

Decree

Having regard to article 59 of the Andorran Constitution, according to which, by law, the General Council may delegate the exercise of legislative functions in the Government.

In view of the legislative delegation in favour of the Government established in the eighth final provision of Law 27/2018, of October 25, of modification of Law 8/2018, of May 17, of payment services and electronic money, according to which the Government is entrusted that in the maximum period of six months from the entry into force of this Law publish the consolidated text of Law 8/2018, of May 17, in the Official Gazette of the Principality of Andorra, payment services and electronic money.

Given that, in accordance with the foreseen on the eighth final provision of Law 27/2018, this Law Decree consolidates the content of Law 8/2018, of May 17, of payment services and electronic money and includes the modifications that result from the Law 27/2018, of October 25, of modification of the Law 8/2018, of May 17, of the services of payment and the electronic money, and, at the same time, in order to ensure clarity in the consultation of this legislative Decree and preserve legal certainty, it is stated for each of these provisions which of the aforementioned laws causes it. In addition, those complementary provisions are not reproduced for reasons of temporality or due to the consequent legislative changes have been rendered ineffective.

At the proposal of the Minister of Finance, the Government, in the session of 6 of February of 2019, has approved the following Decree:

Unique article

It is ordered the publication in the Official Gazette of the Principality of Andorra of the consolidated text of the Law on payment services and electronic Money. It is reflected in this legislative decree the provisions of Law 8/2018, of May 17, on payment services and electronic money and the modifications resulting from Law 27/2018, of October 25, amending the Law 8/2018, of May 17, on payment services and electronic money.

Single final provision

This Decree will enter into force on the same day as it is published in the Official Gazette of the Principality of Andorra.

Published for public information.

Andorra la Vella, 6 of February of 2019

Antoni Martí Petit
Head of Government

Recast text of Law on payment services and electronic money

TITLE I. SCOPE, PURPOSE, AND DEFINITIONS

Article 1. *Purpose*

1. The purpose of this Act concerns the regulation of the provision of payment services and the issuance of electronic money within the territory of the Principality of Andorra, including some provisions relating to the legal regime and without prejudice to the application of consumer protection legislation, the rights and obligations related to the provision and use of payment services and the transparency of the terms and information requirements for payment services.

2. The AFA is the competent authority in terms of supervision, authorization and registry in relation with payment services provision and electronic money issuance within the Principality of Andorra.

Article 2. *Scope*

1. The territorial scope of this Act is governed by the following rules:

- a) This Act applies to the provision of payment services and the issuance of electronic money provided in the Principality of Andorra.
- b) The normative on the payment services applies in its entirety to payment transactions in euro, provided that the payer's and the payee's payment service providers are located in Andorra.
- c) When the transaction is denominated in a currency other than the euro and the payer's and the payee's payment service providers, or the sole payment service provider are located in Andorra, the regime on the transparency of terms and information requirements and the regime of rights and obligations in relation to the provision and use of payment services shall apply but only as regards the part of the transaction that is executed in Andorra, with the exception established in the implementing norms.
- d) When the transaction is denominated in euros or in a currency other than the euro and only the payer's or the payee's payment service providers are located in Andorra, the regime on the transparency of terms and information requirements and the regime of rights and obligations in relation to the provision and use of payment services shall apply but only as regards the part of the transaction that is executed in Andorra, with the exceptions established in the implementing norms.

2. Within the scope of this Act, *payment services* are:

- a) Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account.
- b) Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account.
- c) Execution of payment transactions, including transfers of funds by means of a payment account with the user's payment service provider or with another payment service provider:
 - execution of direct debits, including one-off direct debits,
 - execution of payment transactions through a payment card or a similar device,
 - execution of credit transfers, including standing orders.
- d) Execution of payment transactions where the funds are covered by a credit line for a payment service user:
 - i) execution of direct debits, including one-off direct debits,
 - ii) execution of payment transactions through a payment card or a similar device,
 - iii) execution of credit transfers, including standing orders.
- e) Issuance of payment instruments and/or acquisition of payment transactions.
- f) Money remittance.
- g) Payment initiation services.
- h) Account information services.

The list above can be expanded or adjusted by implementing norms.

3. The following shall not be deemed payment services within the meaning of this Act:

- a) payment transactions made exclusively in cash directly from the payer to the payee, without any intermediary intervention;

- b) payment transactions from the payer to the payee through a commercial agent authorized by an agreement to negotiate or conclude the sale or purchase of goods or services exclusively on behalf of the payer or the payee;
- c) professional physical transport of banknotes and coins, including their collection, processing and delivery;
- d) payment transactions consisting of the non-professional cash collection and delivery within the framework of a non-profit or charitable activity;
- e) services where cash is provided by the payee to the payer as part of a payment transaction following an explicit request by the payment service user just before the execution of the payment transaction through a payment for the purchase of goods or services;
- f) money exchange business, that is to say, cash-to-cash operations, where the funds are not held on a payment account;
- g) payment transactions based on any of the following documents drawn on the payment service provider with a view to placing funds at the disposal of the payee:
 - i) paper cheques in accordance with the Geneva Convention of March 19, 1931 providing a uniform law for cheques;
 - ii) paper cheques similar to those referred to in point (i) and governed by the laws of Member States that are not party to the Geneva Convention of March 19, 1931 providing a uniform law for cheques;
 - iii) paper-based drafts in accordance with the Geneva Convention of June 7, 1930 providing a uniform law for bills of exchange and promissory notes;
 - iv) paper-based drafts similar to those referred to in paragraph (iii) and governed by the laws of Member States of the European Union that are not party to the Geneva Convention of June 7, 1930 providing a uniform law for bills of exchange and promissory notes;
 - v) paper-based vouchers;
 - vi) paper-based traveller's cheques; or

- vii) paper-based postal money orders as defined by the Universal Postal Union.
- h) payment transactions carried out within a payment or securities clearing and settlement system between clearing and settlement agents, central counterparties, clearing houses and/or central banks and other participants of the system, and payment service providers, without prejudice to article 5;
- i) payment transactions related to securities asset servicing, including dividends, income or other distributions, or redemption or sale, carried out by persons referred to in paragraph (h) or by investment firms, credit institutions, collective investment undertakings or asset management companies providing investment services and any other entities allowed to have the custody of financial instruments;
- j) services provided by technical service providers, which support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and privacy protection services, data and entity authentication, information technology (IT) and communication network provision, provision and maintenance of terminals and devices used for payment services, excluding payment initiation services and account information services;
- k) services based on specific payment instruments that can only be used on a limited basis and that meet any of the following terms:
 - i) Instruments that allow the holder to acquire goods or services only in the issuer's facilities or within a limited network of service providers by virtue of a direct commercial agreement with a professional issuer;
 - ii) Instruments that can only be used to acquire a very limited range of goods or services;
 - iii) Instruments whose validity is restricted to the Principality of Andorra, provided at the request of a public sector company or entity, regulated by an Andorran public authority, for specific social or tax purposes, which serve to acquire specific goods or services from providers that have signed a commercial agreement with the issuer;
- l) the payment transactions of a network or electronic communication services performed additionally to the provision of electronic communication services in favor of a network or service subscriber.

- i) For the purchase of digital contents and voice services, regardless of the device used for the purchase or consumption of the digital contents and charged to the corresponding invoice, or
- ii) Performed from or through an electronic device and charged to the corresponding invoice, as part of a charity activity or for the acquisition of tickets;

provided that no payment transaction referred to in points i) and ii) exceeds EUR 50 and meets one of the following terms:

- The total monthly amount of a subscriber's payment transactions does not exceed EUR 300; or else
 - If the subscriber has a prepayment contract with the network or electronic communications service provider, the total monthly amount of the payment transactions does not exceed EUR 300;
- m) payment transactions carried out between payment service providers and their agents for their own account;
 - n) payment transactions and connected services between a parent undertaking and its subsidiary or between subsidiaries of the same parent undertaking, without any intermediary intervention by a payment service provider other than an undertaking belonging to the same group; or
 - o) services by providers to withdraw cash by means of automated teller machines provided by providers acting on behalf of one or more card issuers, which are not a party to the framework contract with the customer withdrawing money from a payment account, on condition that these providers do not conduct other payment services as listed in the first paragraph of this article. However, the client must be provided the information relative to any charges for the withdrawal of funds referred to in article 13 before the withdrawal, as well as the receipt of cash once the transaction has been completed.

