 28(7) of S.I. No. 183 of**	**CONFORM** Regulations 11(1) and 28(7) of S.I. No. 183 of 2011 transpose Article 8(1) of the Directive. Regulation 11(1) of S.I. No. 183 of 2011 provides that the Central Bank shall only grant authorisation two categories of legal persons. First, to an electronic money institution established in Ireland that has its head office and its registered office in Ireland. Secondly, it may also authorise branches of non-EEA electronic money institutions. However, Regulation 28(7) of S.I. No. 183 of 2011 of S.I. No. 183 of 2011 provides that branches of non-EEA electronic money institutions may only provide payment services linked to the issuance of electronic money. In light of recital 15 of the Directive, Regulation 28(7) of S.I. No. 183 of 2011 ensures that the rules applicable to branches of non-EEA electronic money institutions are not more favourable than the rules applicable to EEA

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			2011 (7) An electronic money institution which has a branch which is located in the State and whose head office is situated in a territory which is outside the European Economic Area may only provide payment services if those services are related to the issuance of electronic money.	electronic money institutions. On the basis of the above, Regulations 11(1) and 28(7) of S.I. No. 183 of 2011 conform to Article 8(1) of the Directive.
Art. 8(2)	2. The competent authorities shall notify the Commission of all authorisations for branches of electronic money institutions having their head office outside the Community.	**Reg. 11(9) of S.I. No. 183 of 2011**	**Regulation 11(9) of S.I. No. 183 of 2011** (9) The Bank shall notify the European Commission of all authorisations for branches of electronic money institutions having their head office outside the European Economic Area.	**CONFORM** Regulation 11(9) of S.I. No. 183 of 2011 almost literally transposes Article 8(2) of the Directive. There is a mere linguistic difference between the provisions in that Regulation 11(9) of S.I. No. 183 of 2011 states the European Economic Area instead of Community. It must be remembered that 'Community' means the European Economic Area in the context of this Directive.
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.	**N/A**	N/A	**CONFORM** Article 8(3) of the Directive does not require transposition into Irish law. This provision applies to the Community as it states that the Community may conclude agreements with third countries with effect for the whole community. S.I. No. 183 of 2011 is silent as to agreements with third countries which have effect at national level. However, an authorisation procedure for branches of non-EEA electronic money institutions within Regulations 8 and 11 of S.I. No. 183 of 2011.
Art. 9(1) 1st subpara. intr. wording	*Article 9* **Optional Exemptions** 1. Member States may waive or allow their competent authorities to waive the application of all or part of the	**Reg. 33(2) of S.I. No. 183 of 2011**	**Regulation 33(2) of S.I. No. 183 of 2011** (2) The Bank may waive the application to a person of all or part of the procedure and conditions set out in	**CONFORM** Article 9(1), first subparagraph, introductory wording of the Directive lays down an option. Ireland has chosen to apply this option as Regulation 33(2) of S.I. No. 183 of 2011 transpose Article 9(1), first subparagraph, introductory wording of the Directive.

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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:		Chapters 2, 3, 4 and 6, and may register the person as a small electronic money institution, if— (a) the person satisfies the Bank that the person qualifies as a small electronic money institution, (b) none of the individuals responsible for the management or operation of the person's business has been convicted of any offence relating to money laundering or terrorist financing or any other financial crime, and (c) it has its head office in the State.	Regulation 33(2) of S.I. No. 183 of 2011 allows the Central Bank, as the competent authority, to register an applicant as a small electronic institution and waive or reduce the requirements of Chapters 2, 3, 4 and 6 of the Statutory Instrument which in turn correspond to Articles 3, 4, 5 and 7 of the Directive. In practice, this means that part or all of the general prudential requirements and requirements relating to initial capital, own funds and safeguarding may be waived by the Central Bank. Regulation 33(2) of S.I. No. 183 of 2011 reflects recital 16 of the Directive which notes that the details of all entities that provide electronic money services, including those benefiting from the waiver, should be entered on the register of electronic money institutions. The purpose of this discretion is to allow the waiver of the application of certain provisions of the Directive in favour of small electronic money institutions which are institutions issuing only a small amount of electronic money. It is up to the Member States to determine the appropriate level of initial capital and own funds for waived institutions or even to allow them to carry out their activities without complying with such requirements. It should be noted however that the waived institution's registration is only valid within Ireland and it is not entitled to issue electronic money in another Member State. On the basis of the above, Regulation 33(2) of S.I. No. 183 of 2011 conforms to Article 9(1), first subparagraph, introductory wording of the Directive.
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	**Reg. 33 (1) of S.I. No. 183 of 2011**	**Regulation 33(1) of S.I. No. 183 of 2011** 33. (1) A person qualifies as a small electronic money institution for the purposes of these Regulations if— (a) the total business activities of the person immediately before the time of registration do not generate average outstanding electronic money that	**CONFORM** Regulation 33(1) of S.I. No. 183 of 2011 transposes Article 9(1), first subparagraph, letter (a) of the Directive. The Directive defines small electronic money institutions as those whose total business activities generate average outstanding electronic money of not more than EUR 5 million. Regulation 33(1)(a) and (b) of S.I. No. 183 of 2011has a slightly broader scope than Article 9(1), first subparagraph (a) of the Directive. Pursuant to

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			exceeds €1 million, and (b) the average amount of payment transactions executed by the person and any agent for which the person bears full responsibility during the previous 12 months, or the average amount of payment transactions likely to be executed by the person within the next 12 months, assessed on the projected total amount of payment transactions in its business plan, is not more than €3 million per month.	Regulation 33(1) of S.I. No. 183 of 2011, the waiver shall only be granted where two prerequisites are fulfilled whereas the Directive provision only foresees one prerequisite. First, the institution did not, prior to the time of registration, generate average outstanding electronic money exceeding EUR 1 million. This EUR 1 million threshold is considerably lower than the EUR 5 million threshold prescribed for under the Directive provision. Secondly, the average amount of payment transactions executed, including by any agent for which it assumes responsibility, or likely to be executed within the next 12 months is not more than EUR 3 million per month. This is an additional requirement compared to what the Directive provision stipulates. On the basis of the above, Regulation 33(1) of S.I. No. 183 of 2011 conforms to Article 9(1), first subparagraph, letter (a) of the Directive.
Art. 9(1) 1st subpara. (b)	(b) none of the natural persons responsible for the management or operation of the business has been convicted of offences relating to money laundering or terrorist financing or other financial crimes.	**Reg. 33 (2)(b) of S.I. No. 183 of 2011**	**Regulation 33(2)(b) of S.I. No. 183 of 2011** (2) The Bank may waive the application to a person of all or part of the procedure and conditions set out in Chapters 2, 3, 4 and 6, and may register the person as a small electronic money institution, if— (…) (b) none of the individuals responsible for the management or operation of the person's business has been convicted of any offence relating to money laundering or terrorist financing or any other financial crime, and	**CONFORM** Regulation 33(2)(b) of S.I. No. 183 of 2011 almost literally transposes Article 9(1), first subparagraph, letter (b) of the Directive. There are mere phrasing differences between the two provisions such as the Regulation refers to 'individuals', whereas the Directive provision refers to 'natural persons'. On the basis of the above, Regulation 33(2)(b) of S.I. No. 183 of 2011 conforms to Article 9(1), first subparagraph, letter (b) of the Directive.
Art. 9(1) 2nd subpara,	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	**Reg. 34 of S.I. No. 183 of 2011**	**Regulation 34 of S.I. No. 183 of 2011** 34. (1) Where— (a) a person carries out activities that	**CONFORM** Regulation 34 of S.I. No. 183 of 2011 almost literally transposes Article 9(1), second subparagraph of the Directive.

