

**Methodological Guideline No 2/2012  
of the Financial Market Supervision Unit  
of Národná banka Slovenska of 24 February 2012**

**on the pursuit of the business of electronic money institutions  
under the single European passport**

In order to ensure consistent practice in the application of certain provisions of Act No 492/2009 Coll. on Payment Services and on amendments to certain laws, as amended (hereinafter “the Act”), the Financial Market Supervision Unit of Národná banka Slovenska (hereinafter “NBS” or “Národná banka Slovenska”) issues this methodological guideline:

**PART I**

**Article 1**

**Purpose and scope of application**

(1) The aim of this methodological guideline is to provide:

- a) electronic money institutions located in the Slovak Republic, their payment service agents and other persons (distributors) with detailed information on procedures to be followed in taking up business in another Member State on the basis of the single European passport;
- b) foreign electronic money institutions located in another Member State, their payment service agents and other persons with detailed information on procedures to be followed in taking up business in the Slovak Republic on the basis of the single European passport.

(2) This methodological guideline regulates the procedures to be followed in establishing branches of electronic money institutions, in pursuing activities of electronic money institutions without establishing a branch and in providing payment services through a payment service agent and electronic money distribution and redemption by other persons on the basis of the single European passport.

**Article 2**

**Definitions**

(1) For the purposes of this methodological guideline the following definitions are used:

- (a) “Directive” means Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC;
- (b) “Member State” means a Member State of the European Union or a country that is a part of the European Economic Area;
- (c) “electronic money institution” means a legal entity located in the Slovak Republic and which has been granted authorisation to issue electronic money;
- (d) “payment service agent” means a person that provides, on the basis of a written contract with and on behalf of the electronic money institution, payment services not related to the issuing of electronic money;

- (e) “foreign electronic money institution” means a legal entity located in another Member State and which has been granted authorisation to issue electronic money by a Member State;
- (f) “payment service” under the Act means
  - “(a) placement of cash on a payment account as well as all the operations required for operating a payment account;
  - (b) 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 from or to a payment account with the user’s payment service provider
    - 1. by credit transfer;
    - 2. through a payment card or other payment instrument;
    - 3. by direct debit;
  - (d) execution of payment transactions with funds covered by a credit for a payment service user
    - 1. in the form of an authorised overdraft on a payment account, namely
      - 1a. by credit transfer;
      - 1b. through a payment card or other payment instrument;
      - 1c. by direct debit, or
    - 2. in the form of a credit facility through a payment card or other payment instrument
  - (e) money remittance;
  - (f) execution of payment transactions in which the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or information technology device and the payment is made to a telecommunications, information technology system or network operator, acting only as an intermediary between the payment service user and a supplier of goods and services;
  - (g) issuing or acquiring a payment card or other payment instrument.”;
- (g) “home Member State” means the Member State in which
  - (a) the registered office of the electronic money institution is situated, or
  - (b) the head office of the electronic money institution is situated, if the electronic money institution has, under its national law, no registered office;
- (h) “host Member State” means a Member State other than the home Member State in which an electronic money institution issues and administers electronic money or in which it has its agent or branch or in which it distributes or redeems electronic money through other persons.

(2) This methodical guideline does not deal with defining or characterising the terms “freedom to establish a branch” or “freedom to provide services”.

## **PART II**

### **Article 1**

#### **Exercise of the right to establish a branch and to freely provide services of an electronic money institution located in the Slovak Republic**

In accordance with Article 81(1), (2)(a), (b) and (c), (9) and (10) of the Act, an electronic money institution located in the Slovak Republic may issue and administer

electronic money in accordance with Article 81(1)(a), provide payment services under Article 2(1) of the Act and distribute and redeem electronic money (hereinafter “provide services”) in another Member State through its branch or without establishing a branch.

- I. An electronic money institution wishing to issue and administer electronic money in another Member State for the first time without establishing a branch shall notify Národná banka Slovenska in writing of the following information:
  - a) the name and registered office of the payment institution;
  - b) the host Member State in which it intends to provide payment services;
  - c) on the issue and administration of electronic money, the type of payment services it intends to provide in the host Member State.
- II. Where an electronic money institution intends to establish a branch in another Member State, it shall also state, in addition to the above mentioned information,
  1. the registered office of the branch in the host Member State;
  2. the first and last names and permanent address of the person(s) responsible for managing the branch;
  3. the organisational structure of the planned branch.
- III. Where an electronic money institution intends to provide payment services in another Member State through an agent that has a registered office in the Slovak Republic the notification shall take the form of that used for cross-border activities and the electronic money institution shall notify Národná banka Slovenska in writing of the following information:
  1. the name and registered office of the electronic money institution;
  2. the name and address of the agent;
  3. the type of payment services the electronic money institution intends to provide in the host Member State through an agent acting on its behalf;
  4. its intention to distribute or redeem electronic money.