Article 3. *Definitions*

For the purposes of this Act and its implementing norms, the following definitions shall apply:

1. Acquisition of payment transactions: A payment service provided by a payment service provider that has agreed with a payee, by means of a contract, to accept and process the payment transactions, so that a transfer of funds to the payee is executed.
2. AFA: Andorran Financial Authority.
3. Agent: means a natural or legal person that acts on behalf of a payment institution in providing payment services.
4. Authentication: means the procedure that allows the payment service provider to verify that identity of a payment service provider's user or the validity of the use of certain payment instrument, including the use of the user's personalized security credentials.
5. Strong costumer authentication: means authentication based on the use of two or more features categorized as knowledge (something only known by the user), ownership (something only owned by the user), and inherence (something that is part of the user), which are independent - that is, the breach of one does not compromise the reliability of the rest of features, conceived so that the confidentiality of the authentication data is protected.
6. Payee: means a natural or legal person who is the intended recipient of funds that have been the subject of a payment transaction.
7. Charge: means a charge levied by a payment service provider on the payment service user and directly or indirectly linked to a payment transaction.
8. Payment account: means an account held in the name of one or more payment service users that is used for the execution of payment transactions.
9. Consumer: Consumer within the meaning of letter f) of article 2 of the Act 13/2013, of June 13, on effective competition and consumer protection.
10. Digital content: means goods or services which are produced and supplied in digital form, the use or consumption of which is restricted to a technical device and which do not include in any way the use or consumption of physical goods or services.
11. Framework contract: means a payment service contract which governs the future execution of individual and successive payment transactions and which may contain the obligation and conditions for setting up a payment account.

12. Personalized security credentials: means personalized features provided by the payment service provider to a payment service user for the purposes of authentication.
13. Sensitive payment data: means data, including personalized security credentials which can be used to carry out fraud. For the activities of payment initiation service providers and account information service providers, the name of the account owner and the account number do not constitute sensitive payment data.
14. Value date: means a reference date used by a payment service provider for the calculation of interest on the funds debited from or credited to a payment account.
15. Business day: means a day on which the relevant payment service provider of the payer or the payment service provider of the payee involved in the execution of a payment transaction is open for business as required for the execution of a payment transaction.
16. Electronic money: a monetary value stored electronically, including magnetically, which represents a credit on the issuer and that is issued against the reception of funds to execute payment transactions, accepted by a natural or legal person other than the issuer of the electronic money.
17. Direct debit: means a payment service for debiting a payer's payment account, where a payment transaction is initiated by the payee on the basis of the payer's consent given to the payee, to the payee's payment service provider or to the payer's own payment service provider.
18. Issuance of payment instruments: means a payment service in which a payment service provider contractually agrees to provide a payer with a payment instrument that makes it possible to initiate and process the payer's payment transactions.
19. Electronic money issuer: the institutions referred in letter b) of paragraph 1 of article 4.
20. Electronic money institution: as defined in paragraph 3 of article 61 of Act 7/2013, of May 9, on the legal regime of bodies operating in the Andorran financial system and other provisions regulating the exercise of financial activities in the Principality of Andorra, a legal entity to which AFA has granted authorization in accordance with the second chapter of the Act 35/2010, of June, 3, on authorization regime for the creation of new operating bodies within the Andorran financing system, to provide payment services.

21. Payment institution: as defined in paragraph 1 of article 61 of Act 7/2013, of May 9, on the legal regime of bodies operating in the Andorran financial system and other provisions regulating the exercise of financial activities in the Principality of Andorra, a legal entity to which AFA has granted authorization in accordance with the second chapter of the Act 35/2010, of June, 3, on authorization regime for the creation of new operating bodies within the Andorran financing system, to provide payment services.
22. Funds: means banknotes and coins, scriptural money and electronic money.
23. Own funds: is the sum of Common Equity Tier 1 and Common Equity Tier 2 in accordance with current legislation.
24. Group: means a group of undertakings, which consists of a parent undertaking, its subsidiaries and the entities in which the parent undertaking or its subsidiaries have a holding as well as undertakings managed on a unified basis pursuant to a contract concluded with those undertakings or pursuant to provisions in the memorandum or articles of association of those undertakings or in which the administrative, directive or control board of directors of these companies are composed mainly of the same persons;
25. Payment instrument: means any personalized device(s) and/or set of procedures agreed between the payment service user and the payment service provider and used by the payment service user in order to initiate a payment order.
26. Micro-enterprise: For the purposes of this Act, a micro-enterprise shall be considered any natural or legal person, irrespective of its legal form, which performs an economic activity and which has less than 5 employees and where its annual business volume does not exceed 600,000 EUR.
27. 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.
28. Payment transaction: means an action, initiated by the payer or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee.
29. Remote payment transaction: means a payment transaction initiated through the Internet or a device that can be used for distance communication.

30. Payer: means a natural or legal person who holds a payment account and allows a payment order from that payment account, or, where there is no payment account, a natural or legal person who gives a payment order.
31. Payment order: any instruction given by a payer or payee to its payment service provider, requesting the execution of a payment transaction.
32. Cross-border payment: means an electronically processed payment transaction initiated by a payer or by or through a payee where the payer's payment service provider and the payee's payment service provider are located in different states within the Area.
33. Payment service provider: means persons or institutions referred to in article 4(1).
34. Account servicing payment service provider: means a payment service provider that provides a payer with one or more payment accounts and is in charge of their maintenance.
35. Account information service provider: means the payment service provider that professionally conducts the account information business.
36. Payment initiation service provider: means the payment service provider that professionally conducts the payment initiation business.
37. SEPA: means the single euro payments area.
38. Electronic communications service: means the service provided in exchange for remuneration, consisting, totally or mainly, in the transport of signals through electronic communications networks, including telecommunications services and broadcast network transmission services, but not services that supply contents transmitted through electronic communications networks or that exercise editorial control over these; information society services that do not consist, totally or mainly, in the transport of signals through electronic communications networks are also excluded.
39. Money remittance: means a payment service where funds are received from a payer, without any payment accounts being created in the name of the payer or the payee, for the sole purpose of transferring a corresponding amount to a payee or to another payment service provider acting on behalf of the payee, and/or where such funds are received on behalf of and made available to the payee.

40. Account information service: means an online service to provide consolidated information on one or more payment accounts held by the payment service user either with another payment service provider or with more than one payment service provider.
41. Payment initiation service: means a service to initiate a payment order at the request of the payment service user with respect to a payment account held at another payment service provider.
42. Payment service: Any of the services listed in paragraph 2 of article 2.
43. Payment system: means a funds transfer system with formal and standardized arrangements and common rules for the processing, clearing or settlement of payment transactions.
44. Reference exchange rate: means the exchange rate which is used as the basis to calculate any currency exchange and which is made available by the payment service provider or comes from a publicly available source.
45. Credit transfer: means a payment service for crediting a payee's payment account with a payment transaction or a series of payment transactions from a payer's payment account by the payment service provider which holds the payer's payment account, based on an instruction given by the payer.
46. Payment service user: means a natural or legal person making use of a payment service in the capacity of either payer or payee, or both.
47. Electronic communications network: means transmission systems and, if applicable, the communication or routing equipment and other resources that make it possible to transport signals by means of cables, Hertzian waves, optical means, or other electromagnetic means, including satellite networks, landline networks (for communication of circuits and packets, including the Internet) and mobile networks, power line systems, provided that they are used for the transmission of signals, networks used for sound and television broadcasting and cable television networks, regardless of the type of information transported.
48. Area: The Principality of Andorra and the Member States of SEPA.