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	money or any of the activities referred to in Article 6(1)(b) to (e) and the amount of outstanding electronic money is unknown in advance, the competent authorities shall allow that electronic money institution to apply point (a) of the first subparagraph on the basis of a representative portion assumed to be used for the issuance of electronic money, provided that such a representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the competent authorities. Where an electronic money institution has not completed a sufficiently long period of business, that requirement shall be assessed on the basis of projected outstanding electronic money evidenced by its business plan subject to any adjustment to that plan having been required by the competent authorities.		are not related to the issuance of electronic money or carries out any of the activities which fall within Regulation 28(1)(b) to (e), and (b) the amount of outstanding electronic money is unknown in advance, the person may make an assessment for the purposes of Regulation 33(1)(a) on the basis of a representative portion assumed to be used for the issuance of electronic money, provided that the representative portion can be reasonably estimated on the basis of historical data and to the satisfaction of the Bank. (2) Where a person has not completed a sufficiently long period of business to compile historical data adequate to make the assessment under paragraph (1), the person must make the assessment on the basis of projected outstanding electronic money as evidenced by its business plan, subject to any adjustments to that plan which are, or have been, required by the Bank.	Similar to the Directive provision, Regulation 34 of S.I. No. 183 of 2011 provides for two different situations whereby an electronic money institution can use their average outstanding electronic money figures for the purposes of being recognised as a small electronic money institution pursuant to Regulation 33(1)(a) of S.I. No. 183 of 2011. Despite an overall difference in the phrasing of the criteria, the requirements under the Regulation are identical to those in the Directive. It should be noted that Regulation 34 of S.I. No. 183 of 2011refers to 'person' instead of electronic money institution. 'Person' clearly denotes an electronic money institution in this scenario as only electronic money institutions can qualify as small electronic money institutions under Regulation 33 of S.I. No. 183 of 2011. On the basis of the above, Regulation 34 of S.I. No. 183 of 2011 conforms to Article 9(1), second subparagraph of the Directive.
Art. 9(1) 3rd subpara.	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	**N/A**	N/A	Article 9(1), third subparagraph of the Directive lays down an option. Ireland did not elect to apply the option provided for in the Directive article. No provision regarding the placing a maximum storage amount on the value of electronic money that small electronic money institutions can issue to individual consumers could be located within Irish legislation.

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	electronic money is stored.			
Art. 9(1) 4th subpara.	A legal person registered in accordance with this paragraph may provide payment services not related to electronic money issued in accordance with this Article only if conditions set out in Article 26 of Directive 2007/64/EC are met.	**Reg. 33(4) of S.I. No. 183 of 2011**	**Regulation 33(4) of S.I. No. 183 of 2011** (4) A person registered as a small electronic money institution may engage in payment services not related to the issuance of electronic money which fall within Regulation 28(1), only if the conditions set out in Regulation 35 of the Payment Services Regulations are met to the satisfaction of the Bank.	**CONFORM** Regulation 33(4) of S.I. No. 183 of 2011 transposes Article 9(1), fourth subparagraph of the Directive. Regulation 33(4) of S.I. No. 183 of 2011provides that a small electronic money institution may only provide payment services not linked to the issuance of electronic money unless the conditions under Regulation 35 of S.I. No. 383 of 2009 are fulfilled. Regulation 35 of S.I. No. 383 of 2009 transposes Article 26 of Directive 2007/64/EC into Irish law. Moreover, further to what is stated in the Directive provision, Regulation 33(4) of S.I. No. 183 of 2011states that the Central Bank shall adjudicate whether or not the small electronic money institution has satisfied the conditions pursuant to Regulation 35 of S.I. No. 383 of 2009. On the basis of the above, Regulation 33(4) of S.I. No. 183 of 2011 conforms to Article 9(1), fourth subparagraph of the Directive.
Art. 9(2)	2. A legal person registered in accordance with paragraph 1 shall be required to have its head office in the Member State in which it actually pursues its business.	**Reg. 33(2)(c) and (3)(a) of S.I. No. 183 of 2011**	**Regulation 33(2)(c) of S.I. No. 183 of 2011** (2) The Bank may waive the application to a person of all or part of the procedure and conditions set out in Chapters 2, 3, 4 and 6, and may register the person as a small electronic money institution, if— (c) it has its head office in the State. **Regulation 33(3)(a) of S.I. No. 183 of 2011** (3) A person registered as a small electronic money institution under	**CONFORM** Regulation 33(2)(c) and (3)(a) of S.I. No. 183 of 2011 transpose Article 9(2) of the Directive. First, Regulation 33(2)(c) of S.I. No. 183 of 2011requires that in order to be registered as a small electronic money institution in Ireland, the electronic money institution must have its head office in Ireland. Furthermore, Regulation 33(3)(a) of S.I. No. 183 of 2011states that a registration as a small electronic money institution is only valid within Ireland. Regulation 33(2)(c) of S.I. No. 183 of 2011 thus reflects recital 16 of the Directive which states that entities benefiting from the waiver under Article 9(1) should not be able to exercise the freedom to establishment under this Directive. On the basis of the above, Regulation 33(2)(c) and (3)(a) of S.I. No. 183 of 2011 conform to Article 9(2) of the Directive.

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			paragraph (2) shall be taken to be an electronic money institution for the purposes of these Regulations except that— (a) its registration as a small electronic money institution is valid only in the State, and	
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.	**Reg. 33(3)(b) of S.I. No. 183 of 2011**	**Regulation 33(3)(b) of S.I. No. 183 of 2011** (3) A person registered as a small electronic money institution under paragraph (2) shall be taken to be an electronic money institution for the purposes of these Regulations except that— (b) it is not entitled to issue electronic money in any other Member State.	**CONFORM** Regulation 33(3)(b) of S.I. No. 183 of 2011 transposes Article 9(3) of the Directive. According to Regulation 33(3)(b) of S.I. No. 183 of 2011, electronic money institutions who are registered as small electronic money institutions pursuant to Regulation 33 shall not be entitled to exercise their passport rights in another EEA Member State. Regulation 33(3)(b) of S.I. No. 183 of 2011 thus reflects recital 16 of the Directive which states that entities benefiting from the waiver under Article 9(1) should not be able to exercise the freedom to provide services under this Directive. On the basis of the above, Regulation 33(3)(b) of S.I. No. 183 of 2011 conforms 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).	**Reg. 33(5) of S.I. No. 183 of 2011**	**Regulation 33(5) of S.I. No. 183 of 2011** (5) The Bank may direct that a person registered as a small electronic money institution shall not engage in one or more of the activities which fall within Regulation 28(1).	**CONFORM** Article 9(4) of the Directive lays down an option. Ireland has chosen to apply this option as Regulation 33(5) of S.I. No. 183 of 2011 transposes Article 9(4) of the Directive. Regulation 33(5) of S.I. No. 183 of 2011allows the Central Bank to specify which activities under Regulation 28(1), which transposes Article 6(1) of the Directive into Irish law, a small electronic money institution may engage in. On the basis of the above, Regulation 33(5) of S.I. No. 183 of 2011 conforms to Article 9(4) of the Directive.
Art. 9(5) intr.	5. A legal person referred to in	**Reg. 33(6)**	**Regulation 33(6), introductory**	**CONFORM**

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wording	paragraph 1 shall:	**intr. wording of S.I. No. 183 of 2011**	**wording of S.I. No. 183 of 2011** (6) A person registered as a small electronic money institution in accordance with paragraph (2) shall—	Regulation 33(6), introductory wording of S.I. No. 183 of 2011 transposes Article 9(5), introductory wording of the Directive.
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	**Reg. 33(6)(a) of S.I. No. 183 of 2011**	**Regulation 33(6)(a) of S.I. No. 183 of 2011** (a) forthwith notify the Bank of any change that may affect whether it continues to qualify as a small electronic money institution in accordance with this Regulation, and	**CONFORM** Regulation 33(6)(a) of S.I. No. 183 of 2011transposes Article 9(5)(a) of the Directive. Regulation 33(6)(a) of S.I. No. 183 of 2011provides that small electronic money institutions must notify the Central Bank, which is the competent authority, of any change which may affect its classification as a small electronic money institution. On the basis of the above, Regulation 33(6)(a) of S.I. No. 183 of 2011 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.	**Reg. 33(6)(b) of S.I. No. 183 of 2011**	**Regulation 33(6)(b) of S.I. No. 183 of 2011** (b) at least annually, and on a date specified by the Bank, report to the Bank on the average outstanding electronic money.	**CONFORM** Regulation 33(6)(b) of S.I. No. 183 of 2011 almost literally transposes Article 9(5)(b) of the Directive. The only difference between the Regulation and Directive provision is that Regulation 33(6)(b) of S.I. No. 183 of 2011recognises the Central Bank as the competent authority. On the basis of the above, Regulation 33(6)(b) of S.I. No. 183 of 2011 conforms to Article 9(5)(b) of the Directive.
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	**Regs 35 and 36 of S.I. No. 183 of 2011**	**Regulation 35 of S.I. No. 183 of 2011** 35. (1) If a person registered as a small electronic money institution in accordance with Regulation 33 no longer qualifies as a small electronic money institution, or (in the case of a person subject to a direction under Regulation 33(5)) proposes to engage	**CONFORM** Regulations 35 and 36 of S.I. No. 183 of 2011 transpose Article 9(6) of the Directive. Regulation 35(1) of S.I. No. 183 of 2011 requires an electronic money institution which is registered as a small electronic money institution to apply for authorisation under Chapter 2 of the Statutory Instrument in two different circumstances. Application for authorisation will be necessary