Moreover, where payment services are provided through an agent located in the host Member State and this entity is notified as a branch the electronic money institution shall also notify Národná banka Slovenska in writing of the following information:

1. the names of persons responsible for managing the nominated agent;
  2. the organisational structure of the nominated agent falling under the jurisdiction of the host Member State and the organisational structure of each existing agent in the host Member State.
- IV. Where an electronic money institution intends to distribute or redeem electronic money in another Member State through other persons (Article 81(10) of the Act) the notification shall take the form of that used for entities’ cross-border activities, and it shall be obliged to notify Národná banka Slovenska in writing also of the following information:
    1. a list of all the other persons;
    2. the first and last names, permanent residence addresses and registered offices in another Member State and the date of birth if the other persons are natural persons;
    3. in the case of an initial notification also a full description of the electronic money institution’s internal control system, including measures adopted in order to comply

with the Member State's legislation in the area of the prevention of money laundering and financing of terrorism.

Národná banka Slovenska and the competent supervisory authority of the host Member State may subsequently require from one other and exchange information concerning the discharge of their duty to supervise the electronic money institutions and services provided by them (e.g. procedures related to the prevention of money laundering and financing of terrorism, data on payment systems etc.).

After receiving the respective notification referred to in points I to IV from the electronic money institution, Národná banka Slovenska shall notify in writing the competent supervisory authority of the host Member State of this information forthwith and within one month at the latest inform the electronic money institution thereof. Based on this information (or notification) the electronic money institution may provide services that are the subject of the notification in the host Member State on a cross-border basis.

When entering a branch, a payment service agent and other person of the electronic money institution in the register, Národná banka Slovenska shall take into account the opinion of the host Member State's supervisory authority. The NBS shall enter a payment service agent in the register within 15 days from receipt of the opinion of the host Member State's supervisory authority, and no later than 60 days after receipt of the notification from the electronic money institution.

Národná banka Slovenska may enter an agent or a branch in the register, refuse to enter an agent or a branch in the register or may cancel the entry of an agent or a branch in the register if already made. Responsibility for the final decision lies with Národná banka Slovenska, which shall be obliged, for effective administrative co-operation with the supervisory authority of the host Member State, to thoroughly and responsibly deal with reservations expressed by that authority. Národná banka Slovenska shall inform the foreign electronic money institution and the supervisory authority of the host Member State of its decision without delay. Where Národná banka Slovenska disregards a negative opinion of the supervisory authority of the home Member State in its decision it shall be obliged to inform that supervisory authority of its reasons for doing so.

An electronic money institution may start preparations for providing services through a branch or agent, but it shall not provide services before its registration, not even as part of the preparations and testing of its information systems.

The electronic money institution shall notify Národná banka Slovenska in writing of any changes to the information specified in the respective notification without delay and no later than one month before the date when the intended changes become effective. Národná banka Slovenska shall notify the host Member State's supervisory authority of such information received without delay and no later than within one month after receiving the notification from the electronic money institution.

Unless Národná banka Slovenska and the host Member State's supervisory authority agree otherwise, all information shall be provided in writing in English.

Standard forms shall be sent in written form by post or e-mail, where agreed upon between Národná banka Slovenska and the home Member State's supervisory authority.

The communication and exchange of information between an electronic money institution and Národná banka Slovenska shall be done in writing in the Slovak language in accordance with the standard forms given in the Annexes hereto.

## **Article 2**

### **Exercise of the right to establish a branch and to freely provide services of an electronic money institution located in another Member State**

In accordance with Article 86(13) of the Act, a foreign electronic money institution located in another Member State may provide services in the Slovak Republic in accordance with an authorisation granted in another Member State through its branch or without establishing a branch, through a payment service agent or other persons distributing or redeeming electronic money.

- I. A foreign electronic money institution wishing to provide services in the Slovak Republic for the first time shall, via its supervisory authority, notify Národná banka Slovenska in writing of the following information:
  - a) the name and registered office of the electronic money institution;
  - b) the host Member State in which it intends to provide payment services;
  - c) the type of payment services it intends to provide in the host Member State.
- II. Where a foreign electronic money institution intends to establish a branch in the Slovak Republic, the competent supervisory authority shall include, in addition to the above, the following information in its notification to Národná banka Slovenska:
  1. the registered office of the branch in the Slovak Republic;
  2. the first and last names and permanent address of the person(s) responsible for managing the branch;
  3. the organisational structure of the planned branch.
- III. Where a foreign electronic money institution intends to provide payment services in the Slovak Republic through a payment service agent the competent supervisory authority shall provide Národná banka Slovenska with the following information:
  1. the name and registered office of the electronic money institution;
  2. the name and the address of the agent;
  3. the type of payment services the electronic money institution intends to provide on its behalf through an agent in the Slovak Republic and organisational structure of each existing agent in the Slovak Republic;
  4. the intention to distribute or redeem electronic money.