Article 4. *Reserved activities*

1. The following categories of payment service providers may provide payment services professionally:

- a) the banking entities referred to in article 8 of Act 7/2013, of May 9, on the legal regime of bodies operating in the Andorran financial system and other provisions regulating the exercise of financial activities in the Principality of Andorra;
- b) the electronic money institutions referred to in article 61 of Act 7/2013, of May 9, on the legal regime of bodies operating in the Andorran financial system and other provisions regulating the exercise of financial activities in the Principality of Andorra;
- c) the payment institutions referred to in article 61 of Act 7/2013, of May 9, on the legal regime of bodies operating in the Andorran financial system and other provisions regulating the exercise of financial activities in the Principality of Andorra;
- d) the European Central Bank and the Eurosystem central banks, to the extent required by the SEPA rules;
- e) the Principality of Andorra, the AFA or local authorities when not acting in their capacity as public authorities;
- f) the Sociedad Estatal Correos y Telégrafos, S.A. and La Poste, Société Anonyme à Capitaux Publics, which render postal services in the Principality of Andorra since August 1, 1930, by virtue of the Franco-Spanish convention dated 1930 regarding the partnership and performance of postal services in the Andorran Valleys, regarding the payment services permitted by their respective national regulation, and provided that the provision of these services shall be executed in the framework of compliance with the minimum requirements established in paragraph 2 of article 6, or, in case of non-compliance with letters a) and b) of paragraph 2 of article 6, within the framework of the requirements established in paragraph 1 of article 6, in both cases with the exception of article 64 of Act 7/2013, of May 9, on the legal regime of bodies operating in the Andorran financial system and other provisions regulating the exercise of financial activities in the Principality of Andorra, and of any other authorization requirement that the AFA decides not to demand;
- g) Specialized credit (non-banking) entities, only with regard to the payment service referred to in letters d) ii) and e) of paragraph 2 of article 2; and
- h) the persons referred to in paragraph 2 of article 6, in relation to the services and with the limitations set forth in this Act.

No natural or legal persons other than the payment service providers listed in this section may provide payment services.

2. Payment service providers that perform one of the activities described in indents i) and ii) of letter (k) of paragraph 3 of article 2, or who perform both activities or who have executed in the last 12 previous months payment transactions for a total average monthly value higher than one million euro shall send the AFA a notification that contains a description of the services offers and in which it is specified to which of the exceptions established in indents i) and ii) of letter (k) of paragraph 3 of article 2 conduct of that business is considered to be subject.

On the basis of this notification, the AFA shall make a justified decision, on the basis of criteria established in letter (k) of paragraph 3 of article 2, should the activity not meet the criteria to be regarded as a limited network, and will inform the service provider.

3. Payment service providers that perform one of the activities described in letter (l) of paragraph 3 of article 2 shall send the AFA an external audited annual report certifying that the activity complies with the limits set out in letter (l) of paragraph 3 of article 2.
4. No natural or legal persons other than electronic money institutions authorized by the AFA for this purpose may issue electronic money except for the banking entities referred to in article 8 of Act 7/2013, of May 9, on the legal regime of bodies operating in the Andorran financial system and other provisions regulating the exercise of financial activities in the Principality of Andorra.

No natural or legal person other than those mentioned in the previous paragraph may issue electronic money.

5. Any natural or legal persons who infringe this article shall be penalized as established in article 36, without prejudice to any other liability in which they might incur.

Article 5. *Access to payment systems*

1. The rules on access of authorized or registered payment service providers that are legal persons to payment systems are objective, non-discriminatory and proportionate and that they do not inhibit access more than is necessary to safeguard against specific risks such as settlement risk, operational risk and business risk and to protect the financial and operational stability of the payment system.

Payment systems shall not impose on payment service providers, on payment service users or on other payment systems any of the following requirements:

- a) restrictive rule on effective participation in other payment systems;
 - b) rule that discriminates between authorized payment service providers or between registered payment service providers in relation to the rights, obligations and entitlements of participants; or
 - c) restriction on the basis of institutional status.
2. Section 1 shall not apply to payment systems composed exclusively of payment service providers belonging to a group.
3. In the case of denial, the participant shall provide the payment service provider requesting it with an explanation of the reasons why access has been denied.

TITLE II. LEGAL REGIME FOR THE AUTHORISATION OF PAYMENT INSTITUTIONS AND OF ELECTRONIC MONEY INSTITUTIONS

Article 6. *Legal regime for the authorization of payment service institutions and of electronic money institutions*

1. The authorization and legal regime for payment institutions or electronic money institutions is regulated by this Act and by Act 35/2010, of June, 3, on authorization regime for the creation of new operating bodies within the Andorran financing system, Act 7/2013, of May 9, on the legal regime of bodies operating in the Andorran financial system and other provisions regulating the exercise of financial activities in the Principality of Andorra, Act 8/2013, of May 9, on the organizational requirements and operating conditions of bodies operating in the financial system, investor protection, market abuse, and financial collateral arrangements, Act 10/2013, of May, 23, on the Andorran Finance Authority, and the corresponding development provisions.
2. Without prejudice to the previous paragraph, the AFA is authorized to exempt, in the terms established by a technical communication, from full or partial compliance with certain procedures and requirements relative to the conditions, the authorization process, qualified participations regime, initial capital, own funds and safeguard provisions, to the Andorran legal persons that intend to provide the payment services established in letters a) to f) of paragraph 2 of article 2 and that prior to the providing of such services request for the exemption set forth in this paragraph, provided that:

- a) The total average value of the payment transactions executed in the 12 previous months by the person in question, including potential agents for which full liability is assumed, does not exceed the amount to be established by implementing norms but in any case no higher than 3 million euros, and this condition shall be assessed taking into account the total value of payment transactions established in the business plan of the applicant requesting the exemption, unless an adjustment to that plan is required by the AFA; and
- b) None of the natural persons responsible for management or performance of the activity has been convicted for money laundering or funding of terrorism or other financial crimes.

The legal persons that obtain the mentioned exemption shall be treated as payment institutions in everything not expressly covered by the exemption, and in particular, shall be subject to the registration requirement established in article 7, to the safeguarding requirements established in article 8, to the subjection to prudential supervision by the AFA, to the requirements established in article 72 of Act 7/2013, of May 9, on the legal regime of bodies operating in the Andorran financial system and other provisions regulating the exercise of financial activities in the Principality of Andorra and to the need to comply with Act 14/2017, of June 22, on the prevention and fight against money laundering and the funding of terrorism.

Additionally, the legal persons referred to in this section shall notify the AFA of any change in their status as regards the terms specified in the letters a) and b) of this section. Should any of the conditions specified in letters a) and b) above cease to be met, an authorization shall be requested in accordance with the provisions in section 1 within a maximum period of 30 calendar days from the last calendar day of the month when the failure to meet the condition in question is verified. With this purpose, they shall verify, at least on a monthly basis, that the conditions are met on a continuous basis, sending the relevant report to the AFA in the format established by the AFA for this purposes by means of a technical communication.

In case of non-compliance with the term stated in letter (b) above, the subsequent authorization procedure to replace the mentioned persons shall be specifically subject to the fulfilment by the candidates to occupy management responsibility positions within the activity of such institution, of the honorability requirements set forth in the current legislation applicable to members of general management or to members of the board of directors of an operating institution within the financial system. Natural persons responsible for management or performance of the activity of the entity in question that have been convicted for money laundering or funding of terrorism or other financial crimes shall immediately leave their positions as members of the management body of the institution in question.

If any of the conditions described in letters a) and b) above are no longer met, and an authorization is not requested in accordance with paragraph 1, these institutions shall not continue to provide payment services.

The AFA may also establish that the legal persons registered under this section may engage only in certain activities listed in paragraphs 6 and 12 of article 61 of Act 7/2013, of May 9, on the legal regime of bodies operating in the Andorran financial system and other provisions regulating the exercise of financial activities in the Principality of Andorra.

