

ACT
No. 124/2002
of 13 March 2002
on Transfers of Funds, Electronic Payment Instruments and Payment Systems
(the Payment System Act)

as amended by Act No. 257/2004 Coll., Act No. 62/2006 Coll., Act No. 70/2006 Coll., Act No. 120/2007 Coll. and Act No. 254/2008 Coll.

Parliament has passed this Act of the Czech Republic:

PART ONE
INTRODUCTORY PROVISIONS

Article 1

Subject

This Act incorporates the applicable regulations of the European Communities² and regulates:

- a) transfers of funds in the Czech currency within the territory of the Czech Republic and cross-border transfers (Article 2(2)),
- b) the issuing and use of electronic payment instruments,
- c) the establishment and operation of payment systems in any currency and the rights and obligations of the participants in such systems if the participants agree that such payment systems are to be governed by Czech law, and certain obligations of the participants in the payment systems operated under the laws of the member states of the European Union and of the other states constituting the European Economic Area.

PART TWO
TRANSFERS OF FUNDS

Basic provisions

Article 2

(1) This part of the Act governs:

- a) banks, branches of foreign banks and other undertakings which by way of business execute or intermediate transfers of funds, provided that such activities are carried on within the territory of the Czech Republic (hereinafter referred to as the “transfer institution”),

² Directive 97/5/EC of the European Parliament and of the Council of 27 January 1997 on cross-border credit transfers, Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems, Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions, and Directive 2000/46/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 (recast).

- b) natural or legal persons which give transfer orders (Article 4) directly to a transfer institution (hereinafter referred to as the “originator”) or which are the final recipients of a transfer (hereinafter referred to as the “beneficiary”). In the case of cross-border transfers pursuant to paragraph 2, banks, branches of foreign banks or other undertakings which by way of business execute or intermediate transfers of funds, undertakings authorised to provide investment services pursuant to a special legal rule³, insurance companies, investment companies, investment funds, pension funds and other undertakings which have their registered offices or places of business outside the Czech Republic and which by way of business carry on similar activities shall not be deemed originators.
- (2) “Cross-border transfer” shall mean a transfer of funds from one member state of the European Union or the European Economic Area to another member state of the European Union or the European Economic Area in a national currency of a member state of the European Union or state of the European Economic Area up to the equivalent of EUR 50,000. The equivalent shall be calculated according to the exchange rate announced by the European Central Bank as of the date of effectiveness of the transfer order.

Article 2a

- (1) The transfer institutions may execute or intermediate transfers of funds only under a licence to execute or intermediate transfers of funds (hereinafter referred to as a “fund transfer licence”), unless such activities are carried out under a banking, single or foreign exchange licence or an authorisation pursuant to a special legal rule^{2a}. A licence shall also not be required if the entity is authorised to carry on such activities pursuant to a special legal rule.
- (2) A foreign exchange licence under the Foreign Exchange Act shall be granted for the execution or intermediation of cross-border transfers referred to in Article 2(2).

Article 3

Transfer

- (1) For the purposes of this Act, “transfer” shall mean a transaction carried out on the basis of an order given by an originator to its transfer institution with a view to transferring funds to a beneficiary.
- (2) A transfer may be carried out, in particular, by way of debiting the originator’s account or by the originator making a cash payment, and by crediting the beneficiary’s account or making a cash payment to the beneficiary. The originator and the beneficiary may be one and the same person.

³ Article 8 of Act No. 591/1992 Coll., on Securities, as amended.

^{2a} Article 36 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.

- (3) Save for cross-border transfers, postal remittances as defined in a special legal rule⁴ shall not be deemed transfers.

Article 4

Transfer order

For the purposes of this Act, “transfer order” shall mean:

- a) an unconditional order given by an originator to a transfer institution to execute a transfer,
- b) an order given by an originator to a transfer institution to execute a transfer in respect of which all the conditions required by the originator have been fulfilled.

Article 5

Date of effectiveness of a transfer order

- (1) The “date of effectiveness” of a transfer order shall mean the date of fulfilment by the originator of all the contractual terms and conditions required by the originator’s transfer institution as to the execution of the transfer, of the conditions laid down in this Act (Article 6(1)) and of any other conditions laid down in special legal rules.
- (2) Where the originator specifies a date on which the funds should be debited to its account under the transfer order, the transfer order shall become effective on that date, provided that the conditions of effectiveness of the order have been fulfilled.

Article 6

Conditions of effectiveness of a transfer order

- (1) The securing of adequate cover of the amount of the transfer and the submission of the documents required by the transfer institution to execute the transfer shall constitute the conditions of effectiveness of the transfer order.
- (2) In its business terms and conditions, the transfer institution may, in particular, provide for an obligation of the originator to submit the transfer order prior to its date of effectiveness, a time limit for submitting the order, and the business hours during which transfer orders may be submitted.

Article 7

Reporting duty of the transfer institution

- (1) The transfer institution shall supply the public in advance with clear information in writing, including where appropriate by electronic means, and in a readily comprehensible form on its premises on the general terms and conditions for transfers. Such information shall include at least:

⁴ Article 2(b) of Act No. 29/2000 Coll., on Postal Services and Amendments to Certain Acts (the Postal Services Act).

- a) the time needed for the amount of the transfer to be credited to the account of the beneficiary's transfer institution, or the manner of calculation of that period; the start of that period must be clearly indicated,
 - b) the time needed for the amount of the transfer credited to the account of the beneficiary's transfer institution to be credited to the beneficiary's account or for the amount of the transfer to be made available to the beneficiary,
 - c) the amount, or the manner of calculation thereof, of any charges payable by the customer for the transfer,
 - d) the date on which the amount of the transfer will be debited to the customer's account where the customer is the originator, and the date on which the amount of the transfer will be credited to the customer's account or on which it will be made available to the customer where the customer is the beneficiary,
 - e) details of complaints and redress procedures, including information on procedures for the settlement of disputes (Article 12),
 - f) information on exchange rates used.
- (2) Unless it does not wish to execute a transfer, the transfer institution must, at an interested person's request, give it an undertaking concerning the time within which the transfer will be executed and charges payable by the interested person for the transfer.
- (3) The transfer institution shall subsequently supply its customer, unless the latter expressly forgoes this, with clear information in writing, including where appropriate by electronic means, and in a readily comprehensible form on transfers executed. The information shall include at least:
- a) a reference allowing the customer to identify the transfer,
 - b) the amount of the transfer as given in the transfer order,
 - c) the amount of the charges for the transfer payable by the customer,
 - d) the date on which the amount of the transfer was debited to the customer's account or the date on which the amount of the transfer was credited to the customer's account.
- (4) Where the originator has specified that the charges for the transfer are to be wholly or partly borne by the beneficiary (Article 10), the latter shall be informed thereof by his own transfer institution. Where any amount has been converted, the transfer institution which converted it shall inform its customer of the exchange rate used.