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	authorisation within that period shall be prohibited, in accordance with Article 10, from issuing electronic money.		in a business activity other than the one specified in the relevant direction, the person shall apply for authorisation under Chapter 2 within 30 calendar days. (2) If a person referred to in paragraph (1) applies for authorisation in accordance with that paragraph, within the period of 30 calendar days referred to in that paragraph, it may continue issuing electronic money or providing a payment service until the Bank notifies it of its decision on the application. If such a person fails to apply for authorisation in accordance with that paragraph, it shall cease to issue electronic money or providing a payment service at the end of that period of 30 calendar days. **Regulation 36 of S.I. No. 183 of 2011** 36. (1) The Bank may withdraw a waiver granted to a person (in this Regulation called the "undertaking") under Regulation 33(2)— (a) if the undertaking— (i) does not begin to engage in the business of electronic money issuance or the provision of payment services in accordance with the waiver within 12 months, expressly renounces the waiver or ceases to engage in that business for more than 6 months,	when either the electronic money institution no longer qualifies as a small electronic money institution or the electronic money institution wishes to engage in activity which is one not specified in the relevant direction. As per the Directive provision, Regulation 35(1) of S.I. No. 183 of 2011states that an electronic money institution shall apply for authorisation within 30 calendar days. Additionally, Regulation 35(2) of S.I. No. 183 of 2011clarifies that where an electronic money institution applies for authorisation under Regulation 35(1) of S.I. No. 183 of 2011, it may continue to issue electronic money or provide payment services until the Central Bank notifies it of the outcome of its application. Where an electronic money institution does not apply for authorisation within 30 calendar days pursuant to Regulation 35(1) of S.I. No. 183 of 2011, it must stop issuing electronic money or providing payment services at the end of the 30 calendar day period. The Central Bank may withdraw a waiver in accordance with Regulation 36 of S.I. No. 183 of 2011. The Regulation outlines in what circumstances the Central Bank is entitled to withdraw a waiver granted to a small electronic money institution. Moreover, requirements regarding the notification of such withdrawal and the removal of the small electronic money institution from the register are also outlined within Regulation 36 of S.I. No. 183 of 2011. On the basis of the above, Regulations 35 and 36 of S.I. No. 183 of 2011 conforms to Article 9(6) of the Directive.

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			(ii) obtained the waiver through false statements or any other irregular means, (iii) no longer qualifies as a small electronic money institution, or (iv) would constitute a threat to the stability of the payment system by continuing to issue electronic money or provide payment services, or (b) on being satisfied on reasonable grounds that— (i) the undertaking has contravened or is contravening, or has failed or is failing to comply with, a provision of this Part, a condition of the authorisation or a requirement imposed by or under this Part, (ii) in the case of a partnership, the partnership is dissolved by the death or bankruptcy of a partner or because of the operation of the Partnership Act 1890, (iii) the winding-up of the undertaking has commenced, (iv) the undertaking is so structured, or its business is so organised, that the person is no longer capable of being regulated to the satisfaction of the Bank, (v) the circumstances under which the waiver was granted have changed to	

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			the extent that an application for authorisation would be refused had the application been made in the changed circumstances, (vi) the undertaking suspends payments due to creditors, or is unable to meet any other obligations to its creditors, (vii) if the undertaking is a branch or subsidiary of a body corporate that has its head office in another country that is an European Economic Area country, the authority of that other country that performs functions similar to those of the Bank under this Part has terminated the authority of that body to carry on a regulated business in that other country, (viii) the undertaking or an officer of it is convicted of— (I) an offence against this Part or against any other designated enactment or designated statutory instrument, or (II) an offence involving fraud, dishonesty, breach of trust, money laundering or financing terrorism, or (ix) the undertaking has failed to comply with a condition, requirement or direction imposed under these Regulations and the Bank is of the opinion that the stability and	

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			soundness of the person is or has been materially affected by the failure. (2) In paragraph (1)(b)(viii)(I) "designated enactment" and "designated statutory instrument" have the same respective meanings as in the Central Bank Act 1942. (3) Before withdrawing a waiver, the Bank shall— (a) give notice in writing of the proposed withdrawal to the person concerned, setting out a summary of the relevant evidence and the reasons for the proposal and specifying a reasonable period (not less than 21 calendar days) within which the person may make written representations concerning the proposal, and (b) consider any representations made by the person within the specified period. (4) The Bank shall notify the person concerned in writing of the withdrawal of a waiver, setting out the reasons for the withdrawal. (5) The Bank shall give public notice of the withdrawal of a waiver. (6) If the Bank withdraws a waiver it shall remove from the Register the entries in relation to the undertaking concerned. (7) Withdrawal of a waiver under this section takes effect on and from the	

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			date of the notice of withdrawal or, if a later date is specified in the notice, on and from that date, irrespective of whether an appeal against the revocation is made under Part VIIA of the Central Bank Act 1942.	
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.	**Part 4 of S.I. No. 183 of 2011**	**Part 4 Powers and Duties of the Bank** **Chapter 1: Supervisory powers and duties** **Regulation 58 of S.I. No. 183 of 2011** *Bank as competent authority* 58. The powers of the Bank extend to cover infringement or suspected infringement of Part 3 by electronic money issuers authorised or registered in the State and distributors, agents and branches in the State of electronic money issuers authorised in another Member State. **Regulation 59 of S.I. No. 183 of 2011** *Supervision* 59. (1) The Bank— (a) may require an electronic money issuer to provide such information as it requires to monitor the institution's compliance with these Regulations, (b) may carry out on-site inspections at—	**CONFORM** Part 4 of S.I. No. 183 of 2011 transposes Article 9(7) of the Directive. Part 4 of the Statutory Instrument confers the all the necessary powers and duties upon the Central Bank in order to fulfil its role as the competent authority under S.I. No. 183 of 2011. On the basis of the above, Part 4 of S.I. No. 183 of 2011 conforms to Article 9(7) of the Directive.

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			(i) the premises of an electronic money issuer, (ii) any distributor, agent or branch issuing electronic money or providing payment services under the responsibility of an electronic money issuer, (iii) the premises of any entity to which an electronic money issuer's activities are outsourced, and (iv) any premises at which the issuance of electronic money or payment services are, or are suspected of being, conducted, and (c) may issue recommendations and guidelines. (2) The Bank may take steps to ensure that an electronic money institution maintains sufficient capital for the issuance of electronic money or the provision of payment services, in particular where the activities not related to the issuance of electronic money of an electronic money institution impair or are likely to impair the financial soundness of the electronic money institution. **Regulation 60 of S.I. No. 183 of 2011** *Bank's power to give directions* 60. (1) If the Bank considers it necessary to do so in the interests of	

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			the proper and orderly supervision of the issuance of electronic money, the Bank may give a direction in writing to— (a) an electronic money institution, (b) another person registered to issue electronic money in the State, or (c) any other person involved in or connected with the issuance of electronic money in the State. (2) A direction under paragraph (1)— (a) takes effect on the date, or on the occurrence of the event, specified in the direction for the purpose, and (b) ceases to have effect on the earlier of— (i) the date, or the occurrence of the event, specified in the direction for the purpose, or (ii) the expiration of the period of 12 months immediately following the day on which it took effect. (3) If a direction under this Regulation has not been complied with or is unlikely to be complied with, the Bank may apply to the court in a summary manner for such order as the court thinks appropriate by way of enforcement of the direction. (4) The Bank may direct— (a) a credit institution or any	

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			institution exempted under section 7 of the Central Bank Act 1971 (No. 24 of 1971), or (b) any other financial institution, that holds an account of any description of the electronic money institution (including holdings of investment instruments of the electronic money institution to which the direction has been given), to cease making payments from, or entering into other transactions in respect of, the account without the prior authorisation of the Bank. **Regulation 61 of S.I. No. 183 of 2011** *Exchange of information* 61. (1) The Bank shall cooperate with the competent authorities of other Member States and with the European Central Bank and the central banks of other Member States and other relevant competent authorities designated under the laws of other Member States applicable to electronic money issuers. (2) The Bank may exchange information with— (a) the competent authorities of other Member States responsible for the authorisation and supervision of electronic money institutions, (b) the European Central Bank and the	