3. Natural or legal persons that only provide the account information service established in letter (h) of paragraph 2 of article 2 shall only provide the documents established in letter (b) of article 11 of Act 35/2010, of June, 3, on authorization regime for the creation of new operating bodies within the Andorran financing system, as well as the documentation established in the implementing norms.

Likewise, natural or legal persons referred to in this section, shall be treated as payment institutions, but shall be exempt from fulfilment of the following requirements of the legal regime of payment institutions:

- a) the safeguard provisions laid down in article 8 of this Act,
- b) the requirements set out in paragraph 1 of article 66 ("*Share capital and own funds of payment institutions*"), article 71 ("*Solvency and liquidity standards*") and article 72 ("*Resource to agents*") of Act 7/2013, of May 9, on the legal regime of bodies operating in the Andorran financial system and other provisions regulating the exercise of financial activities in the Principality of Andorra, and
- c) the obligation established in paragraph 1 of article 19 of Act 8/2013, of May 9, on the organizational requirements and operating conditions of bodies operating in the financial system, investor protection, market abuse, and financial collateral arrangements.

Although natural or legal persons referred in this paragraph shall be treated as payment institutions, the provisions of Titles III, IV, VI and VII of this Act shall not be applied to them, with the exception of articles 12, 17 and 27 to 30 and paragraph 6 and 8 of article 13 of this Act and the relevant implementing norms.

Article 7. *Public register of payment service providers and electronic money institutions*

1. The AFA public register shall include:

- a) Authorized payment institutions and their agents;
 - b) Those entities that fall under the corresponding AFA exemption regarding compliance with some provisions that regulate the legal regime for payment institutions, in accordance with paragraph 2 of article 6;
 - c) The entities referred to in letter f) of paragraph 1 of article 4;
 - d) Those natural or legal persons that only provide the account information service and their agents, in accordance with paragraph 3 of article 6; and
 - e) Electronic money institutions.
2. The public register shall identify the payment services for which the payment institution is authorized or for which the natural or legal person has been registered, as applicable. Authorized payment institutions shall be listed in the register separately from natural or legal persons who only provide information service on accounts and from legal persons benefiting from the corresponding exemption. The register shall be publicly available for consultation, accessible online, and updated without delay.
 3. The AFA shall record in the public register any revocation of an authorization and any revocation of an exemption, as well as any other fact required under this Act and its development provisions.

Article 8. *Safeguarding requirements for payment institutions and electronic money institutions*

1. Payment institutions providing the services established in letters a) to f) of paragraph 2 of article 2 and, if applicable, electronic money institutions shall preserve the funds received from the payment service users or from another payment service provider to execute the payment operations or from the electronic money holders, respectively, by means of any of the following procedures:
 - a) The funds received from payment service users or from holders of electronic money shall not be commingled at any time with the funds of any other natural or legal person. If, at the end of the business day after the day of receipt of the funds, these have not yet been delivered to the payee or have not been transferred to another payment service provider or electronic money issuer, the funds shall be paid into a separate account in a banking institution or shall be invested in secure, liquid, low-risk assets as established by the AFA, which is

expressly authorized, by means of technical communication, and shall be protected as established below.

In this case, regardless of the general regime envisaged in the Decree of October 4, 1969 in relation to the cessation of payments and bankruptcies, the holders of the funds shall have the right to dissociate the accounts and the assets mentioned in the previous paragraph, for the benefit of the payment services users or electronic money holders, concerning possible claims from other creditors of the payment institution; or

- b) they shall be covered by an insurance policy from an insurance company or some other comparable guarantee from a credit institution, which does not belong to the same group as the payment institution or the electronic money institution themselves, for an amount equivalent to that which would have been segregated in the absence of the insurance policy payable in the event that the payment institution or the electronic money institution is unable to meet its financial obligations.
- 2. Where a payment institution uses a portion of funds referred to in paragraph 1 for future payment transactions with the remaining amount to be used for non-payment services, the portion of the funds to be used for future payment transactions shall also be subject to the requirements under paragraph 1.
 - 3. Where that portion is variable or unknown in advance, this paragraph shall apply on the basis of a representative portion assumed to be used for payment services provided such a representative portion can be reasonably estimated on the basis of historical data to the satisfaction of the AFA.
 - 4. Funds received by electronic money institutions in the form of payment-by-payment instruments need not be safeguarded until they are credited to the electronic money institution's payment account or are otherwise made available to the electronic money institution. In any event, such funds shall be safeguarded by no later than five business days after the issuance of electronic money.

Article 9. *Record-keeping*

Payment institutions and electronic money institutions shall keep all the documents required for purposes of this title and its development provisions for at least five years from the granting of the mandatory authorization, without prejudice to any other record-keeping provisions applicable to these institutions, particularly as regards Act 14/2017, of June 22, on the prevention of and money laundering and the financing of terrorism and Act 8/2013, of May 9, on the organizational requirements and operating conditions of bodies operating in the financial system, investor protection, market abuse, and financial collateral arrangements.

Article 10. *Access to accounts in banking entities*

Payment institutions shall have access to the payment account services of the banking entities in a manner that is objective, non-discriminatory, and proportional. This access shall be sufficiently broad to allow payment institutions to provide payment services in an efficient manner and without hindrances.

Any banking entity that denies this access shall give the reasons for its decision to the AFA.

TITLE III. TRANSPARENCY OF CONDITIONS AND INFORMATION REQUIREMENTS, AND RIGHTS AND OBLIGATIONS IN RELATION TO THE PROVISION AND USE OF PAYMENT SERVICES

Article 11. *Scope on the payment services*

1. Without prejudice to the provisions in paragraph 1 of article 2, payment services within the Principality of Andorra are governed by this title and its implementing norms. This title applies regardless of whether the payment service provider is a payment institution or any other institution that provides payment services under paragraph 1 of article 4.
2. To the extent permitted by implementing norms, the parties to a payment transaction may agree that the legal regime established in this title on transparency and information requirements, shall not apply totally or partially when the payment service user is not a consumer or a micro-enterprise.
3. The provisions in this Title shall apply without prejudice to other legal provisions, in particular the provisions relative to protection of consumers.

Article 12. *Transparency of conditions and information requirements for payment services*

1. The previous general information to be provided before a payment service user is bound by a contract or offer relative to a single payment transaction, the information to be provided to the user before and immediately after initiating a payment order, as well as the information to be provided to the user before and after the execution of the payment orders, including the transparency terms on costs and transactions shall be specified by implementing norms.
2. The previous general information to be provided before a payment service user is bound by a framework contract regulating payment transactions, as well as the information and terms to be notified to the user in the contract or together with the contract and the terms in which the contract may be amended or terminated shall be specified by implementing norms. Likewise, the information to be provided to payment service users (payers and/or payees of payment transactions) before and after the execution of the payment orders regulated by a framework contract, including the transparency terms on the costs of transactions, shall be specified by implementing norms.
3. Exceptions to the requirements for information applicable to low-value payment instruments and to electronic money may be established by implementing norms.
4. Certain provisions regarding the transparency of terms and information requirements may not apply to institutions that only provide the account information service, in the terms established by implementing norms.
5. Payment service providers shall not charge payment service users for the provision of information, except in the terms and subject to the limits to be established by implementing norms.
6. The burden of proof lies with the payment service provider to prove that it has complied with the information requirements as set forth in this article and its implementing norms.

Article 13. *Rights and obligations in relation to the provision and use of payment services*

1. Without prejudice to the provisions in the Act, the rights and obligations relative to the provision and use of the payment services shall be the object of implementing norms.
2. When a payment service user is a consumer or a micro-enterprise, it shall be entitled to receive the information corresponding to the payment service for free before he is bound by the payment service contract, in the form that is established in the implementing norms.