Article 8

Time limits for transfers

- (1) Transfer institutions shall execute transfers within the time limits laid down in paragraphs 2, 3 and 5 unless there are legal grounds for an extension.⁵
- (2) Where the originator's transfer institution transfers funds in the Czech currency within territory of the Czech Republic:
- a) between different transfer institutions, it shall ensure that the amount of the transfer be credited to the account of the beneficiary's transfer institution and submit the

⁵ e.g. Article 6 of Act No. 61/1996 Coll., on Certain Measures Against Money Laundering and on the Amendment of Related Acts, as amended by Act No. 159/2000 Coll.

- documents required by the beneficiary's transfer institution to credit the amount of the transfer to the beneficiary no later than on the banking business day following the date of effectiveness of the transfer order, unless a shorter time limit has been agreed,
- b) within the same transfer institution, it shall credit the amount of the transfer to the beneficiary on the date of effectiveness of the transfer order or on the following banking business day if the date of effectiveness of the transfer order is not a banking business day.
- (3) Where the originator's transfer institution executes a cross-border transfer, it shall ensure that the amount of the transfer be credited to the account of the beneficiary's transfer institution and submit the documents required by the beneficiary's transfer institution to credit the amount of the transfer to the beneficiary within the time limit agreed with the originator; in the absence of such a time limit, it shall do so within five banking business days following the date of effectiveness of the transfer order.
- (4) "Banking business day" shall mean a day on which all the transfer institutions participating in the execution or intermediation of the relevant part of the transfer usually carry on their activities.
- (5) The beneficiary's transfer institution shall credit the amount of the transfer to the beneficiary's account or ensure that the amount of the transfer be made available to the beneficiary no later than on the banking business day following the date on which the amount of the transfer was credited to the account of the beneficiary's transfer institution and on which that transfer institution received the documents it required to credit the amount of the transfer to the beneficiary, unless a shorter time limit has been agreed.
- (6) If the beneficiary's transfer institution is unable to identify the beneficiary of the amount of the transfer, it shall refund the amount of the transfer to the originator's transfer institution at the earliest opportunity.
- (7) If the beneficiary does not take receipt of the amount of the transfer made available to him, or if the amount of the transfer cannot be delivered to the beneficiary because of obstructions on the part of the beneficiary, the beneficiary's transfer institution shall refund the amount of the transfer to the originator's transfer institution within three banking business days following the expiry of six weeks from the date on which the amount was credited to the account of the beneficiary's transfer institution, save as agreed otherwise between the beneficiary and his transfer institution or the originator and his transfer institution.

Article 9

Interest on late payment

- (1) Where the originator's transfer institution fails to comply with the time limit for executing the transfer laid down in Article 8(2) or (3), it shall pay interest on late payment to the originator. Where the beneficiary's transfer institution fails to comply with the time limit for crediting the amount of the transfer to the beneficiary laid down in Article 8(5), it shall pay interest on late payment to the beneficiary.

- (2) Where non-compliance with the time limit for executing the transfer to the account of the beneficiary's transfer institution laid down in Article 8(2)(a) or Article 8(3) is attributable to an intermediary transfer institution, that institution shall pay interest on late payment to the originator's transfer institution.
- (3) The interest on late payment shall be calculated on the basis of the amount of the transfer; the interest rate laid down in a special legal rule⁶ shall be applied when calculating the interest on late payment.
- (4) The originator's transfer institution or, as the case may be, the beneficiary's transfer institution shall pay interest on late payment even if it has not caused the failure to comply with the time limit, unless it can establish that the failure to comply with the transfer time limit is attributable to the originator or, as the case may be, the beneficiary of the amount of the transfer, or if the failure to comply with the transfer time limit is attributable to the circumstances referred to in Article 13.
- (5) In addition to interest on late payment, the originator, the beneficiary or the transfer institution shall be entitled to damages; this shall be without prejudice to their other rights.

Article 10

Prohibition of making deductions from the amount of the transfer

- (1) The originator's transfer institution, any intermediary transfer institution or the beneficiary's transfer institution shall each be obliged to execute the transfer for the full amount thereof without any deductions. This shall be without prejudice to the right of the beneficiary's transfer institution to levy a charge on the beneficiary relating to the administration of his account, provided that such a charge is not used to avoid the provisions of the first sentence, and in particular that such a charge in the case of a cross-border transfer does not exceed that for a transfer executed within the territory of the Czech Republic.
- (2) Paragraph 1 shall not apply if the originator has specified that the costs of the transfer are to be borne wholly or partly by the beneficiary.
- (3) Where the originator's transfer institution or an intermediary transfer institution breaches the obligation set out in paragraph 1, the originator's transfer institution shall, at the originator's request, credit, free of all deductions and at its own cost, the amount deducted or charged in an unauthorised manner to the beneficiary, unless the originator requests that the amount be credited to him.
- (4) Where an intermediary transfer institution breaches the obligation set out in paragraph 1, it shall credit the amount deducted or charged in an unauthorised manner, free of all deductions and at its own cost, to the originator's transfer institution or, if the originator's transfer institution so requests, to the beneficiary.

⁶ Government Order No. 142/1994 Coll., stipulating interest on late payment and late charges pursuant to the Civil Code.

- (5) Where the beneficiary's transfer institution breaches the obligation set out in paragraph 1, it shall credit the amount deducted or charged in an unauthorised manner, free of all deductions and at its own cost, to the beneficiary.

Article 11

Obligation in the event of non-execution of a transfer

- (1) If, following the date of effectiveness of a transfer order, the transfer is not executed within the time limit laid down in Article 8(2) or (3) nor is the amount of the transfer refunded pursuant to Article 8(6) or (7), the originator's transfer institution shall, at the originator's request, credit the originator with the amount of the transfer plus interest on late payment and the charges relating to the transfer paid by the originator. The originator's transfer institution shall discharge this obligation within fourteen banking business days following the date of delivery of the originator's request, unless the amount of the transfer has in the meantime been credited to the account of the beneficiary's transfer institution. If the originator's transfer institution fulfils this obligation, it is no longer obliged to complete the transfer.
- (2) The interest on late payment shall be calculated on the basis of the amount of the transfer for the period between the date of effectiveness of the transfer order and the date on which the amount pursuant to paragraph 1 is credited to the originator. The interest rate laid down in a special legal rule⁷ shall be applied when calculating the interest on late payment. Where interest on late payment pursuant to paragraphs 1 or 3 has been paid, neither the originator nor the transfer institution shall be entitled to interest on late payment pursuant to Article 9.
- (3) Each intermediary transfer institution which has accepted a transfer order from another transfer institution owes an obligation to refund at its own cost the amount of the transfer, including the related costs and interest, to the transfer institution which instructed it to carry out the order. In the case of a cross-border transfer, the intermediary transfer institution owes an obligation to refund the transfer institution which instructed it to carry out the order with an amount only up to an equivalent of EUR 12,500 plus interest on late payment and charges relating to the transfer that it has received.
- (4) If the transfer was not completed because of its non-execution by a transfer institution chosen by the beneficiary's transfer institution, paragraph 1 shall not apply. The beneficiary's transfer institution shall be obliged to make the amount of the transfer available to the beneficiary. The obligation of the originator's transfer institution to execute the transfer is thereby discharged.
- (5) If the transfer was not completed because of an error or omission in the instructions given by the originator to his transfer institution or because of non-execution of the transfer by a transfer institution chosen by the originator, paragraph 1 shall not apply. All transfer institutions involved in the transfer shall endeavour as far as possible to find and refund the amount of the transfer to the originator's transfer institution. These transfer institutions shall not refund the charges and interest paid for the intermediation of the transfer and are entitled to reimbursement of the costs incurred in refunding the amount of the transfer to the originator's transfer institution. If the

amount of the transfer has been recovered by, or refunded to, the originator's transfer institution, it shall refund the amount of the transfer to the originator minus any costs incurred.