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			central banks of other Member States, in their capacity as monetary and oversight authorities, and, where appropriate, other public authorities responsible for overseeing payment and settlement systems, and (c) relevant authorities of other Member States designated under laws giving effect to the Electronic Money Directive and other acts of the European Communities applicable to electronic money issuers (for example, acts applicable to the protection of individuals with regard to the processing of personal data and to money laundering and terrorist financing). **Chapter 2: Powers of authorised officers** **Regulation 62 of S.I. No. 183 of 2011** *Interpretation (Chapter 2)* 62. In this Chapter "relevant records" means books, records or other documents related to the business of an electronic money issuer. **Regulation 63 of S.I. No. 183 of 2011** *Power to appoint authorised officers* 63. (1) The Bank may, in writing— (a) authorise a person as an authorised	

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			officer, and (b) revoke such an authorisation. (2) The appointment of an authorised officer may be for a specified period or indefinite. (3) The Bank shall furnish an authorised officer with a certificate of his or her appointment as an authorised officer. (4) The appointment of a person as an authorised officer ceases— (a) if the Bank revokes the appointment, at the time of revocation, (b) if the person dies, at the time of his or her death, (c) if the appointment is for a specified period, at the end of that period, or (d) if the person is, when appointed, an officer of the Bank, and the person ceases to be such an officer, when he or she so ceases. **Regulation 64 of S.I. No. 183 of 2011** *Powers of authorised officers* 64. (1) An authorised officer may, for the purpose of carrying out an investigation under this Part, do all or any of the following at any reasonable time during normal business hours—	

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			(a) enter any premises (other than a private dwelling) at which the officer has reasonable grounds to believe that the business of an electronic money issuer is, or has been, carried on, or on which there are relevant records, (b) search and inspect such premises and any relevant records on the premises, (c) secure for later inspection such premises or any part of such premises in which relevant records are kept or in which the officer has reasonable grounds for believing relevant records are kept, (d) require a person who carries on the business of an electronic money issuer and any person employed in connection with such a business to produce to the officer relevant records, and if any such record is in a non-legible form, to reproduce it in a legible form or to give the officer such information as the officer reasonably requires in relation to entries in the relevant records, (e) inspect and take copies of relevant records inspected or produced to the officer (including, in the case of information in a non-legible form, a copy of all or part of the information in a permanent legible form), (f) remove and retain any of the relevant records inspected or produced	

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			under this Act for such period as may be reasonable to allow their further examination, (g) require a person to give to the officer information (including information by way of a written report) that the officer reasonably requires in relation to activities covered by this Chapter and to produce to the officer any relevant records that the person has or has access to, (h) require a person by whom or on whose behalf data equipment is or has been used, or any person who has charge of, or is otherwise concerned with the operation of, the data equipment or any associated apparatus or material, to give the officer all reasonable assistance in relation the operation of that equipment, and (i) require a person to explain entries in any relevant records. (2) When exercising a power of an authorised officer, an authorised officer shall produce the certificate, together with some form of personal identification, if requested to do so by a person affected by the exercise of that power. (3) An authorised officer shall not enter a private dwelling (other than a part of the dwelling used as a place of work) except with the consent of the	

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			occupier. (4) If a person from whom production of a relevant record is required claims a lien over it, the production of it does not affect the lien. (5) An obligation to produce a relevant record or report or to provide information or assistance under this Regulation applies to— (a) a liquidator or receiver of, or a person who is or has been an officer or employee or agent of, a payment service provider, or (b) any other person who appears to the Bank or the authorised officer to have a relevant record or report in his or her possession or under his or her control or the ability to provide information or assistance, as the case may be. (6) An authorised officer may, if the officer considers it necessary, be accompanied by a member of the Garda Síochána when exercising a power under this Chapter. **Regulation 65 of S.I. No. 183 of 2011** *Warrants* 65. (1) If an authorised officer, while in the exercise of the authorised officer's powers under Regulation 64—	

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			(a) is prevented from entering any premises, or (b) believes that there are relevant records in a private dwelling, he or she may apply to a judge of the District Court for a warrant authorising the entry by the authorised officer into the premises or the dwelling. (2) If on an application under paragraph (1) a judge of the District Court is satisfied, on the information of the applicant authorised officer, that the applicant authorised officer— (a) has been prevented from entering the premises concerned, or (b) has reasonable grounds for believing that there are relevant records in the private dwelling concerned, the judge may issue a warrant under his or her hand authorising the applicant authorised officer, accompanied, if the judge considers it appropriate, by a specified number of members of the Garda Síochána, to enter, if need be by force, at any time within 4 weeks from the date of issue of the warrant, the premises or private dwelling and there exercise the powers set out in Regulation 64. **Chapter 3: Out-of-Court complaint and redress procedures**	

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			Regulation 66 of S.I. No. 183 of 2011 *Out-of-court redress* 66. (1) The Financial Services Ombudsman has jurisdiction over the settlement of disputes between electronic money holders (being electronic money holders that are consumers or the operators of undertakings that were at the relevant time micro enterprises) and electronic money issuers concerning rights and obligations arising under these Regulations. (2) In the case of a cross-border dispute, the Financial Services Ombudsman shall cooperate actively with equivalent bodies in other European Economic Area Member States in resolving them. **Chapter 4: Appeals** **Regulation 67 of S.I. No. 183 of 2011** *Appealable decisions* 67. The following decisions of the Bank are appealable decisions for the purposes of Part VIIA of the Central Bank Act 1942: (a) a decision under Regulation 9— (i) refusing to grant an authorisation to operate as an electronic money institution, or	

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			(ii) granting such an authorisation subject to conditions or requirements; (b) a decision under Regulation 27 to withdraw such an authorisation; (c) a decision under Regulation 33(5) or 78(3) to give a direction under that section to a person registered as a small electronic money institution; (d) a decision under Regulation 36 to withdraw a waiver granted under Regulation 33(2); (e) a decision under Regulation 60 to give a direction to a person; (f) a decision under Regulation 77(3) to revoke an authorisation granted under Regulation 77(2).	
Art. 9(8)	8. This Article shall not apply in respect of the provisions of Directive 2005/60/EC or national anti-money-laundering provisions.	**N/A**	N/A	**CONFORM** There is no mention of Chapter 7 of the Statutory Instrument not applying to Directive 2005/60/EC or national anti-money laundering provisions within S.I. No. 183 of 2011. However, as the Statutory Instrument applies only to this Directive 2009/110, it is not necessary that it is transposed separately. Therefore, conformity can be inferred.
Art. 9(9)	9. Where a Member State avails itself of the waiver provided for in paragraph 1, it shall notify the Commission accordingly by 30 April 2011. The Member State shall notify the Commission forthwith of any subsequent change. In addition, the Member State shall inform the	**N/A**	N/A	**CONFORM** No provision of Irish legislation directly transposes Article 9(9) of the Directive. The absence, in the national legislation, of a provision requiring the Central Bank of Ireland 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 Central Bank from being bound by the

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	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.			same Article 9(9) to provide such information. On the basis of the above, conformity is concluded.
Art. 10	TITLE III **ISSUANCE AND REDEEMABILITY OF ELECTRONIC MONEY** *Article 10* **Prohibition from issuing electronic money** Without prejudice to Article 18, Member States shall prohibit natural or legal persons who are not electronic money issuers from issuing electronic money.	**Reg. 6(1) of S.I. No. 183 of 2011**	**Regulation 6(1) of S.I. No. 183 of 2011** 6. (1) A person shall not issue electronic money unless the person is— (a) a credit institution within the meaning of Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (including a branch, within the meaning of point 3 of Article 4 of that Directive, located in a Member State of a credit institution having its head office in or, in accordance with Article 38 of that Directive, elsewhere than in a Member State), (b) an electronic money institution as defined in Article 2 of the Electronic Money Directive, (c) An Post in its capacity as an issuer of electronic money, or the postal authority of another Member State in its capacity as an issuer of electronic money, (d) the Bank, the European Central	**CONFORM** Regulation 6(1) of S.I. No. 183 of 2011 transposes Article 10 of the Directive. Regulation 6(1) of S.I. No. 183 of 2011explicitly stated that only the persons listed from (a) to (i) can be regarded as electronic money issuers. On the basis of the above, Regulation 6(1) of S.I. No. 183 of 2011 conforms to Article 10 of the Directive.