3. Should the payment service user not be a consumer or a micro-enterprise, the terms of the agreement between the payment service user and provider for non-application of the rights and obligations relative to the applicable charges, withdrawal of consent, proof of authentication and execution of payment transactions, refunds, the amounts transferred or received, and liability, shall be established in the implementing norms.
4. The user and the provider may also agree, in the terms laid down in the corresponding implementing norms, a different period for notification and rectification of unauthorized or incorrectly executed payment transactions, which in any case shall exceed 13 months.
5. Certain provisions regarding rights and obligations in relation to the provision and use of payment services shall not apply to those institutions that only provide the account information service, in the terms of this Act and its implementing norms.
6. The payment service provider shall not charge the payment service user for the fulfilment of its information obligations or for the corrective or preventive measures, with the exceptions set forth in the implementing norms. These charges shall be agreed by the payment service user and the payment service provider and shall be appropriate and in line with the payment service provider's actual costs.
7. Exceptions to the requirement for fulfilment of certain obligations for the provision of low-amount payment services shall be established in the implementing norms.
8. The provisions in this article shall apply without prejudice to other legal provisions, in particular the provisions relative to consumer protection.

Article 14. *Authorization of payment transactions*

1. A payment transaction is considered to be authorized only if the payer has given consent to execute the payment transaction. Consent to the execution of a payment transaction or a series of payment transactions shall be given in the form agreed between the payer and his payment service provider. This consent may also be given by means of the payee or the payment initiation service provider. In the absence of such consent, a payment transaction shall be considered to be unauthorized in the terms set forth by implementing norms.
2. Without prejudice to the established in this Act, the form, the notification procedure for giving consent and the time in which such consent is considered as given shall be agreed between the payer and the payment service provider, in the terms set forth by implementing norms.

3. The payer may withdraw his consent in the terms and with the limitations laid down in implementing norms.

Article 15. *Confirmation on the availability of funds*

1. An account servicing payment service provider, upon request from a payment service provider issuing card-based payment instruments, shall immediately confirm the availability of the funds in the payer's payment account for the execution of a card-based payment transaction, provided that the following terms are met:
 - a) The payment account of the payer is accessible online at the time of the request;
 - b) The payer has given explicit consent to the account servicing payment service provider to respond to requests from specific payment service providers to confirm that the amount corresponding to a certain card-based payment transaction is available on the payer's payment account;
 - c) The consent referred to in point (b) has been given before the first request for confirmation is made.
2. The payment service provider may request the confirmation referred to in section 1 when the following terms are met:
 - a) The payment has given his express consent to the payment service provider requesting this confirmation;
 - b) The payer has initiated the card-based payment transaction for the amount in question using a card-based payment instrument issued by the payment service provider;
 - c) The payment service provider is authenticated with the account servicing payment service provider before each request for confirmation, and is securely communicated with the account servicing payment service provider, in accordance with letter (d) of paragraph 1 of article 30.
3. Without prejudice to the application of the applicable regulations on data protection, the confirmation referred to in section 1 consists only in a simple "yes" or "no" answer, not a bank statement. This answer may not be retained or used for purposes other than the execution of the payment transaction with a card.

4. The confirmation referred to in paragraph 1 shall not allow for the account servicing payment service provider to block funds on the payer's payment account.
5. The payer may request the account servicing payment service provider to communicate to the payer the identification of the payment service provider and the answer provided.
6. This article shall not apply to payment transactions initiated by means of card-based payment instruments in which electronic money is stored.

Article 16. *Rules on access to payment account in the case of payment initiation services*

1. Any payer has the right to make use of a payment initiation service provider which is authorized to operate in the Principality of Andorra in order to obtain payment initiation services, provided that the corresponding payment account can be accessed online.
2. When the payer gives its explicit consent for a payment to be executed in accordance with article 14, the account servicing payment service provider shall perform the actions specified in paragraph 4 below in order to ensure the payer's right to exercise the use of the payment initiation service.
3. The payment initiation service provider shall:
 - a) Not hold at any time the payer's funds in connection with the provision of the payment initiation service;
 - b) Ensure that the personalized security credentials of the payment service user are not, with the exception of the user and the issuer of the personalized security credentials, accessible to other parties and that they are transmitted by the payment initiation service provider through safe and efficient channels;
 - c) Ensure that any other information about the payment service user, obtained when providing payment initiation services, is only provided to the payee and only with the payment service user's explicit consent;
 - d) Every time a payment is initiated, identify itself towards the account servicing payment service provider of the payer and communicate with the account servicing payment service provider, the payer and the payee in a secure way, in accordance with letter (d) of paragraph 1 of article 30;
 - e) Not store sensitive payment data of the payment service user;

- f) Not request from the payment service user any data other than those necessary to provide the payment initiation service;
 - g) Not use, access or store any data for purposes other than for the provision of the payment initiation service as explicitly requested by the payer;
 - h) Not modify the amount, the payee or any other feature of the transaction.
4. The account servicing payment service provider shall:
- a) communicate securely with payment initiation service providers in accordance with letter (d) of paragraph 1 of article 30;
 - b) immediately after receipt of the payment order from a payment initiation service provider, provide or make available all information on the initiation of the payment transaction and all information accessible to the account servicing payment service provider regarding the execution of the payment transaction;
 - c) treat the payment orders transmitted through the services of a payment initiation service providers in a non-discriminatory manner as regards the payment orders directly transmitted by the payer, except for objective causes, in particular as regards the terms, priority, or charges applicable;
5. The provision of payment initiation services shall not be dependent on the existence of a contractual relationship between the payment initiation service providers and the account servicing payment service providers for that purpose.

Article 17. *Rules on access to and use of payment account information in the case of account information services*

1. Payment service users are entitled to make use of account information services provider which is authorized to operate in the Principality of Andorra provided that the corresponding payment account can be accessed online.
2. The account information service provider shall:
 - a) provide his services exclusively on the basis of the payment service user's explicit consent;
 - b) ensure that the personalised security credentials of the payment service user are not, with the exception of the user and the issuer of the personalised security credentials, accessible to other parties and that when they are transmitted by

the account information service provider, this is done through safe and efficient channels;

- c) for each communication session, identify itself towards the account servicing payment service provider(s) of the payment service user and securely communicate with the account servicing payment service provider(s) and the payment service user, in accordance with letter (d) of paragraph 1 of article 30;
 - d) access only the information from designated payment accounts and associated payment transactions;
 - e) not request sensitive payment data linked to the payment accounts;
 - f) not use, access or store any data for purposes other than for performing the account information service explicitly requested by the payment service user, in accordance with data protection rules.
3. In relation to payment accounts, the account servicing payment service provider shall:
- a. communicate securely with the account information service providers in accordance with letter (d) of paragraph 1 of article 30; and
 - b. treat data requests transmitted through the services of an account information service provider without any discrimination for other than objective reasons.
4. The provision of account information services shall not be dependent on the existence of a contractual relationship between the account information service providers and the account servicing payment service providers for that purpose.

Article 18. *Payment instruments and their use*

1. Consent to a payment transaction may be given through the payment instrument, in which case the payer and the payment service provider may agree on an expenditure limit applicable to the payment transactions executed by means of this payment instrument.
2. If it has so agreed in the framework contract, the payment service provider may reserve the right to block the payment instrument for reasons objectively justified in the terms established in the implementing norms. The payment service provider shall unblock the payment instrument or replace it with a new payment instrument once the reasons for blocking no longer exist.

3. An account servicing payment service provider may also deny access to a payment account to an account servicing payment service provider or to a payment initiation service provider in the terms established in the implementing norms. The account servicing payment service provider shall give access to the payment account once the reasons to deny access no longer exist.
4. The payment service user's obligations and the personalized security credentials regarding the payment instruments, as well as those of the payment service provider, shall be developed by implementing norms.

Article 19. *Refunds for payment transactions initiated by or through a payee*

1. A payer is entitled to a refund from his payment service provider of an authorized payment transaction initiated by or through a payee that has already been executed, in the terms established in the implementing norms.
2. At the payment service provider's request, the payer shall bear the burden of proving such conditions are met.

Article 20. *Notification of unauthorized or incorrectly executed payment transactions*

The corresponding implementing norms shall specify the terms in which a payment service user may obtain rectification from the payment service provider or from the account servicing payment service provider of an unauthorized or incorrectly executed payment transaction.