- (6) In addition to the payment of the amount of the transfer and interest on late payment, the originator, the beneficiary or the transfer institution shall be entitled to damages; this shall be without prejudice to their other rights.

Article 12

Settlement of disputes

Customers may refer any disputes arising between transfer institutions and their customers during the execution of transfers of funds pursuant to this part of the Act to a body authorised to settle such disputes pursuant to a special legal rule. This shall be without prejudice to the customer's right to refer the dispute to a court of law.

Article 13

Situation of force majeure

Where a transfer institution can adduce that it has been prevented from fulfilling its obligations laid down in this part of the Act by unforeseeable circumstances beyond its control and that these circumstances, or the consequences thereof, were unavoidable or insurmountable, it shall be released from any liability for non-fulfilment of those obligations.

Article 13a

Fund transfer licence

(1) The application for a fund transfer licence (hereinafter referred to as the "application") shall be submitted to the Czech National Bank.

(2) The Czech National Bank shall grant the fund transfer licence provided that

a) the applicant; the person who is a member of the applicant, a statutory body of the applicant or a member of the statutory body of the applicant; the person who is to execute or intermediate transfers of funds for the applicant; and the real owner of the applicant under the Act on Certain Measures against Money Laundering and Terrorist Financing^{8a)} (hereinafter referred to as the "real owner") are persons of integrity pursuant to paragraph 3, and

b) the person who is to manage the applicant's business is a person of integrity and has appropriate qualifications referred to in paragraph 5.

(3) A person who has been lawfully convicted of a criminal offence

a) committed wilfully,
b) committed through negligence, the facts of which relate to the objects of business, unless such person is deemed not to have been convicted^{8b)},

^{8a)} Article 4(4) of Act No. 253/2008 Coll., on Certain Measures against Money Laundering and Terrorist Financing.

^{8b)} For example, Articles 69 and 70 of the Criminal Code and Article 363 et seq. of the Criminal Procedure Code.

shall not be considered a person of integrity for the purposes of this Act.

(4) Integrity shall be proved

a) for a natural person having his or her permanent or other address in the Czech Republic, by an extract from the Criminal Register not more than one month old; this shall not apply where the Czech National Bank can apply for such extract pursuant to a special legal rule;

b) for a foreign natural person and for a person who has resided outside the Czech Republic for an unbroken period of more than six months during the last five years, by a document analogous to an extract from the Criminal Register issued by a competent authority of the state in which such person has his or her permanent or other address, or of states in which such person has resided for an unbroken period of more than six months during the last five years. Where the state of permanent or other address of such person is not identical to the state of which such person is a citizen, integrity shall also be proved by a document issued by the state of which such person is a citizen.

(5) For the purposes of this Act, appropriate qualifications shall be such qualifications, including qualifications gained by practice, which enable a person to carry on the licensed activity and fulfil the duties related to such activity under the laws of the Czech Republic. Completed secondary school education^{8c)} shall be deemed an appropriate qualification. Work experience of at least six months with the registered or licensed activity under this Act shall be deemed sufficient practice. In the recognition of the professional qualifications of authorised persons, the Act on Recognition of Professional Qualifications^{8d)} shall be observed.

(6) The fund transfer licence shall be granted for an unlimited period of time and shall not be transferrable to another entity nor shall it pass to a legal successor.

Article 13b

Application for a fund transfer licence

(1) In addition to the elements stipulated by the Administrative Procedure Code, the application must also comprise

- a) basic information about the applicant;
- b) documents.

(2) The basic information about the applicant referred to in paragraph 1(a) shall be as follows:

- a) where the applicant is a legal entity, the date of its incorporation and the state of registration;
- b) where the applicant is a natural person, the citizenship and the passport number of a foreign natural person;
- c) the name and surname, citizenship, date of birth and permanent or other address of the person who is to manage the applicant's business and of the real owner.

(3) The documents referred to in paragraph 1(b) shall be as follows:

^{8c)} Act No. 561/2004 Coll., on Pre-school, Basic, Secondary, Tertiary Professional and Other Education (the Education Act), as amended.

^{8d)} Act No. 18/2004 Coll., on the Recognition of Professional Qualifications and Other Competences of Nationals of the Member States of the European Union and on the Amendment of Related Acts (the Recognition of Professional Qualifications Act), as amended.

- a) where the applicant is a legal entity
 - 1. the certificate of incorporation not more than one month old; an unincorporated legal entity shall submit a document proving its existence; a foreign legal entity shall submit an analogous document not more than one month old;
 - 2. a document proving the integrity of the applicant's statutory body or members of the applicant's statutory body and of the person who is to manage the applicant's business, and of the real owner;
 - 3. documents proving that the person who is to manage the applicant's business has attained the appropriate qualifications referred to in paragraph 13a(5);
 - 4. proof of the citizenship and permanent or other address of persons who are members of the applicant, the statutory body of the applicant or members of the applicant's statutory body; where a member is a legal entity, the document referred to in item 1 and information for the identification of its members stating specific natural persons and for the identification of the members of its statutory body or the persons which are its statutory body;
 - 5. a declaration made by the applicant that all the information he has stated and all the documents he has submitted are up-to-date, complete and truthful;
- b) where the applicant is a natural person
 - 1. the certificate of incorporation not more than one month old; an unincorporated person shall submit the relevant business licences; a foreign legal entity shall submit an analogous document not more than one month old
 - 2. a document proving the integrity of the applicant, of the person who is to manage the applicant's business and of the real owner;
 - 3. documents proving that the person who is to manage the applicant's business has attained the appropriate qualifications referred to in paragraph 13a(5);
 - 4. a declaration made by the applicant that all the information he has stated and all the documents he has submitted are up-to-date, complete and truthful.

Article 13c

Remedial measures

- (1) The Czech National Bank shall supervise compliance with the terms and conditions under which the fund transfer licence was granted.
- (2) If the Czech National Bank finds that the terms and conditions under which the fund transfer licence was granted have been contravened, it may, according to the nature and seriousness of the breach,
 - a) demand that the transfer institution remedy the situation within a specified period,
 - b) suspend the performance of activities ensuing from the fund transfer licence until the transfer institution remedies the situation,
 - c) revoke the transfer institution's fund transfer licence.

Article 13d

Revocation of a fund transfer licence

- (1) If the fund transfer licence was obtained on the basis of false information stated in the application, the Czech National Bank shall revoke the transfer institution's fund transfer licence.