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			Bank or the central bank of another Member State, that is not acting in its capacity as a monetary authority, or other public authority, (e) a Member State, or a regional or local authority of a Member State, that is acting in its capacity as a public authority, (f) a credit union (within the meaning of the Credit Union Act 1997 (No.15 of 1997)), (g) a person that has been registered after qualifying as a small electronic money institution under Regulation 33, (h) a person for the time being permitted under Part 6 to issue electronic money, or (i) an electronic money institution authorised as such in another Member State pursuant to a law giving effect to the Electronic Money Directive.	
Art. 11(1)	*Article 11* **Issuance and redeemability** 1. Member States shall ensure that electronic money issuers issue electronic money at par value on the receipt of funds.	**Reg. 52(a) of S.I. No. 183 of 2011**	**Regulation 52(a) of S.I. No. 183 of 2011** 52. An electronic money issuer must— (a) on receipt of funds, issue without delay electronic money at par value, and	**CONFORM** Regulation 52(a) of S.I. No. 183 of 2011 transposes Article 11(1) of the Directive. Regulation 52(a) of S.I. No. 183 of 2011 states that an electronic money issuer must issue electronic money at par value on the receipt of funds. It should also be noted, that recital 18 of the Directive notes that funds received in exchange for electronic money cannot be considered as deposits or other repayable funds within the meaning of Directive 2006/48/EC. Furthermore, the Directive provision and Regulation 52(a) of S.I. No. 183 of 2011 mean that the electronic money issuer cannot issue more monetary

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				value than the funds received. On the basis of the above, Regulation 52(a) of S.I. No. 183 of 2011 conforms to Article 11(1) of the Directive.
Art. 11(2)	2. Member States shall ensure that, upon request by the electronic money holder, electronic money issuers redeem, at any moment and at par value, the monetary value of the electronic money held.	**Reg. 52(b) of S.I. No. 183 of 2011**	**Regulation 52(b) of S.I. No. 183 of 2011** 52. An electronic money issuer must— (b) at the request of the electronic money holder, redeem— (i) at any time, and (ii) at par value, the monetary value of the electronic money held.	**CONFORM** Regulation 52(b) of S.I. No. 183 of 2011 transposes Article 11(2) of the Directive. In line with the Directive provision, Regulation 52(b) of S.I. No. 183 of 2011 foresees that an electronic money user should be able to redeem electronic money at all times and at par value. The purpose of this provision is to encourage consumer confidence in electronic money. Since the Directive does not precise how the request to redeem must be made and taking into account its maximum harmonisation approach, it would not be up to the national legislation to determine how the request is to be made or to prohibit certain means or formalities agreed between the parties for that purpose. *"At any moment"* relates to whatever moment the holder wishes to make such a request. The Directive does not provide for any "period of notice" with regard to the redemption. Therefore, while a period of notice cannot be imposed by national legislation, Article 11(3) leaves up to contractual freedom to determine the conditions of redemption. Nevertheless, on the basis of the above, Regulation 52(b) of S.I. No. 183 of 2011 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.	**Reg. 53 of S.I. No. 183 of 2011**	**Regulation 53 of S.I. No. 183 of 2011** 53. An electronic money issuer must ensure— (a) that the contract between the electronic money issuer and the electronic money holder clearly and prominently states the conditions of redemption, including any fees relating	**CONFORM** Regulation 53 of S.I. No. 183 of 2011 almost literally transposes Article 11(3) of the Directive. Regulation 53 of S.I. No. 183 of 2011 requires that the conditions of redemption and any fees related to redemption must be clearly and prominently communicated in the contract between the electronic money issuer and the electronic money holder. The electronic money holder must be informed of such conditions before being bound by the contract.

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			to redemption, and (b) that the electronic money holder is informed of those conditions before being bound by any contract or offer.	Similar to Regulation 52 of S.I. No. 183 of 2011, the purpose of this provision is to encourage consumer confidence in electronic money. On the basis of the above, Regulation 53 of S.I. No. 183 of 2011 conforms to Article 11(3) of the Directive.
Art. 11(4) 1st subpara. intr. wording	4. Redemption may be subject to a fee only if stated in the contract in accordance with paragraph 3 and only in any of the following cases:	**Reg. 54 (1), intr. wording of S.I. No. 183 of 2011**	**Regulation 54(1), introductory wording of S.I. No. 183 of 2011** 54. (1) Redemption may be subject to a fee only where the fee is stated in the contract in accordance with Regulation 53(a), and—	**CONFORM** Regulation 54(1), introductory wording of S.I. No. 183 of 2011 transposes Article 11(4), first subparagraph, introductory wording of the Directive. Regulation 54(1), introductory wording of S.I. No. 183 of 2011 provides that if requirement prescribed under Regulation 53 of S.I. No. 183 of 2011 is adhered to, the redemption may be subject to a fee. Thus, redemption may be subject to a fee where this is either stated in the contract or else in one of the three cases provided for in Regulation 54(1)(a) to (c) of S.I. No. 183 of 2011. On the basis of the above, Regulation 54(1), introductory wording of the S.I. No. 183 of 2011 conforms to Article 11(4) of the Directive.
Art.11 (4) 1st subpara. (a)	(a) where redemption is requested before the termination of the contract;	**Reg. 54(1)(a) of S.I. No. 183 of 2011**	**Regulation 54(1)(a) of S.I. No. 183 of 2011** (a) redemption is requested before the termination of the contract,	**CONFORM** Regulation 54(1)(a) of S.I. No. 183 of 2011 literally transposes Article 11(4), first subparagraph, letter (a) of the Directive.
Art. 11(4) 1st subpara. (b)	(b) where the contract provides for a termination date and the electronic money holder terminates the contract before that date; or	**Reg. 54(1)(b) of S.I. No. 183 of 2011**	**Regulation 54(1)(b) of S.I. No. 183 of 2011** (b) the contract provides for a termination date and the electronic money holder terminates the contract before that date, or	**CONFORM** Regulation 54(1)(b) of S.I. No. 183 of 2011 literally transposes Article 11(4), first subparagraph, letter (b) of the Directive.
Art. 11(4) 1st subpara.	(c) where redemption is requested more than one year after the date of termination of the contract.	**Reg. 54(1)(c) of S.I.**	**Regulation 54(1)(c) of S.I. No. 183 of 2011** (c) redemption is requested more than	**CONFORM** Regulation 54(1)(c) of S.I. No. 183 of 2011 literally transposes Article 11(4),

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(c)		**No. 183 of 2011**	one year after the date of termination of the contract.	first subparagraph, letter (c) of the Directive.
Art. 11(4) 2nd subpara.	Any such fee shall be proportionate and commensurate with the actual costs incurred by the electronic money issuer.	**Reg. 54(1)(d) of S.I. No. 183 of 2011**	**Regulation 54(1)(d) of S.I. No. 183 of 2011** (2) Any such fees for redemption must be proportionate and commensurate with the costs actually incurred by the electronic money issuer.	**CONFORM** Regulation 54(1)(d) of S.I. No. 183 of 2011 almost literally transposes Article 11(4), second subparagraph of the Directive. According to Regulation 54(1)(d) of S.I. No. 183 of 2011, an electronic money issuer may not request any amount of a redemption fee. The fee must be proportionate and commensurate with the actual costs incurred by the electronic money issuer. On the basis of the above, Regulation 54(1)(d) of S.I. No. 183 of 2011conforms to Article 11(4), second subparagraph of the Directive.
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.	**Reg. 55(1) of S.I. No. 183 of 2011**	**Regulation 55(1) of S.I. No. 183 of 2011** 55. (1) Where before the termination of the contract an electronic money holder makes a request for redemption, the electronic money holder may request redemption of the monetary value of the electronic money in whole or in part, and the electronic money issuer must redeem the amount so requested subject to any fee imposed in accordance with Regulation 54.	**CONFORM** Regulation 55(1) of S.I. No. 183 of 2011 transposes Article 11(5) of the Directive. Regulation 55(1) of S.I. No. 183 of 2011provides for redemption of the monetary value of the electronic money either in whole or in part by the electronic money holder before the termination of the contract. This regulation goes further than the Directive provision so as to require the electronic money issuer to redeem the electronic money subject to any fee imposed in line with Regulation 54 of S.I. No. 183 of 2011. On the basis of the above, Regulation 55(1) of S.I. No. 183 of 2011 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:	**Reg. 55(2), intr. wording of S.I. No. 183 of 2011**	**Regulation 55(2), introductory wording of S.I. No. 183 of 2011** (2) Where an electronic money holder makes a request for redemption on, or up to one year after, the date of the termination of the contract, the electronic money issuer must	**CONFORM** Regulation 55(2), introductory wording of S.I. No. 183 of 2011 transposes Article 11(6), introductory wording of the Directive. Regulation 55(2), introductory wording permits the redemption by the electronic money holder on or up to one year after the date of the termination of the contract. In general, redemption should be free of charge, except for a cost-based fee