Article 21. *Principles of liability of the payment service provider for unauthorized transactions*

1. Implementing norms shall establish the terms in which:
 - a) The payment service providers or, if applicable, the payment initiation service providers, in their respective fields of competence, are liable to the payment service users for unauthorized transactions;
 - b) Payment services users shall be entitled to the refund of the amounts of unauthorized transactions without prejudice to additional compensation that may be agreed in the contracts with payment service providers or to which the user may be entitled by law;
 - c) Where a payment service user denies having authorized a transaction or claims that it was not correctly executed, it is for his payment service provider to prove that the payment transaction was authenticated, or, if the transaction was initiated through a payment initiation service provider, the latter shall prove that the payment transaction

was authenticated. In this regard, the recorded use of a payment instrument shall not, by itself, constitute sufficient evidence of authorization nor prove that the payer acted fraudulently, with intent or gross negligence.

2. The terms of the right of recourse shall be established in implementing norms.

Article 22. *Principles of liability of the payment service user for unauthorized transactions*

In the terms established by the implementing norms and without prejudice to the provisions in the previous article, the user is only liable for up to 50 euros for the losses derived from unauthorized transactions resulting from the use of a lost or stolen payment instrument or from misappropriation of a payment instrument, except in the case of fraud or negligent, according to the case or due to a failure to fulfil his obligations.

Article 23. *Execution, denial, and revocation of payment transactions*

1. The provisions regulating the period of execution and value date of payment transactions shall be established in implementing norms. These provisions only apply to payment transactions in euro and payment transactions not in euro unless the payment service user and his payment service provider agree (with the limitations established in the implementing norms) that these provisions shall not apply.
2. The terms relative to the prohibition for the account servicing payment service provider to refuse to execute an authorized payment order, as well as those relative to notification in case of refusal of execution by the payment service provider, shall be established by implementing norms.
3. The payment service user may not revoke a payment order once it has been received by the payer's payment service provider, unless otherwise specified in this Act or its implementing norms.

Article 24. *Principles of liability of the payment service provider for non-execution, defective execution, or delay*

1. Where a payment order is initiated by the payer, the payer's payment service provider shall be liable to the payer for correct execution of the payment transaction, in the terms established in implementing norms.
2. Where a payment order is initiated by or through the payee, his payment service provider is liable to the payee for correct transmission of the payment order to the payment service provider of the payer.

3. The terms of the right of recourse shall be established in implementing norms.

Article 25. *Principles of liability in the case of payment initiation services for non-execution, defective execution, or delay*

In the case of payment orders initiated by the payer through a payment initiation service provider, the account servicing payment service provider shall refund the payer the amount of the transaction not executed, defectively executed, or executed with delay in the terms established in implementing norms. In these cases, the burden of proof lies with the payment initiation service provider, in the terms established in implementing norms.

Article 26. *No liability in exceptional and unforeseeable circumstances*

The liability established in this title shall not apply in exceptional and unforeseeable circumstances, in the terms established in the implementing norms.

TITLE IV. OPERATIONAL AND SECURITY RISK MANAGEMENT

Article 27. *Operational and security risk management*

1. Payment service providers shall establish a framework with appropriate mitigation measures and control mechanisms to manage the operational and security risks, relating to the payment services they provide. As part of that framework, payment service providers shall establish and maintain effective incident management procedures, including for the detection and classification of major operational and security incidents.
2. Payment service providers shall provide the AFA, at least on an annual basis and as established by the AFA, with an updated and comprehensive assessment of the operational and security risks relating to the payment services they provide and on the adequacy of the mitigation measures and control mechanisms implemented in response to those risks.
3. Taking into account market practice, the AFA is hereby enabled to regulate, by means of a technical communication, any issues relative to the establishment, application, and supervision of the security measures, including the mitigation measures and control mechanisms, as well as, if applicable, the certification processes. This technical communication shall be reviewed periodically, and, in any case, every two years.

Article 28. *Notification of incidents*

1. In the case of serious operational or security incidents, the payment service provider shall notify the AFA without undue delays.

If the security incident has, has had, or may have an impact on the financial interests of the users of his payment services, the payment service provider shall inform them, without undue delay, about the incident and of all measures that they can take to mitigate the adverse effects of the incident.

2. The AFA, by means of a technical communication, is authorized to regulate the classification of serious incidents referred to in section 1 above and the contents, format, including the standardized notification templates, and the procedures for notification of these incidents. The above referred technical communication shall also include criteria for the assessment of the importance of the incident. This technical communication shall be reviewed periodically, and, in any case, every two years.
3. Payment service providers shall provide the AFA, at least once a year, with the statistical data on the fraud relative to the various payment methods.

Article 29. *Authentication*

1. Payment service providers shall apply strong customer authentication when the payer:
 - a) Accesses his payment account online;
 - b) Initiates an electronic payment transaction;
 - c) Carries out any action through a remote channel which may imply a risk of payment fraud or other abuses.

Regarding the initiation of electronic payment transactions referred to in letter (b) of paragraph 1 above, in relation to remote electronic payment transactions, payment service providers shall apply strong customer authentication that includes elements which dynamically link the transaction to a specific amount and a specific payee.

2. Regarding section 1, payment service providers shall have adequate security measures to protect the confidentiality and integrity of the personalized security credentials of payment service users.

3. Sections 2 and 3 shall also apply when the payments are initiated by means of a payment initiation service provider. Sections 1 and 3 shall also apply when the information is requested through an account information service provider.
4. The account servicing payment service provider shall allow the payment initiation service provider and the account information service provider to rely on the authentication procedures provided by the account servicing payment service provider to the payment service user in accordance with sections 1 and 3 and, when the payment initiation service provider is involved, in accordance with sections 1, 2, and 3.

Article 30. *Technical standards for the regulation of authentication and communication*

1. By means of implementing norms, the authentication and communication technical requirements addressed to payment service providers shall be implemented in accordance with the implementing norms of the European Union arising from the implementation of Directive 2015/2366 and, if applicable, from the guidelines issued by the European Banking Authority on this matter, being the AFA enabled to issue the corresponding technical communications when applicable. These implementing norms shall specify the following:
 - a) The strong customer authentication requirements referred to in paragraphs 1 and 2 of article 29;
 - b) The exemptions from the application of paragraphs 1, 2 and 3 of article 29, in line with the criteria established in section 3 of this article;
 - c) The requirements to be met by the security measures in accordance with paragraph 3 of article 29 to protect the confidentiality and the integrity of the personalized security credentials of the payment service users; and
 - d) The requirements for common and secure open communication standards for purposes of identification, authentication, notification, and information, as well as for the application of security measures between the account servicing payment service provider, the payment initiation service providers, the account information service providers, the payees, and other payment service providers.
2. The function of the implementing norms referred to in section 1 above shall be:

- a) ensure an appropriate level of security for payment service users and payment service providers, through the adoption of effective and risk-based requirements;
 - b) ensure the safety of payment service users' funds and personal data;
 - c) secure and maintain fair competition among all payment service providers;
 - d) ensure technology and business-model neutrality;
 - e) allow for the development of user-friendly, accessible and innovative means of payment.
3. The exemptions referred to in point (b) of paragraph 1 shall be based on the following criteria:
- a) the level of risk involved in the service provided;
 - b) the amount, the recurrence of the transaction, or both;
 - c) the payment channel used for the execution of the transaction.
4. The implementing norms shall be reviewed on a periodical basis, and, if necessary, shall be updated to take into account, among other aspects, innovation and technological evolution.

TITLE V. ISSUANCE AND REDEEMABILITY OF ELECTRONIC MONEY

Article 31. *Issuance and redeemability*

1. Electronic money issuers shall issue electronic money at par value on the receipt of funds.
2. Upon request by the electronic money holder, electronic money issuers shall redeem, at any moment and at par value, the monetary value of the electronic money held.
3. The contract between the electronic money issuer and the electronic money holder shall clearly and prominently state the terms of redemption, including any fees relating thereto, and the electronic money holder shall be informed of those terms before being bound by any contract or offer.