(2) The Czech National Bank shall also revoke the fund transfer licence at the request of the holder thereof.

(3) The decision to revoke the fund transfer licence shall specify the date as of which the licence is revoked; the decision shall be published in the Commercial Bulletin.

Article 13e

Expiry of a fund transfer licence

The fund transfer licence shall expire on the day:

- a) on which a decision to revoke the fund transfer licence becomes effective;
- b) of the death of the natural person or the dissolution of the legal entity that is the transfer institution;
- c) from which, at the decision of the transfer institution, such transfer institution shall cease to carry on any activity for which a fund transfer licence is required.

PART THREE

ISSUING AND USE OF ELECTRONIC PAYMENT INSTRUMENTS

Article 14

Basic provisions

- (1) This part of the Act shall apply to:
 - a) banks, branches of foreign banks, the Czech National Bank, credit unions, electronic money institutions (Article 18b), foreign banks and foreign electronic money institutions which carry on activities within the territory of the Czech Republic under the single licence pursuant to the Act on Banks⁹⁾, and other undertakings which by way of business issue electronic payment instruments (Article 15(1)), provided that all these entities issue electronic payment instruments within the territory of the Czech Republic (hereinafter referred to as the “issuer”);
 - b) persons who, pursuant to a contract with the issuer, use electronic payment instruments (hereinafter referred to as the “holder”).
- (2) Article 20 shall apply to banks, credit unions and electronic money institutions also when carrying on their activities outside the Czech Republic.
- (3) The provisions of Article 18b(3) and Articles 18c to 18f shall apply to electronic money institutions also when carrying on their activities outside the Czech Republic. This does not apply to the requirements for the internal control system of an electronic money institution (Article 18d(4)) for the liquidity risk management area.

⁹⁾ Article 5a et seq. of Act No. 21/1992 Coll., on Banks, as amended by Act No. 126/2002 Coll.

Article 15

Electronic payment instruments and electronic money

- (1) “Electronic payment instrument” shall mean:
 - a) a remote access payment instrument, the use of which usually requires a personal identification code allocated by the issuer or similar proof of the holder’s identity,
 - b) an electronic money instrument.
- (2) “Electronic money instrument” shall mean a payment instrument that stores monetary value in electronic form .
- (3) “Electronic money” shall mean monetary value which:
 - a) represents a claim on the issuer,
 - b) is stored on an electronic money instrument,
 - c) is issued on receipt of funds of an amount not less in value than the monetary value of the electronic money issued, and
 - d) is accepted as a means of payment by undertakings other than the issuer.
- (4) Funds received do not constitute a deposit according to the Act on Banks if they are immediately exchanged for electronic money by undertakings authorised to issue electronic money (Article 18a).

Article 16

Model general terms and conditions

In order to protect holders, the Czech National Bank shall issue model general terms and conditions to govern the mutual rights and obligations of issuers and holders in connection with the issuing and use of electronic payment instruments. The first model general terms and conditions shall be issued by the Czech National Bank as of the date on which this Act takes effect. The model general terms and conditions and amendments thereto shall be published in the Bulletin of the Czech National Bank.

Article 17

Issuers’ general terms and conditions

- (1) In good time prior to issuing an electronic payment instrument, the issuer shall communicate to a person interested in the issuing of an electronic payment instrument its general terms and conditions for the issuing and use of electronic payment instruments.
- (2) In the introductory provisions of its general terms and conditions for the issuing and use of electronic payment instruments, the issuer shall state expressly whether those terms and conditions correspond to the model general terms and conditions of the Czech National Bank issued in accordance with Article 16 and shall describe any differences.

- (3) The issuer shall discharge the obligation referred to in paragraph 2 within three months of the date of issue of the model general terms and conditions of the Czech National Bank or any amendments thereto.
- (4) The issuer shall provide its general terms and conditions issued pursuant to paragraphs 1 to 3 to the Czech National Bank at the earliest opportunity following the issuance thereof or amendment thereto.

Article 18

Remote use of electronic payment instruments

If an electronic payment instrument has been used:

- a) without physical presentation, or
- b) without an identification of the holder with a personal identification code or similar proof of identity where the nature of the electronic payment instrument precludes physical presentation,

and if the holder declares that he did not use the electronic payment instrument himself, he shall be entitled to require the issuer to refund without delay the funds withdrawn as a result of such use of the electronic payment instrument.

Article 18a

Undertakings authorised to issue electronic money

Electronic money may only be issued by:

- a) banks and branches of foreign banks, provided that the activity of issuing and administering means of payment is stated in the licence granted to them,
- b) foreign banks, provided that they are authorised to issue means of payment within the territory of the Czech Republic under the single licence pursuant to the Act on Banks⁹,
- c) credit unions for their members, provided that the activity of issuing and administering means of payment is defined in the licence granted to them,
- d) electronic money institutions (Article 18b),
- e) foreign electronic money institutions which carry on activities pursuant to this Act within the territory of the Czech Republic under the single licence,
- f) the Czech National Bank,
- g) other undertakings on the basis of a Czech National Bank permit (Article 19).

Article 18b

Electronic money institutions and foreign electronic money institutions

- (1) An electronic money institution shall be a joint-stock company or a European company^{9a} which has its registered office within the territory of the Czech Republic, which issues electronic money and which has been granted a licence by the Czech National Bank to carry on such activity.

^{9a} Act No. 627/2004 Coll., on the European Company.

- (2) The Czech National Bank shall not provide a licence to an undertaking for which the difference in:
- a) the sum of its
 1. paid-up capital,
 2. paid-up share premium,
 3. statutory reserve funds,
 4. other reserve funds created from after-tax profit, save for specific reserve funds, and
 5. retained earnings, given in the financial statement verified by an auditor and approved by the General Meeting, whose distribution has not been decided on by the General Meeting, and
 - b) its accumulated losses, including losses for the preceding financial year

is not less than CZK 35,000,000.

- (3) The activities of electronic money institutions shall be subject to supervision performed by the Czech National Bank .

Article 18c

- (1) In addition to issuing electronic money, an electronic money institution may only carry on related activities and the storing of data, and only provided that such activities are specified in its licence.
- (2) An electronic money institution may not:
- a) grant any form of credit,
 - b) acquire a holding in the capital or the voting rights of other undertakings or exercise control^{9b} over them, save for undertakings providing ancillary services related to the issuing of electronic money by such institution.

Article 18d

- (1) Save as otherwise provided in this Act, Article 3(3) and Part Two to Part Twelve except the third sentence of Article 4(1), Article 4(2), Article 5, Article 7a(2), Article 8b, Article 11(2) and (3), Article 11a, Article 12a, Article 12b, Article 12c, Article 13, Article 14, Article 17, Article 19b, Article 20b, Article 20c, Article 22(1)(d), the first sentence of Article 24(1), Article 25(3), Article 26f(1)(a) to (f), Article 26g(2) and (3), Article 26i(d), Articles 37 to 38b, Article 38j(c), (d) and (e) and Article 39 of the Act on Banks shall apply *mutatis mutandis* to:
- a) an electronic money institution,
 - b) a foreign electronic money institution carrying on activities pursuant to this Act within the territory of the Czech Republic under the single licence⁹, although only insofar as they apply to a foreign bank carrying on activities within the territory of the Czech Republic under the single licence⁹.
- (2) The only activity recognised under the single licence^{9c} framework shall be the issuing of electronic money.