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			redeem—	which can be charged as the execution of the redemption may cause cost to the issuers. This fee is considered to be a "cost-based fee" in relation to the amount redeemed and the actual cost incurred by the electronic money issuer. A distinction is made between contracts with a fixed termination date and undetermined contracts. For undetermined contracts, between the moment of termination of the contract up to one year after the termination, no such a fee may be charged. Only during this period, the redemption is guaranteed free of charge for open or undetermined contracts. For contracts with a fixed termination date, the same rule applies, as long as the holder does not terminated the contract before the fixed termination dated. In the above described situation, when redemption is requested in the period between the agreed termination date up to 1 year after the termination date no cost-based fee can be charged. However, when the electronic money holder terminates the contract before the agreed date, a cost-based fee can be charged. In the Commission services' opinion, the conditions for termination of the contract are governed by Article 45 of Directive 2007/64/EC.. On the basis of the above, Regulation 55(2), introductory wording of S.I. No. 183 of 2011 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	**Reg. 55(2)(a) of S.I. No. 183 of 2011**	**Regulation 55(2)(a) of S.I. No. 183 of 2011** (a) the total monetary value of the electronic money held, or	**CONFORM** Regulation 55(2)(a) of S.I. 183 of 2011 transposes in an almost literal manner Article 11(6)(a) of the Directive. There are structural differences between the Directive provision and the national one.
Art. 11(6)(b)	(b) where the electronic money institution carries out one or more of the activities listed in Article 6(1)(e) and it is unknown in advance what proportion of funds is to be used as electronic money, all funds requested by the electronic money holder shall be redeemed.	**Reg. 55(2)(b) of S.I. No. 183 of 2011**	**Regulation 55(2)(b) of S.I. No. 183 of 2011** (b) if the electronic money issuer carries out any business activities which fall within Regulation 28(1)(e) and it is not known in advance what proportion of funds received by it is to be used for electronic money, all the funds requested by the electronic	**CONFORM** Regulation 55(2)(b) of S.I. No. 183 of 2011 almost literally transposes Article 11(6)(b) of the Directive. It is worth noting that while the Directive provision refers to electronic money institutions, Regulation 55(2)(b) of S.I. No. 183 of 2011 refers to electronic money issuers. However, as Regulation 28(1)(e) of S.I. No. 183 of 2011 applies to electronic money institutions, conformity can be inferred if it can be assumed that Regulation 55(2)(b) of S.I. No. 183 of 2011 was

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			money holder.	intended to apply electronic money institutions. On the basis of the above, Regulation 55(2)(b) of S.I. No. 183 of 2011 conforms to Article 11(6)(b) of the Directive.
Art. 11(7)	7. Notwithstanding paragraphs 4, 5 and 6, redemption rights of a person, other than a consumer, who accepts electronic money shall be subject to the contractual agreement between the electronic money issuer and that person.	**Reg. 56 of S.I. No. 183 of 2011**	**Regulation 56 of S.I. No. 183 of 2011** 56. Regulations 54 and 55 do not apply in the case of a person, other than a consumer, who accepts electronic money and, in such a case, the redemption rights of that person shall be subject to the contract between that person and the electronic money issuer.	**CONFORM** Regulation 56 of S.I. No. 183 of 2011 transposes Article 11(7) of the Directive. As per Article 11(7) of the Directive, Regulation 56 of S.I. No. 183 of 2011 provides for the contractual relationship between an electronic money issuer and a person who accepts payment in electronic money. Given that the person in this scenario is not a consumer, Regulations 54 and 55 of S.I. No. 183 of 2011, which transpose Article 11(4) to (6) of the Directive into Irish law, are not applicable. On the basis of the above, Regulation 56 of S.I. No. 183 of 2011 conforms to Article 11(7) of the Directive.
Art. 12	*Article 12* **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.	**Reg. 57 of S.I. No. 183 of 2011**	**Regulation 57 of S.I. No. 183 of 2011** 57. An electronic money issuer must not award— (a) interest in respect of the length of time during which the electronic money holder holds electronic money, or (b) any other benefit related to the length of time during which an electronic money holder holds electronic money.	**CONFORM** Regulation 57 of S.I. No. 183 of 2011 transposes Article 12 of the Directive. Pursuant to Regulation 57 of S.I. No. 183 of 2011, electronic money issuers cannot grant interest or other benefits related to the length of time electronic money is held. It should be stressed that this Article only bans the granting of interest and those other benefits which are related "to the length of time during which the electronic money holder holds electronic money", as stated in recital 13 of the Directive. Recital 13 states that electronic money issuers may only grant interest or any other benefit if those benefits are not related to the length of time during which an electronic money holder holds electronic money. This means that, for example, offering customers who have held electronic money instrument (regardless of the quantum of money held at any one time) for five years rewards such as free concert tickets or music downloads will have to be forbidden. On the basis of the above, Regulation 57 of S.I. No. 183 of 2011 conforms to

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				Article 12 of the Directive.
Art. 13	*Article 13* **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.	**Regs 58, 66, 74 & 75 of S.I. No. 183 of 2011**	**Regulations 58, 66, 74 and 75 of S.I. No. 183 of 2011** 58. The powers of the Bank extend to cover infringement or suspected infringement of Part 3 by electronic money issuers authorised or registered in the State and distributors, agents and branches in the State of electronic money issuers authorised in another Member State. 66. (1) The Financial Services Ombudsman has jurisdiction over the settlement of disputes between electronic money holders (being electronic money holders that are consumers or the operators of undertakings that were at the relevant time micro enterprises) and electronic money issuers concerning rights and obligations arising under these Regulations. (2) In the case of a cross-border dispute, the Financial Services Ombudsman shall cooperate actively with equivalent bodies in other European Economic Area Member States in resolving them. 74. A person who commits an offence	**CONFORM** No text providing for a direct transposition of Article 13 of the Directive has been found in Irish legislation, nevertheless as shown below the provisions which transposed Chapter 5 of Title IV of Directive 2007/64/EC into Irish law also apply in respect of this Directive. Pursuant to Regulation 58 of S.I. No. 183 of 2011, the Central Bank is conferred with the power to investigate infringement or suspected infringement complaints. This mirrors Articles 80 and 82 of Directive 2007/64/EC. The Financial Services Ombudsman, pursuant to Regulation 66 of S.I. No. 183 of 2011, shall provide an out-of-court complaint and redress mechanism for both electronic money holders and electronic money issuers for the purposes of addressing disputes under the Statutory Instrument. The availability of such a redress procedure for electronic money holders reflects recital 19 of the Directive. In the event of a cross-border dispute, the Financial Services Ombudsman shall liaise with equivalent bodies in other EEA Member States. Thus Regulation 66 of S.I. No. 183 of 2011 transposes Article 83 of Directive 2007/64/EC in relation to out-of-court redress procedures. Regulation 74 of S.I. No. 183 of 2011 transposes Article 81(1) of Directive 2007/64/EC by laying down the applicable penalties in relation to offences committed under S.I. No. 183 of 2011. Furthermore, Regulation 75 of S.I. No. 183 of 2011 transposes Article 82(1) of Directive 2007/64/EC by permitting the Central Bank to prosecute the offences listed in Regulations 68 to 73 of S.I. No. 183 of 2011. On the basis of the above, conformity to Article 13 of the Directive is observed.