4. Redemption may be subject to a fee only if stated in the contract in accordance with section 3 above and only in any of the following cases:

- a) where redemption is requested before the termination of the contract;
- b) where the contract provides for a termination date and the electronic money holder terminates the contract before that date; or
- c) where redemption is requested more than one year after the date of termination of the contract.

Any such fee shall be proportionate and commensurate with the actual costs incurred by the electronic money issuer.

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.

6. Where redemption is requested by the electronic money holder within the first year following the date of termination of the contract:

- a) the total monetary value of the electronic money held shall be redeemed; or
- b) where the electronic money institution carries out one or more activities other than the issuance of electronic money, 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.

7. Notwithstanding sections 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.

Article 32. *Prohibition of interest*

It is prohibited to grant interest or any other benefit related to the length of time during which an electronic money holder holds the electronic money.

TITLE VI. CLAIM PROCEDURES AND ALTERNATIVE SETTLEMENT OF DISPUTES

Article 33. *Settlement of complaints by payment service providers and electronic money issuers*

1. Payment service providers and electronic money issuers shall have a customer service that settles any complaints filed by their payment service users or electronic money holders, as applicable, under the provisions in paragraph 3 of article 14 of the Act 8/2013, of May 9, on the organizational requirements and operating conditions of bodies operating in the financial system, investor protection, market abuse, and financial collateral arrangements, without prejudice to bringing their complaints before the competent authority in matters of consumer protection in accordance with applicable law.
2. Payment service providers and electronic money issuers shall address all the issues brought within fifteen business days from receipt of the complaint. The reply shall be made available to the payment service user on paper, or, if so agreed by the payment service provider or electronic money issuer and the payment service user or electronic money holder, respectively, in another durable medium.
3. In exceptional situations, if an answer cannot be given within fifteen business days for reasons beyond the control of the payment service provider or the electronic money issuer, they shall send a provisional answer, clearly stating the reasons for the delay in the answer to the complaint and specifying the period in which the electronic service or electronic money user receives the final answer. In any case, the period for the receipt of the final answer may not exceed thirty-five business days.

Article 34. *Complaints before the competent authorities*

1. The AFA shall establish the procedures required for payment service users and electronic money holders or other interested parties, including consumers' associations, to file complaints relative to alleged breaches by payment service providers or electronic money issuers of the provisions in this act or their regulatory development or the technical communications issued by the AFA.
2. When applicable, and without prejudice to the right to bring proceedings before a court of justice, the reply from the AFA shall inform the complainant of the existence of the alternative settlement of disputes procedure established by virtue of article 35.
3. In any case, payment service users and electronic money holders may bring their complaints to the competent consumer authority as established in the relevant rules in relation thereto.
4. Prior to filing complaints and claims before the competent authorities, payment service users must have filed a claim in the terms established in article 33.

Article 35. *Alternative settlement of disputes procedure*

1. Payment service users and electronic money holders have the right to submit their claims to alternative dispute resolution procedures established in the current legislation on consumer protection, in order to resolve the conflicts between payment service users and their payment service providers, or between electronic money holders and electronic money issuers regarding the rights and obligations under this Act, its implementing norms or the technical communications issued by the AFA, as applicable.
2. In any case, payment service providers and electronic money issuers shall not refuse to submit to the mediation procedure in the terms established in paragraph 1 when the user requests such procedure.
3. The payment service provider shall inform the payment service user about the alternative dispute resolution proceedings which are available to deal with disputes concerning the rights and obligations arising under this Act, its implementing norms or the technical communications issued by the AFA, as applicable.
4. The information referred to in paragraph 3 shall be mentioned in a clear, comprehensive and easily accessible way on the website of the payment service provider, where available, at the office opened to the public, and in the general terms and conditions of the contract between the payment service provider and the payment service user. The payment service provider shall specify how to obtain further information on the alternative dispute resolution proceedings concerned and on the conditions thereof.

TITLE VII. DISCIPLINARY REGIME

Article 36. *Responsible persons*

1. Payment institutions or other authorized payment service providers and electronic money institutions shall be liable to sanctions if they incur in actions or omissions classified as infringements under the Act governing the financial system disciplinary regime.
2. The persons that incur in the actions or omissions typified as an infraction under letters h), i), j) and n) of article 15 and under letter l) of article 16 of the Act on the disciplinary regime of the financing system, shall as well, be considered responsible persons.
3. The provisions in this Title are without prejudice to other criminal or civil sanctions that may be applicable.

Additional provision. *SEPA implementing regulations* (Act 8/2018)

1. Notwithstanding the regulatory provisions that may be set forth by the Government, from the date of incorporation of the Principality of Andorra to SEPA and for payments denominated in euro or the national currencies of SEPA Member States other than euro:

- a) Payment services providers reachable for cross border payments inside the Principality of Andorra will be reachable, in accordance with SEPA rules, for cross border payments initiated elsewhere within another SEPA Member State.
- b) (Repealed by Act 27/2018, amending Act 8/2018)
- c) Credit transfers and direct debits will be carried out in accordance with SEPA harmonized standards. All in the terms dictated by the Government by means of the relevant decree.

2. If and to the extent new SEPA standards are introduced, the Government, by means of the relevant decree, will adapt national regulations to ensure compatibility.

3. Rules set forth pursuant to this additional provision will not be applicable to transactions between payment services providers or by payment services providers within their organizations.

First transitional provision. *Transitional regime applicable to natural or legal persons that were providing payment services and to entities that were issuing electronic money prior to the entry into force of Act 8/2018, of 17 May, on payment services and electronic money* (Act 27/2018)

- 1. This transitional provision is applicable to natural or legal persons that were providing payment services and to entities that were issuing electronic money, prior to the entry into force of Act 8/2018, of May 17, on payment services and electronic money, and that at the time of entry into force of this Act have not been authorized by the AFA or have not requested an authorization to the AFA and wish to continue providing payment services or issuing electronic money.
- 2. The natural or legal persons that were providing payment services referred to in paragraph 1 which intend to continue providing payment services shall:
 - a) Submit within 3 months since the entry into force of this Act, a request to the AFA in order to apply for a license under the regime provided for in paragraph 1 of Article 6 of Act 8/2018, of May 17, on payment services and electronic money (the "Act 8/2018, of May 17, on payment services and electronic money, as amended"); or

- b) Submit within 6 months since the entry into force of this Act, a request to the AFA in order to qualify for the exemption regime provided for in paragraph 2 of Article 6 of Act 8/2018, of May 17, on payment services and electronic money, as amended.

Should the applicant not obtain the mandatory authorization referred to in letter a), or the exemption referred to in letter b), within 3 months since the receipt of a complete application in the terms set forth in paragraph 3 of Article 5 of Act 35/2010, of June 3, on the authorization regime for the creation of new bodies operating in the Andorran financial system, the applicant must immediately cease to provide payment services. Likewise, natural or legal persons that provided payment services prior to the entry into force of Act 8/2018, of May 17, on payment services and electronic money, which within the term provided for in this transitional provision have not submitted the corresponding application to the AFA shall immediately cease their activity.

- 3. The institutions that were issuing electronic money referred to in paragraph 1 that wish to continue issuing electronic money, shall submit to the AFA, within 3 months since the entry into force of this Act, an application in order to obtain an authorization in the terms set forth in paragraph 1 of Article 6 of Act 8/2018, of May 17, on payment services and electronic money, as amended.

Should the applicant not obtain the mandatory authorization referred to in this section within 3 months since the receipt of a complete application in accordance with the terms set forth in paragraph 3 of article 5 of Act 35/2010, of June 3, on the authorization regime for the creation of new bodies operating in the Andorran financial system, the applicant must immediately cease to issue electronic money. Likewise, natural or legal persons that issued electronic money prior to the entry into force of Act 8/2018, of May 17, on payment services and electronic money, which within the term provided for in this transitional provision have not submitted the corresponding application to the AFA shall immediately cease their activity.