^{9b} Article 17a of Act No. 21/1992 Coll., as amended.

^{9c} Article 5d of Act No. 21/1992 Coll., as amended by Act No. 126/2002 Coll.

- (3) The Czech National Bank shall set forth in a decree the essential elements of an electronic money institution licence application; the essential elements of an application for consent to acquire or increase a qualifying holding in an electronic money institution, to a person concluding a control agreement with an electronic money institution or to a person executing a legal act aimed at taking control of an electronic money institution; and the essential elements of a notification of a reduction of a qualifying holding in an electronic money institution or of forfeiture of the position of parent undertaking in respect of an electronic money institution.
- (4) The Czech National Bank shall set forth in a provision the requirements for the internal control system of an electronic money institution and the terms and conditions for fulfilling the requirement of a special legislative act^{9d} for auditing the internal control system, including the risk management system. The requirements for the internal control system of an electronic money institution shall also apply, in respect of liquidity risk management, to branches of foreign electronic money institutions conducting business pursuant to this Act within the territory of the Czech Republic under the single licence.
- (5) An electronic money institution shall publish quarterly information on its shareholder structure and on its activities and financial indicators to the extent and in the manner provided for in a Czech National Bank provision.
- (6) An electronic money institution shall supply the Czech National Bank with information for the purposes of exercising supervision on a solo and consolidated basis. The Czech National Bank shall set forth in a provision the manner, structure, content and time limits for supplying the information.

Article 18e

- (1) An electronic money institution shall have at all times capital, in relation to its total financial liabilities related to outstanding electronic money, in the amount set by the Czech National Bank. The Czech National Bank shall set forth in a provision this amount and the capital structure of an electronic money institution, the manner of calculation thereof, the rules for the calculation of total financial liabilities related to outstanding electronic money and the rules for reporting these facts to the Czech National Bank.
- (2) The capital of an electronic money institution shall not fall below CZK 35,000,000.

Article 18f

- (1) An electronic money institution shall invest funds in the amount of its financial liabilities related to outstanding electronic money only in the assets defined by the Czech National Bank and under the terms and conditions stipulated by the Czech National Bank.

^{9d} Article 22(1) of Act No. 21/1999 Coll., as amended by Act No. 126/2002 Coll.

- (2) The Czech National Bank shall set forth in a provision a list of the assets referred to in paragraph 1, the terms and conditions for investing in such assets, including investment limits and limitations, the asset valuation method and the rules for reporting the calculation of compliance with the limits and limitations to the Czech National Bank.

Article 19

Conditions for the issuing of electronic money by other undertakings on the basis of a Czech National Bank permit

- (1) The other undertakings referred to in Article 18a(g) may issue electronic money only on the basis of a Czech National Bank permit, provided that the electronic money instrument issued to the holder stores electronic money equivalent to not more than EUR 150 in value and:
- a) the total amount of the issuer's liabilities related to outstanding electronic money normally does not exceed the equivalent of EUR 5,000,000 and never exceeds the equivalent of EUR 6,000,000; or
 - b) the electronic money issued by this undertaking is accepted as a means of payment only by a limited number of service providers, which:
 1. are subsidiaries or parent undertakings of the issuer or are subsidiaries of the same undertaking as the issuer; or
 2. have a close financial or business relationship with the issuer, such as a common marketing or distribution scheme; or
 3. provide their services in the same building, complex of buildings or other similarly closely limited area.
- (2) For the purposes of management of monetary policy and for statistical purposes, undertakings issuing electronic money pursuant to paragraph 1 shall notify the Czech National Bank of the volume of electronic money issued during the past six months as of 30 June and 31 December of each calendar year, no later than the end of the calendar month following the end of the reporting period. At the request of the Czech National Bank, such undertakings shall also provide other details concerning the issuing of electronic money.
- (3) The permit for issuing electronic money shall be granted by the Czech National Bank on the basis of an application in administrative proceedings. The Czech National Bank shall set forth the essential elements of the application in a decree.
- (4) The Czech National Bank shall supervise compliance with the terms and conditions under which the permit to issue electronic money was granted. If the Czech National Bank establishes that the issuer is in breach of the conditions under which the permit for issuing electronic money was provided, it may withdraw this permit in administrative proceedings.
- (5) The permit for issuing electronic money expires upon the entry into effect of any declaration of bankruptcy on the issuer's assets.

- (6) The Czech National Bank may set forth in a decree further details that are subject to reporting pursuant to paragraph 2, define the structure of such details, and stipulate the manner and time limits for submission thereof.

Article 20

Redeemability of electronic money

- (1) The issuer shall, during the period of validity of the electronic money at the holder's request, redeem electronic money at par value in coins or bank notes or by a transfer to an account free of charges other than those strictly necessary to carry out the redemption.
- (2) The issuer may stipulate a minimum threshold for redemption. This may not exceed the equivalent of EUR 10.
- (3) The conditions for redemption of electronic money shall be stated in a clear and readily comprehensible form in the issuer's general terms and conditions.

Article 21

Settlement of disputes

Holders may refer any disputes arising between issuers and holders in connection with the issuing and use of electronic payment instruments to a body authorised to settle such disputes pursuant to a special legal rule. This shall be without prejudice to the holder's right to refer the dispute to a court of law.

PART FOUR PAYMENT SYSTEMS

Article 23

Basic provisions

- (1) For the purposes of this Act, a payment system (hereinafter referred to as the "system") shall mean a system which allows for the transfer of funds, provided that:
- a) it has:
1. three or more participants, without counting those referred to in Article 24(2)(a) to (c), or
 2. two participants, without counting those referred to in Article 24(2)(a) to (c) where it allows for interconnection of systems included in the list referred to in Article 29(1), settlement systems pursuant to a special legal rule⁷ or settlement systems included in the list of the Commission of the European Communities and where one such system is governed by this Act;

⁷ Article 70b of Act No. 591/1992 Coll., as amended.

- b) it is operated pursuant to a written agreement made between all the participants in the system or pursuant to written agreements made between the system operator and the other participants in the system (hereinafter referred to as the “payment system agreement”);
 - c) the system operator is the holder of a licence to operate a payment system (Article 30);
 - d) it executes transfers of funds pursuant to the rules provided for in this Act and pursuant to standardised arrangements agreed between the participants in the system;
 - e) the Czech National Bank notifies the Commission of the European Communities of the existence of the system and of its name.
- (2) The system must be operated on the principle of settlement of individual items combined with verification of coverage thereof, or on the principle of settlement of the differences (balances) calculated from the mutual claims and obligations of the participants in the system or, as the case may be, a combination of those principles; it must also comply with the conditions set forth for those settlement principles by the Czech National Bank in a decree.
- (3) The interbank payment system operated by the Czech National Bank shall be deemed a system operated pursuant to this Act.