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			under these Regulations is liable— (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both, or (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 3 years or both. 75. (1) Summary proceedings for an offence under these Regulations may be brought and prosecuted by the Bank. (2) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851 (14 & 15 Vict. c. 93), summary proceedings for an offence under these Regulations to which that provision applies may be instituted— (a) within 12 months from the date on which the offence was committed, or (b) within 6 months from the date on which evidence sufficient, in the opinion of the person instituting the proceedings, to justify the proceedings comes to that person's knowledge. whichever is the later, provided that no such proceedings shall be commenced later than 2 years from the date on which the offence concerned was committed. (3) For the purposes of paragraph	

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			(2)(b), a certificate signed by or on behalf of the person initiating the proceedings as to the date on which evidence referred to in that paragraph came to his or her knowledge shall be evidence of that date and, in any legal proceedings, a document purporting to be a certificate under this paragraph and to be so signed shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate, unless the contrary is shown.	
Art. 16(1)	TITLE IV **FINAL PROVISIONS AND IMPLEMENTING MEASURES** *Article 16* **Full harmonisation** 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.	**N/A**	N/A	**CONFORM** Overall, S.I. No. 183 of 2011 conforms to the Directive. However, a few provisions were found to be partially conform or not conform. Regulation 6(1)(e) of S.I. No. 183 of 2011 was found to partially conform to Article 1(1)(e) of the Directive. It was found that the term 'a Member State' within Regulation 6(1)(e) was ambiguous and had two different interpretations. The term could encompass either all Member States of the EEA including Ireland, or all other Member States of the EEA excluding Ireland. In respect of the transposition of Article 21(1) of Directive 2007/64/EC, Regulation 58 of S.I. No. 183 of 2011 does not conform to the Directive provision, whereas Regulation 59(1) of S.I. No. 183 of 2011 partially conforms. Unlike Article 21(1) of Directive 2007/64/EC which applies in respect of electronic money institutions, Regulation 58 of S.I. No. 183 of 2011 confers supervisory powers on the Central Bank in respect of electronic money issuers. Electronic money institutions are legal persons authorised under Title II of the Statutory Instrument to issue electronic money. However, electronic money issuers do not need seek authorisation and are listed in

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				Regulation 6(1) of S.I. No. 183 of 2011and includes those who are waived under Regulation 32 of S.I. No. 183 of 2011. Hence, there is a risk that electronic money institutions that are authorised do not fall under the remit of this supervisory facility. Moreover, Regulation 58 of S.I. No. 183 of 2011covers infringement or suspected infringement by electronic money issuers while Article 21(1) first subparagraph of the Directive applies to risks which payment institutions may be exposed to. Regulation 58 of S.I. No. 183 of 2011 does not transpose the main requirements of the Directive provision. Similarly, Regulation 59(1) of S.I. No. 183 of 2011applies to electronic money issuers as opposed to electronic money institutions and thus the same aforementioned risk concerning the remit of the supervisory facility occurs. However, as Regulation 59(1) of S.I. No. 183 of 2011does transpose the supervisory powers prescribed under Article 21(1) of the Directive, partial conformity can be concluded. However, it should be noted that Regulations 58 and 59(1) do conform to Article 16(2) of the Directive. Regulation 33(1) of S.I. No. 183 of 2011 which transposes Article 9(1), first subparagraph (a) of the Directive goes further than the Directive provision. Pursuant to Regulation 33(1) of S.I. No. 183 of 2011, the waiver shall only be granted where two prerequisites are fulfilled whereas the Directive provision only foresees one prerequisite. First, the institution did not, prior to the time of registration, generate average outstanding electronic money exceeding EUR 1 million. This EUR 1 million threshold is considerably lower than the EUR 5 million threshold prescribed for under the Directive provision. Secondly, the average amount of payment transactions executed, including by any agent for which it assumes responsibility, or likely to be executed within the next 12 months is not more than EUR 3 million per month. This is an additional requirement compared to what the Directive provision stipulates. In relation to Article 9(9) of the Directive, Ireland has chosen not to transpose this provision into Irish law. Albeit this provision can be construed

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				as a procedural issue as opposed to a substantive issue, it should be nevertheless clarified by the Commission as to whether or not an additional notification is necessary.
Art. 16(2)	2. Member States shall ensure that an electronic money issuer does not derogate, to the detriment of an electronic money holder, from the provisions of national law implementing or corresponding to provisions of this Directive except where explicitly provided for therein.	**Regs 58 – 65 of S.I. No. 183 of 2011**	**Regulations 58 to 65 of S.I. No. 183 of 2011** **Chapter 1: Supervisory powers and duties** *Bank as competent authority* 58. The powers of the Bank extend to cover infringement or suspected infringement of Part 3 by electronic money issuers authorised or registered in the State and distributors, agents and branches in the State of electronic money issuers authorised in another Member State. *Supervision* 59. (1) The Bank— (a) may require an electronic money issuer to provide such information as it requires to monitor the institution's compliance with these Regulations, (b) may carry out on-site inspections at— (i) the premises of an electronic money issuer, (ii) any distributor, agent or branch issuing electronic money or providing payment services under the responsibility of an electronic money	**CONFORM** No text providing for a direct transposition of this Directive provision has been found in Irish legislation, nevertheless as shown below the competent authority has been conferred with powers in order to ensure that the electronic money institutions do not derogate from the rules set out in S.I. No. 183 of 2011.. Regulations 58 to 65 of S.I. No. 183 of 2011 confer functions on the Central Bank concerning the supervision and enforcement of certain provisions of the Statutory Instrument. It should be noted that the specific supervisory powers and duties are conferred upon the Central Bank in Regulations 58 to 61 of S.I. No. 183 of 2011. Additionally, Regulations 62 to 65 of S.I. No. 183 of 2011 confer powers on the authorised officers of the Central Bank. Regulation 58 of S.I. No. 183 of 2011 grants the Central Bank supervisory powers regarding infringements and suspected infringements by electronic money issuers authorised or registered in Ireland and distributors, agents and branches of electronic money issuers in Ireland who are authorised in another Member State. It should be first noted that Regulation 59 of S.I. No. 183 of 2011allows the Central Bank to ask an electronic money issuer to provide information necessary for monitoring an electronic money institution's compliance with the Statutory Instrument. It can be assumed that this provision is meant to refer to an electronic money issuer as opposed to an electronic money institution. Nevertheless, in addition to undertaking on-site inspections at premises connected to an electronic money issuer, the Central Bank may also under Regulation 59 of S.I. No. 183 of 2011issue recommendations or guidelines. Pursuant to Regulation 60 of S.I. No. 183 of 2011, the Central Bank may issue directions to an electronic money institution, to an electronic money

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			issuer, (iii) the premises of any entity to which an electronic money issuer's activities are outsourced, and (iv) any premises at which the issuance of electronic money or payment services are, or are suspected of being, conducted, and (c) may issue recommendations and guidelines. (2) The Bank may take steps to ensure that an electronic money institution maintains sufficient capital for the issuance of electronic money or the provision of payment services, in particular where the activities not related to the issuance of electronic money of an electronic money institution impair or are likely to impair the financial soundness of the electronic money institution. *Bank's power to give directions* 60. (1) If the Bank considers it necessary to do so in the interests of the proper and orderly supervision of the issuance of electronic money, the Bank may give a direction in writing to— […] (3) If a direction under this Regulation	issuer or to those involved in the issuance of electronic money. In relation to authorised officers appointed by the Central Bank, Regulation 64 of S.I. No. 183 of 2011confers a variety of powers upon such officers necessary for the purpose of undertaking an investigation under the Statutory Instrument. Such powers include the power to search and inspect premises, the power to remove and retain any relevant records inspected or produced under this legislation, etc. In accordance with Regulation 65 of S.I. No. 183 of 2011, in exercising the powers prescribed under Regulation 64, an authorised officer may apply to the District Court for a warrant authorising entry into a premises or a dwelling by an authorised officer. On the basis of the above, the Central Bank is conferred with adequate powers in order to ensure that an electronic money issuer complies with the provisions of the Statutory Instrument.

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			has not been complied with or is unlikely to be complied with, the Bank may apply to the court in a summary manner for such order as the court thinks appropriate by way of enforcement of the direction. (4) The Bank may direct— (a) a credit institution or any institution exempted under section 7 of the Central Bank Act 1971 (No. 24 of 1971), or (b) any other financial institution, that holds an account of any description of the electronic money institution (including holdings of investment instruments of the electronic money institution to which the direction has been given), to cease making payments from, or entering into other transactions in respect of, the account without the prior authorisation of the Bank. *Exchange of information* 61. (1) The Bank shall cooperate with the competent authorities of other Member States and with the European Central Bank and the central banks of other Member States and other relevant competent authorities designated under the laws of other Member States applicable to electronic money issuers.	