Second transitional provision. *Transitional regime applicable to institutions that, at the time of entry into force of this Act, have been authorized by the AFA to provide payment services or to issue electronic money or have requested authorization to do so (Act 27/2018)*

- 1. This transitional provision is applicable to entities that, at the time of entry into force of this Act,
 - a) have been authorized by the AFA to provide payment services or issue electronic money; or

- b) have requested authorization to provide payment services or issue electronic money and are awaiting for a resolution of the AFA,

in both cases, in accordance with letters b) and c) of paragraph 1 of Article 4 of Act 8/2018, of May 17, on payment services and electronic money, as amended.

2. The institutions referred to in letter a) of paragraph 1 that wish to continue providing payment services, save for those referred to in paragraphs 4 and 5 below, may continue providing the payment services for which they have been authorized and shall:
 - a) Submit to the AFA within 6 months since the entry into force of this Act, an exhaustive report detailing the transformations that the applicant will apply in order to adapt its organizational structure to the additional requirements pursuant to this Act and its implementing rules; or
 - b) Submit to the AFA within 12 months since the entry into force of this Act, an application in order to qualify for the exemption regime provided for in paragraph 2 of Article 6 of Act 8/2018, of May 17, on payment services and electronic money, as amended.

Where, within 3 months since the receipt of a complete application as referred to in the paragraphs above, the AFA is not satisfied that the above conditions are complied, and does not grant the authorization referred to in letter a) or the exemption referred to in letter b), the applicant must cease immediately to provide payment services.

3. The institutions referred to in letter b) of paragraph 1 who wish to continue with the application process in order to provide payment services or who wish to benefit from the exemption regime provided for in paragraph 2 of Article 6 of Act 8/2018, of May 17, on payment services and electronic money, as amended, will have a period of 3 months since the entry into force of this Act, which interrupts the resolution period, in order to submit to the AFA an exhaustive report detailing the transformations that the applicant will apply in order to adapt its organizational structure to the additional requirements imposed pursuant to this Act and its implementing rules or, where applicable, submit an exhaustive report detailing the fulfillment of the conditions required in order to benefit from the exemption regime provided for in paragraph 2 of Article 6 of Act 8/2018, of May 17 on payment services and electronic money, as amended.

Where, within 3 months since the receipt of a complete application in the terms set forth in paragraph 3 of Article 5 of Act 35/2010, of June 3, on the authorization regime for the creation of new bodies operating in the Andorran financial system, the AFA is not satisfied that the applicant complies with the requirements referred to in the paragraph above and does not grant the authorization referred to in letter a) or the

exemption referred to in letter b), both of paragraph 2, the applicant must immediately cease to provide payment services, as amended, in case the applicant has initiated them.

4. The institutions referred to in letter a) of paragraph 1 that wish to continue issuing electronic money or providing payment services may continue issuing electronic money and shall, within 6 months since the entry into force of this Act, provide the AFA with an exhaustive report detailing the transformations that the applicant will apply in order to adapt its organizational structure to the additional requirements pursuant to this Act and its implementing rules.

Where, within 3 months since the receipt of the complete application referred to in the paragraph above, the AFA is not satisfied that the above conditions are met, the applicant must immediately cease to issue of electronic money.

5. The institutions referred to in letter b) of paragraph 1 that wish to continue with the authorization process to issue electronic money, will have an additional period of 3 months since the entry into force of this Act, which interrupts the period in which the AFA must resolve on the granting of the authorization, in order to present to the AFA an exhaustive report detailing the transformations that the applicant will apply in order to adapt its organizational structure to the additional requirements imposed pursuant to this Act and its implementing norms.

Where, within 3 months since the receipt of a complete application, the AFA does is not satisfied that the above requirements are met, and does not grant the authorization referred to in paragraph 4, the applicant must immediately cease to provide payment services, in case the applicant has initiated them.

6. Notwithstanding the provisions of paragraph 2 of this article, the institutions authorized to provide the payment services set forth in letter g) of paragraph 1 of article 2 of Act 8/2018, of May 17, on payment services and electronic money will retain this authorization to provide payment services that are considered payment services included in letter c) of paragraph 2 of article 2 of Act 8/2018, as amended, if, no later than 24 months from the entry into force of this act, the AFA has certainty of the fulfilment of the requirements established in letter c) of paragraphs 1.1 and 1.2 of article 66 of Act 7/2013, of May 9, on the legal regime of bodies operating in the Andorran financial system and other provisions regulating the exercise of financial activities in the Principality of Andorra.

Third transitional provision. *Transitional regime applicable to institutions that provide payment initiation services or information on accounts prior to the entry in force of this Act (Act 27/2018)*

1. Entities that were providing payment initiation services or account information services prior to the date of entry into force of this Act may continue providing these services without obtaining the mandatory authorization within a maximum transitory period of 12 months from the entry into force of this Act. In the case of not having requested or not having obtained the corresponding mandatory authorization within this period, the entity shall immediately cease its activity of payment initiation services or account information services.
2. During the period referred to in tenth final provision of no application of the security measures referred to in articles 15, 16, 17 and 29 of this Act, no account servicing payment service provider shall block or obstruct the use of payment initiation and account information services for the accounts that they are servicing.

Forth transitional provision. *Transitional regime applicable to contracts in force* (Act 27/2018)

The contracts concluded between payment service providers and their clients prior to the entry into force of this Act in order to regulate the conditions under which the payment services will be carried out, will continue to be valid without prejudice to the application, as from the entry into force of this Act, of the mandatory provisions that are more favourable to the consumer.

Sixth final provision. *Authorization for issuance of subsequent regulatory development* (Law 8/2018)

The Government may enact any provision necessary to develop, implement and enforce the provisions in this Act. The Government may delegate all or part of the approval of these provisions in AFA.

Seventh final provision. *Coming into force* (Law 8/2018)

This Act will come into force the day following its publication in the Official Gazette of the Principality of Andorra (*Butlletí Oficial del Principat d'Andorra*).

Eight final provision. *Publication of consolidated texts* (Law 27/2018)

The Government is asked to publish in the Official Gazette of the Principality of Andorra (*Butlletí Oficial del Principat d'Andorra*), within a maximum period of 6 months from the coming into force of this Act, the consolidated text including the amendments introduced up to this date by this Act, and supplementary provisions of the following acts:

- Act 8/2018, of May 17, on payment services and electronic money.

- Act 35/2010, of June 3, on the authorization regime for the creation of new bodies operating in the Andorran financial system.
- Act 7/2013, of May 9, on the legal regime of bodies operating in the financial system and other provisions regulating the exercise of financial activities in the Principality of Andorra.
- Act 8/2013, of May 9, on the organizational requirements and operating conditions of bodies operating in the financial system, investor protection, market abuse, and financial collateral arrangements.
- Act 10/2013, of May 23, of the National Andorran Finance Institute.
- Act on regulation of the disciplinary regime for the financial system, of November 27, 1997.
- Act 14/2017, of June 22, on the prevention and fight against money laundering and the funding of terrorism.

Ninth final provision. Implementing rules (Law 27/2018)

The government is hereby enabled to implement all the provisions of this Act which require so by means of implementing norms.

Tenth final provision. Entry into force (Law 27/2018)

1. This Act shall enter into force on the day following its publication in the Official Gazette of the Principality of Andorra (*Butlletí Oficial del Principat d'Andorra*).
2. Notwithstanding the above, the security measures referred to in articles 15, 16, 17 and 29 of the Act 8/2018, of May 17, on payment services and electronic money shall be applied as from January 1, 2020.
3. Finally, the entry into force of the additional provision entitled "SEPA implementing regulations" of Act 8/2018, of 17 May, on payment services and electronic money modified by this Act, on technical requirements and SEPA harmonized rules, regarding credit transfers and direct debit will apply, respectively and at the latest, within 12 and 24 months after the entry into force of this Act or on the day following the publication in the Official Gazette of the Principality of Andorra (*Butlletí Oficial*

del Principat d'Andorra) of the edict by which the accession of the Principality of Andorra to the SEPA is published, if this date were later.