Article 24

Participants in the system

- (1) Participants in the system may be:
- a) banks and branches of foreign banks,
 - b) other undertakings authorised to receive deposits from the public and grant credits pursuant to a special legal rule,⁸
 - c) undertakings authorised to provide investment services pursuant to a special legal rule,¹
 - d) public authorities and publicly guaranteed undertakings,
 - e) foreign undertakings whose functions correspond to those of the undertakings referred to in subparagraphs a) to c) (hereinafter referred to as “financial institutions”) which participate in the system and are responsible for discharging the financial obligations arising from orders accepted by the system.
- (2) A participant in the system may furthermore be:
- a) an entity which accepts the orders of the financial institutions in the system and which acts as the exclusive counterparty of these financial institutions (hereinafter referred to as the “central counterparty”);
 - b) an entity providing to institutions and/or a central counterparty participating in the system, accounts through which transfer orders within such systems are settled and, as the case may be, extending credit to those institutions and/or central counterparties for settlement purposes (hereinafter referred to as the “settlement agent”);
 - c) an entity responsible for the calculation of the mutual claims and obligations of the orders of financial institutions, a possible central counterparty and/or a possible settlement agent (hereinafter referred to as the “clearing house”);

⁸ Act No. 87/1995 Coll., on Savings and Loan Associations and Certain Related Measures and on the Amendment of Czech National Council Act No. 586/1992 Coll., on Income Tax, as amended.

- d) the Czech National Bank, the central banks of other states, and the European Central Bank.
- (3) The same participant may act as a central counterparty, a settlement agent or a clearing house in the system, or carry out part or all of these tasks.
- (4) The participants in the system shall designate the system operator in the payment system agreement; the system operator must be one of the participants in the system referred to in paragraphs 1 or 2.

Article 25

Rules of the system

The rules of the system shall form an integral part of the payment system agreement. Such rules shall always stipulate:

- a) who is the system operator;
- b) who may be a participant in the system and on what terms;
- c) the rights and obligations of the participants in the system;
- d) the method for ensuring liquidity for clearing orders entered into the system;
- e) the method for clearing the mutual claims and obligations of participants in the system;
- f) the moment of acceptance of an order by the system, the method for transferring orders, and a specification of the hours during which the system accepts orders;
- g) the currency or currencies in which the system is operated.

Article 26

Order

For the purposes of this part of the Act, “order” shall mean any instruction by a participant in the system for the transfer through the system of funds to a beneficiary and for clearing thereof in compliance with the rules of the system.

Article 27

Irrevocability of an order

- (1) An order accepted by the system may not be revoked by a participant in the system, nor by a third party, from the moment of acceptance of the order defined by the rules of the system.
- (2) An adjudication of bankruptcy in respect of the assets of a participant in the system or a suspension and/or restriction of payments due to any other measures against a participant in the system (hereinafter referred to as a “suspension of payments”) shall not affect the right to use funds from that participant’s account maintained in that system to fulfil that participant’s obligations in the system in order to complete clearing in the system on the date of the adjudication of bankruptcy or suspension of payments.

- (3) An adjudication of bankruptcy in respect of the assets of a participant in the system or a suspension of payments shall not affect the obligation of the system to process the orders of that participant in the system or the validity or enforceability of those orders in respect of third parties, provided that the orders were accepted by the system in compliance with the rules of the system:
 - a) before the moment of adjudication of bankruptcy or suspension of payments;
 - b) at the moment of adjudication of bankruptcy or at the moment of suspension of payments, and after that moment where the orders are carried out on the day of the adjudication of bankruptcy or suspension of payments, only if the entities referred to in Article 24(2)(a) to (c) can prove that they were not aware of such adjudication of bankruptcy or suspension of payments even as a result of a notice pursuant to Article 29(4)(b) or Article 29(5).
- (4) An adjudication of bankruptcy in respect of the assets of a participant in the system or a suspension of payments shall not affect the rights to collateral security provided by that participant in the system to:
 - a) another participant in connection with that system,
 - b) the Czech National Bank,
 - c) central banks of other member states of the European Union or states of the European Economic Area or the European Central Bank, including the possibility of realising that collateral security.
- (5) For the purposes of this part of the Act, “collateral security” shall mean the rights to an asset serving to secure obligations.

Article 28

Reporting duties of the system operator and of participants in the system

- (1) Without prejudice to Article 23(1)(a), the system operator shall notify the Czech National Bank in writing without undue delay of any changes to the name, registered office or place of business of any participant in the system and of any reduction in the number of participants in the system.
- (2) The system operator shall be required to submit to the Czech National Bank an application for prior consent to any change pertaining to the participants in the system other than the changes referred to paragraph 1.
- (3) The system operator shall be required to submit to the Czech National Bank an application for prior consent to any amendment to the payment system agreement or to the rules of the system.
- (4) At the written request of a person who proves a legitimate interest, participants in the system shall be required to provide in writing without undue delay information about the systems operated pursuant to this Act in which they participate and about the rules of those systems.
- (5) The obligation referred to in paragraph 4 shall also apply to all entities having their registered offices or places of business in the Czech Republic which participate in systems operated under the laws of any other member state of the European Union or

state of the European Economic Area. Such entities shall also be required to notify the Czech National Bank in writing without undue delay of their participation in the given system, the designation of this system, the state which notified the Commission of the European Communities of the system and the address of their registered office or place of business, and of any changes to these facts immediately after such changes take effect.

Article 29

Reporting duties of the Czech National Bank

- (1) The Czech National Bank shall maintain lists of:
 - a) the systems operated pursuant to this Act, including the operators thereof and participants therein;
 - b) the systems operated under the laws of any other member states of the European Union and states of the European Economic Area, including participants therein whose registered offices or places of businesses are in the Czech Republic.
- (2) The Czech National Bank shall provide the information contained in the lists referred to in paragraph 1 to the regional and high courts and to the Supreme Court of the Czech Republic and shall disclose such information, also in a manner which allows remote access.
- (3) The Czech National Bank shall notify the Commission of the European Communities of the systems operated pursuant to this Act, their operators and participants, and of the withdrawal of any licence to operate such a system (Article 34).
- (4) If the Czech National Bank receives a notice of suspension of payments or of adjudication of bankruptcy in respect of the assets of a participant in a system operated pursuant to this Act, it shall be required to communicate the same at the earliest opportunity to:
 - a) the operator of the system whose participant the order concerns;
 - b) the participants in that system as defined in Article 24(2)(a) to (c).
- (5) The obligation of the Czech National Bank referred to in paragraph 4 shall also apply if it receives a notice of adjudication of bankruptcy in respect of the assets of a participant in a system operated pursuant to this Act or a notice of suspension of payments from the competent authorities of other member states of the European Union or states of the European Economic Area under the law of the relevant state.
- (6) If the Czech National Bank receives a notice of suspension of payments or of adjudication of bankruptcy in respect of the assets of a participant in a system operated under the law of another member state of the European Union or a state of the European Economic Area and the registered office or place of business of that participant in the system is in the Czech Republic, it shall be required to communicate the same at the earliest opportunity to the competent authorities of other member states of the European Union and states of the European Economic Area under the law of the relevant state.