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			[…] **Chapter 2: Powers of authorised officers** *Interpretation (Chapter 2)* 62. In this Chapter "relevant records" means books, records or other documents related to the business of an electronic money issuer. *Power to appoint authorised officers* 63. (1) The Bank may, in writing— (a) authorise a person as an authorised officer, and (b) revoke such an authorisation. (2) The appointment of an authorised officer may be for a specified period or indefinite. […] *Powers of authorised officers* 64. (1) An authorised officer may, for the purpose of carrying out an investigation under this Part, do all or any of the following at any reasonable time during normal business hours— […]	

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			Warrants 65. (1) If an authorised officer, while in the exercise of the authorised officer's powers under Regulation 64— (a) is prevented from entering any premises, or (b) believes that there are relevant records in a private dwelling, he or she may apply to a judge of the District Court for a warrant authorising the entry by the authorised officer into the premises or the dwelling. […]	
Art. 18(1) 1st subpara.	*Article 18* **Transitional provisions** 1. Member States shall allow electronic money institutions that have taken up, before 30 April 2011, activities in accordance with national law transposing Directive 2000/46/EC in the Member State in which their head office is located, to continue those activities in that Member State or in another Member State in accordance with the mutual recognition arrangements provided for in Directive 2000/46/EC without being required to seek authorisation in accordance with Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive.	**Reg. 77(1) of S.I. No. 183 of 2011**	**Regulation 77(1) of S.I. No. 183 of 2011** 77. (1) A person (not being an individual nor a person to which Regulation 78 applies) that commenced before 30 April 2011, in accordance with the European Communities (Electronic Money) Regulation 2002 (S.I. No. 221 of 2002), to carry on the activities of an electronic money institution in the State may continue to issue electronic money until 30 October 2011.	**CONFORM** Regulation 77(1) of S.I. No. 183 of 2011 provides legal certainty. In line with Recital 23 of the Directive. Regulation 77(1) of S.I. No. 183 of 2011 lays down transitional arrangements. It states that electronic money institutions that have been authorised and are operating before 30 April 2011 in accordance with the European Communities (Electronic Money) Regulations 2002, S.I. No. 221 of 2002, which is the old regime governing electronic money in Ireland, may continue to do so until 30 October 2011. If those institutions do not comply with the requirements of this Directive by 30 October 2011, they must cease their activities. On the basis of the above, Regulation 77(1) of S.I. No. 183 of 2011 conforms to Article 18(1), first subparagraph of the Directive.

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Art. 18(1) 2nd subpara.	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.	**Reg. 77 of S.I. No. 183 of 2011**	**Regulation 77of S.I. No. 183 of 2011** 77. (1) A person (not being an individual nor a person to which Regulation 78 applies) that commenced before 30 April 2011, in accordance with the European Communities (Electronic Money) Regulation 2002 (S.I. No. 221 of 2002), to carry on the activities of an electronic money institution in the State may continue to issue electronic money until 30 October 2011. (2) If a person referred to in paragraph (1) satisfies the Bank that the person complies with the requirements in Chapters 2, 3, 4 and 8 of Part 2, the Bank shall grant authorisation to the person and shall register the person. The Bank shall notify the person before granting the authorisation. (3) The Bank may revoke an authorisation granted under paragraph (2) as if the authorisation had been granted under Chapters 2, 3, 4 and 8 of Part 2.	**CONFORM** Regulation 77 of S.I. No. 183 of 2011 transposes Article 18(1), second subparagraph of the Directive. Regulation 77(1) and (2) of S.I. No. 183 of 2011provide that the electronic money institution must submit prior to 30 October 2011 the necessary information in order for the Central Bank to assess whether or not the electronic money complies with the requirements laid down in this Directive. Failure to either fulfil or comply with the requirements pursuant to Chapters 2, 3, 4 and 8 of Part 2 of the Statutory Instrument can result in the withdrawal of an authorisation issued to an electronic money institution in accordance with Regulation 77(3). On the basis of the above, Regulation 77 of S.I. No. 183 of 2011 conforms to Article 18(1), second subparagraph of the Directive.
Art. 18(1) 3rd subpara.	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	**Reg. 77(2) and (3) of S.I. No. 183 of 2011**	**Regulation 77(2) and (3) of S.I. No. 183 of 2011** (2) If a person referred to in paragraph (1) satisfies the Bank that the person complies with the requirements in Chapters 2, 3, 4 and 8 of Part 2, the Bank shall grant authorisation to the person and shall register the person.	**CONFORM** Regulation 77(2) and (3) of S.I. No. 183 of 2011 transpose Article 18(1), third subparagraph of the Directive. Pursuant to Regulation 77(2) of S.I. No. 183 of 2011, the Central Bank may grant authorisation if the electronic money institution fulfils the requirements pursuant to Chapters 2, 3, 4 and 8 of Part 2 of S.I. No. 183 of 2011. The electronic money institution will be entered into the Register.

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	from issuing electronic money.		The Bank shall notify the person before granting the authorisation. (3) The Bank may revoke an authorisation granted under paragraph (2) as if the authorisation had been granted under Chapters 2, 3, 4 and 8 of Part 2.	Mere fulfilment of the requirements pursuant to Chapters 2, 3, 4 and 8 of Part 2 of S.I. No. 183 of 2011will not suffice. Although it is not expressly stated, it can be inferred from the scope and the spirit of Statutory Instrument that compliance with the aforementioned requirements is necessary. Failure to either fulfil or comply with the requirements pursuant to Chapters 2, 3, 4 and 8 of Part 2 can result in the withdrawal of an authorisation issued to an electronic money institution in accordance with Regulation 77(3) of S.I. No. 183 of 2011. Such a withdrawal shall be as per Regulation 27 of S.I. No. 183 of 2011. In such an event, this would mean that an electronic money institution would be prohibited from issuing electronic money. On the basis of the above, Regulation 77(2) and (3) of S.I. No. 183 of 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.	**N/A**	N/A	Article 18(2) of the Directive lays down an option. Ireland did not elect to apply the option provided for in the Directive article. This option facilitates the automatic authorisation of an electronic money institution where the competent authority has evidence that the institution complies with Articles 3, 4 and 5 of the Directive, which provide for application details, general prudential rules, initial capital and own funds. Not only is there no reference to such automatic authorisation within the S.I. No. 183 of 2011, but such authorisation can also not be inferred from the provisions of the Statutory Instrument.
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	**Reg. 78 of S.I. No. 183 of 2011**	**Regulation 78 of S.I. No. 183 of 2011** 78. (1) A person who— (a) in accordance with the European Communities (Electronic Money) Regulations 2002 commenced before 30 April 2011 to carry on the activities	**CONFORM** Regulation 78 of S.I. No. 183 of 2011 transposes Article 18(3) of the Directive. Regulation 78(1) of S.I. No. 183 of 2011is a transitional provision that stipulates that where an electronic money institution has availed of a waiver under Regulation 19 of S.I. No. 221 of 2002 prior to 30 April 2011, it may

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	concerned in accordance with Directive 2000/46/EC until 30 April 2012, without being required to seek authorisation under Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive. Electronic money institutions which, during that period, have been neither authorised nor waived within the meaning of Article 9 of this Directive, shall be prohibited from issuing electronic money.		of an electronic money institution in the State, and (b) qualified for a waiver under Regulation 19 of the Regulations referred to in paragraph (a), may continue to issue electronic money within the State and not be subject to Part 2 until 30 April 2012. (2) If a person referred to in paragraph (1) notifies the Bank that the person intends to continue the issuance of electronic money and provide a payment service, and satisfies the Bank that it qualifies as a small electronic money institution, the Bank shall register the person as a small electronic money institution. (3) The Bank may direct that a person referred to in paragraph (2) shall not engage in one or more of the activities which fall within Regulation 28(1).	continue to carry out those activities in accordance with S.I. No. 183 of 2011 until 30 April 2012 without requiring authorisation under S.I. No. 183 of 2011. Moreover, Regulation 78 of S.I. No. 183 of 2011 provides that from 30 April 2012, if an electronic money institution availing of this transitional provision of S.I. No. 183 of 2011 has neither been authorised not waived as a small electronic money institution under Regulation 33 of S.I. No. 183 of 2011, that electronic money institution will be prohibited from issuing electronic money. It should be noted that Regulation 78(3) of S.I. No. 183 of 2011 reiterates that the Central Bank may specify which activities under Regulation 28(1), which transposes Article 6(1) of the Directive into Irish law, a small electronic money institution may engage in. On the basis of the above, Regulation 78 of S.I. No. 183 of 2011 conforms to Article 18(3) of the Directive.