Article 30

Licence to operate a payment system

- (1) An application for a licence to operate a payment system (hereinafter referred to as the “licence”) or an application for an amendment thereto shall be submitted by the system operator, in writing, to the Czech National Bank. The payment system agreement, including the rules of the system, shall be submitted together with the application for a licence or an amendment thereto.
- (2) A licence may be granted if:
 - a) the system operator is a joint-stock company having its registered office in the Czech Republic;
 - b) the system operator has paid-up capital of at least CZK 500,000,000, comprising pecuniary contributions in at least this amount;
 - c) the assets used to pay the capital are of transparent and unexceptionable origin;
 - d) the system operator is an entity capable of ensuring irrevocability of orders pursuant to Article 27;
 - e) the system operator has the technical and organisational prerequisites for pursuing the activities of the system, including functional management and control mechanisms and a risk management system commensurate with the scope of the intended system;
 - f) the persons nominated for executive managerial positions of the system operator with which are associated the powers and responsibilities laid down in the Articles of Association, and the members of the system operator’s statutory body, are competent, credible and experienced individuals;
 - g) the system operator has in place a strategy and programme of operations for the intended system based on realistic economic calculations;
 - h) the liquidity of the clearing of orders accepted by the system is ensured, the financial risks are secured, and the systemic risks have been eliminated.
- (3) The licence shall be granted to the system operator for an indefinite period and shall not be transferable to any other entity, nor shall it pass on to a legal successor.
- (4) The Czech National Bank may stipulate in the licence the conditions to be complied with when operating the system.
- (5) The Czech National Bank shall set forth in a decree the essential elements of the licence application.

Article 31

Supervision of the system and the confidentiality obligation

- (1) The activities of systems operated pursuant to this Act shall be subject to supervision by the Czech National Bank.
- (2) The system operator and the participants in the system shall provide the persons authorised to exercise supervision of the system with the required information and necessary co-operation.

- (3) All persons exercising supervision of the system shall maintain confidentiality regarding all information acquired in the context of the performance of their occupation, employment or duties. They may divulge to third parties information in aggregate form only such that the specific system or person in question cannot be identified. The obligation of confidentiality shall persist even after their occupation, employment or duties have ceased.
- (4) The persons referred to in paragraph 3 may use information acquired when performing their duties solely for executing tasks pursuant to this Act or in court proceedings concerning actions against decisions made in the context of exercising supervision of systems or in like proceedings before an international authority.
- (5) Subject to compliance with the statutory conditions, disclosure of information acquired in the context of exercising supervision of systems to an authority responsible for supervising banks, financial institutions or financial markets in the Czech Republic or in another state and to an authority responsible for supervising payment systems in another state shall not be deemed a breach of the confidentiality obligation.
- (6) Subject to compliance with the statutory conditions, disclosure of information acquired in the context of exercising supervision of systems to public authorities and other entities in the Czech Republic shall not be deemed a breach of the confidentiality obligation, provided that the information is disclosed for the performance of their duties:
 - a) as an authority involved in the liquidation or bankruptcy of a bank or financial institution,
 - b) of supervision of the authority referred to in subparagraph a),
 - c) as auditor of the statutory financial statements of a bank or financial institution,
 - d) of supervision of the authority referred to in subparagraph c),
 - e) of supervision of compliance with company law,
 - f) in combating money laundering, or imposing international sanctions for the purposes of maintaining international peace and security, protecting human rights and combating terrorism,
 - g) as a law enforcement authority,
 - h) as a central bank responsible for monetary policy,
 - i) as a system of insurance of deposit claims and insurance of investors.The same shall apply with respect to public authorities and other entities in other member states of the European Union and other states of the European Economic Area.
- (7) Information acquired in the context of exercising supervision of systems may also be disclosed to European Union bodies where necessary to meet the obligations of an international treaty which has been passed by Parliament, ratified and promulgated and which is binding on the Czech Republic, or pursuant to any similar international treaty that entered into force before 1 January 1993 (hereinafter referred to as an “international treaty”) and to other entities with whom the Czech Republic has entered into an agreement on exchange of information pursuant to an international treaty.

- (8) The information referred to in paragraphs 5 to 7 may be disclosed only on condition that the relevant institution has in place a regime of information protection at least within the scope of this Act.
- (9) Information acquired in the context of exercising supervision of systems from authorities in the Czech Republic which are subject to the statutory duty of confidentiality or from the authorities of other countries may be used solely for the purposes for which it was provided and may not be disclosed to any other person without the consent of the provider.

Article 31a

Procedural fine

- (1) The Czech National Bank may impose a procedural fine of up to CZK 100,000 on an operator, a participant in the system or a natural person who does not provide the persons authorised to exercise supervision of systems with the required information or the necessary co-operation pursuant to Article 31(2).
- (2) A procedural fine may be imposed repeatedly. The sum of such procedural fines shall not exceed CZK 200,000.
- (3) Proceedings to impose a procedural fine can be opened within two months of non-compliance with the duty.
- (4) Procedural fines shall be collected by the Czech National Bank and enforced by the customs office. Revenue from procedural fines shall constitute a state budget revenue.
- (5) The collection and enforcement of procedural fines shall be governed by the Act on Administration of Taxes and Fees^{11a}.

Article 32

Remedial measures

- (1) Should the Czech National Bank detect any shortcomings in the operation of a system, it may, according to the nature and seriousness of the shortcoming:
 - a) require that the system operator remedy the situation within a specified period,
 - b) suspend the performance of activities ensuing from the licence until the system operator remedies the situation,
 - c) order the system operator to ensure an extraordinary audit of the system or its participants at the expense of the system operator,
 - d) order the system operator to expel one or more of the participants from the system,
 - e) revoke the licence of the system operator.
- (2) “Shortcoming in the operation of a system” shall mean:
 - a) failure to comply with the conditions stipulated in the licence or to fulfil the conditions under which the licence was granted,

^{11a} Act No. 337/1992 Coll., on Administration of Taxes and Fees, as amended.

- b) failure to comply with this Act, special legal rules and the provisions issued by the Czech National Bank,
- c) endangering of the safety and soundness of the system,
- d) management of the system by persons who are not sufficiently competent or who are not trustworthy,
- e) a fall in capital below the limit provided for in Article 30(2)(b).

Article 33

Revocation of the licence

- (1) If the licence was obtained on the basis of false information stated in the application or if the system operator did not commence the activities of the system within 18 months of being granted its licence, the Czech National Bank shall revoke the licence.
- (2) The decision to revoke the licence shall specify the date as of which the licence is revoked; the decision shall be published in the Commercial Bulletin.
- (3) The Czech National Bank shall serve its decision to revoke the licence on the operator.

Article 34

Expiry of the licence

A licence shall cease to be valid on the day:

- a) as of which it was revoked,
- b) as of which the system operator is wound up,
- c) from which, in accordance with a decision adopted by the General Meeting, the system operator will cease to carry on any activity for which the licence is required,
- d) as of which the number of participants in the system drops below the limit provided for in Article 23(1)(a).

PART FIVE

Administrative offences

Article 34a

- (1) A legal entity or a natural person who is an entrepreneur shall be deemed to have committed an administrative offence if, in contravention of Article 2a, it executes or intermediates transfers of funds without a licence or in contravention thereof.
- (2) An issuer shall be deemed to have committed an administrative offence if it:

- a) fails to provide information on its general terms and conditions for the issuing and use of electronic payment instruments pursuant to Article 17(1),
 - b) fails to provide information in its general terms and conditions for the issuing and use of electronic payment instruments on the conformity of these conditions with, and any differences from, the model business terms and conditions of the Czech National Bank or any amendments thereto pursuant to Article 17(2) and (3),
 - c) fails to provide the Czech National Bank with its general terms and conditions for the issuing and use of electronic payment instruments pursuant to Article 17(4),
 - d) fails to redeem electronic money in compliance with Article 20(1) and (2), or
 - e) fails to specify the conditions for redemption of electronic money in compliance with Article 20(3).
- (3) An electronic money institution shall be deemed to have committed an administrative offence if it:
- a) carries on activities other than those referred to in Article 18c(1b),
 - b) grants credit or acquires a holding in the capital or the voting rights or exercises control^{9b} in contravention of Article 18c(2),
 - c) fails to comply with any of the requirements set forth by the Czech National Bank for the internal control system or any of the requirements of a special legislative act^{9d} for auditing the internal control system, including the risk management system, pursuant to Article 18d(4),
 - d) fails to comply with the reporting duty pursuant to Article 18d(5) or (6),
 - e) fails to observe any of the capital requirements pursuant to Article 18e, or
 - f) invests funds in contravention of the requirements pursuant to Article 18f(1).
- (4) A legal entity or a natural person shall be deemed to have committed an administrative offence if it:
- a) breaches a condition under which its permit for issuing electronic money was granted pursuant to Article 19(1), or
 - b) fails to comply with the reporting duty pursuant to Article 19(2) or (5).
- (5) A legal entity or a natural person carrying on business activities shall be deemed to have committed an administrative offence if it issues electronic money without a licence pursuant to Article 18b(1) or a Czech National Bank permit pursuant to Article 19(1).
- (6) An operator or a participant in a system shall be deemed to have committed an administrative offence if it:
- a) fails to comply with a condition stipulated as the principle of settlement pursuant to Article 23(2),
 - b) fails to provide notification of a change pursuant to Article 28(1), or
 - c) fails to submit an application for prior consent pursuant to Article 28(2) or (3).
- (7) A system operator shall be deemed to have committed an administrative offence if when operating the system it fails to comply with a condition stipulated in the licence pursuant to Article 30(4).

^{9b} Article 17a of Act No. 21/1992 Coll., as amended

- (8) A participant in a system or a legal entity or a natural person carrying on business activities referred to in Article 28(5) shall be deemed to have committed an administrative offence if it fails to provide information about the systems or about the rules of these systems pursuant to Article 28(4) or if it fails to comply with the reporting duty pursuant to Article 28(5).
- (9) A fine of up to CZK 1,000,000 shall be imposed for an administrative offence under paragraph 2, a fine of up to CZK 20,000,000 shall be imposed for an administrative offence under paragraph 4, and a fine of up to CZK 50,000,000 shall be imposed for an administrative offence under paragraphs 1, 3 and 5–8.

Article 34b

Joint provisions

- (1) A legal entity shall not be liable for an administrative offence if it proves that it made every effort that could possibly have been required to prevent the breach of its legal duty.
- (2) The gravity of the administrative offence, particularly the manner in which it was committed and its consequences and circumstances, shall be taken into account in determining the amount of the fine to be imposed on a legal entity.
- (3) A legal entity shall cease to be liable for an administrative offence if the administrative authority fails to open administrative proceedings on the offence within three years of the day the offence came to its knowledge, but no later than ten years from the day the offence was committed.
- (4) Administrative offences under this Act in the first instance shall be heard by the Czech National Bank.
- (5) The provisions of this Act regarding the liability of, and sanctions against, legal entities shall apply to liability for conduct arising from or directly related to the business activity of a natural person^{11b}
- (6) Fines shall be collected by the Czech National Bank and enforced by the customs office. A fine imposed shall be payable within 30 days from the day the decision to impose it became final and conclusive. Revenue from fines imposed shall constitute a state budget revenue.
- (7) Reimbursement of costs of proceedings for breaches of the duties laid down in this Act shall constitute a budget revenue of the Czech National Bank and shall be payable within 30 days from the day the decision to impose it became final and conclusive. The costs of proceedings shall be collected by the Czech National Bank.
- (8) The collection and enforcement of fines shall be governed by the Act on Administration of Taxes and Fees^{11a}.

^{11b} Article 2(2) of Act No. 513/1991 Coll., the Commercial Code, as amended by Act No. 85/2004 Coll.

PART SIX JOINT PROVISIONS

Article 35

- (1) Save as otherwise provided in this Act, the Czech National Act shall observe the Administrative Procedure Code when exercising its powers pursuant to Part Two to Part Five of this Act.
- (2) The Administrative Procedure Code shall not apply to the procedure referred to in Article 32(1)(a).
- (3) The party to proceedings pursuant to Part Two shall be the transfer institution; the party to proceedings pursuant to Part Three shall be the issuer; the party to proceedings pursuant to Part Four shall be the system operator.
- (4) Proceedings pursuant to Articles 32 and 33 may also be opened by the serving of a decision.
- (5) The time limit for execution of a decision issued pursuant to Article 32 shall be at least 24 hours.
- (6) An appeal may be filed against a decision of the Czech National Bank pursuant to Part Two to Part Five of this Act. Decisions concerning appeals shall be made by the Bank Board of the Czech National Bank. Appeals shall not have suspensory effect, save for appeals against decisions on the granting of a permit, appeals against decisions on the granting of, or amendment to, a licence and appeals against decisions to impose a procedural fine or a fine.

PART SEVEN EFFECT

Article 36

This Act shall take effect on 1 January 2003, save for Article 8(2)(b), which shall take effect on 1 January 2004, and save for the second sentence of Article 2(1)(b), Article 2(2), Article (8)(3), the second sentence of Article 11(3), Article 23(1)(e), Article 27(4)(c), Article 28(5), Article 29(1)(b), Article 29(3), (5) and (6), and the last sentence of Article 31(6), which shall take effect on the date the Treaty of Accession of the Czech Republic to the European Union enters into force.

SELECTED PROVISIONS OF AMENDMENTS

Article XXIV of Act No. 254/2008 Coll.

Transitional provision

Transfer institutions executing or intermediating transfers of funds as of the date of effect of this Act shall apply for a licence in accordance with Article 13a of Act No. 124/2002 Coll., on the Payment System, in the version effective as from the date of effect of this Act, within 18 months of the date of effect of this Act.

Note: Act No. 254/2008 Coll. takes effect on 1 September 2008.