Where the services are provided through an agent located in the home Member State the notification shall take the form of that used for cross-border activities of entities. Where the agent has a registered office in the Slovak Republic and the entity is notified as a branch

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Národná banka Slovenska shall require also the following information from the competent supervisory authority:

1. the names of persons responsible for managing the nominated agent;
2. the organisational structure of the nominated agent falling under the jurisdiction of the Slovak Republic.

IV. Where a foreign electronic money institution intends to distribute or redeem electronic money through other persons (Article 81(10) of the Act) in the Slovak Republic, the competent supervisory authority shall provide Národná banka Slovenska also the following:

1. a list of all the other persons;
2. the first and last names, permanent residence address and registered office in the Slovak Republic and date of birth if the other persons are natural persons;
3. in the case of an initial notification also a full description of the electronic money institution's internal control system, including measures adopted in order to comply with the Member State's legislation in the area of the prevention of money laundering and financing of terrorism.

Národná banka Slovenska shall send a confirmation of receipt of the notification without delay to the competent supervisory authority of the home Member State.

Národná banka Slovenska has the right to require additional information concerning the establishment of a branch and/or the use of an agent's services (e.g. procedures related to prevention of money laundering and financing of terrorism (AML procedures), data on payment systems, etc.).

If Národná banka Slovenska has reasonable grounds to suspect that, in connection with the intended engagement of the agent or establishment of the branch, money laundering or terrorist financing is taking place, or could take place, or has been attempted, or that the engagement of such agent or establishment of such branch could increase the risk of money laundering or terrorist financing, it shall so inform the competent authority of the home Member State without delay and no later than one month after receiving the notification from the competent supervisory authority of the home Member State. The supervisory authority of the home Member State may enter an agent or a branch in the register, refuse to enter an agent or a branch in the register or may cancel the entry of an agent or a branch in the register if already made. Responsibility for the final decision lies with the supervisory authority of the home Member State which shall be obliged, for effective administrative co-operation with Národná banka Slovenska, to thoroughly and responsibly deal with reservations expressed by Národná banka Slovenska. The supervisory authority of the home Member State shall inform the foreign electronic money institution and Národná banka Slovenska of its decision without delay. Where the supervisory authority of the home Member State disregards a negative opinion of Národná banka Slovenska in its decision it shall be obliged to inform Národná banka Slovenska of its reasons for doing so.

If, within one month of receiving a request for notification from the supervisory authority of the home Member State Národná banka Slovenska does not reject the notification, the competent authority of the home Member State may enter the branch or agent in the register.

An electronic money institution may start preparations for providing services (through a branch or agent), but it shall not provide payment services before its registration. It shall not provide the payment services in respect of the Slovak Republic even as part of the preparations and testing of its information systems either.

Unless the home Member State's supervisory authority and the host Member State's supervisory authority agree otherwise all information shall be provided in writing in English in accordance with the standard forms given in the Annexes hereto.

Completed forms shall be sent in written form by post, or e-mail, where this is agreed upon between the competent authorities of the home and host Member States.

### **Article 3**

#### **Final provisions**

This methodological guideline shall be effective from the date of its approval by the Executive Director of Financial Market Supervision Unit of Národná banka Slovenska. Legislation related to the subject-matter of this guideline is available on the website of Národná banka Slovenska ([www.nbs.sk](http://www.nbs.sk)).

**Ing. Vladimír Dvořáček**  
**Executive Director**  
**Financial Market Supervision Unit**

ANNEXES

Annex 1

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**STANDARD NOTIFICATION FORM ON THE INTENTION OF AN ELECTRONIC  
MONEY INSTITUTION TO PROVIDE SERVICES ON THE BASIS OF THE RIGHT TO  
FREELY PROVIDE SERVICES**

Direct line:

Local fax:

E-mail:

[Date]

Our Ref.:

Dear ....

**Notification of an electronic money institution's intention in accordance with Article 25  
of the Payment Services Directive (No 2007/64/EC) and Article 3(1) of Directive  
2009/110/EC**

In accordance with Article 25 of the Payment Services Directive (No 2007/64/EC), I am writing to notify you that on [date] **[name of electronic money institution]**, an electronic money institution (hereinafter "the EMI") authorised by [competent authority of the home Member State], notified us of its intention [to undertake the activities listed in the attached schedule for the first time under the freedom to provide services] / [to widen or reduce the scope of the activities previously notified in the initial notification].

(if relevant: The electronic money institution intends to engage agents located outside the territory of your country to undertake its activities. We, therefore, attach a separate list with the names and addresses of the agents whose services the electronic money institution intends to use.)

If you have any queries please do not hesitate to contact us.

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Yours sincerely,

[Signatory details]



**SCHEDULE TO NOTIFICATION DATED [date of letter] PURSUANT TO  
ARTICLE 3(1) OF DIRECTIVE 2009/110/EC (ARTICLE 25 OF THE PAYMENT SERVICES  
DIRECTIVE – FREEDOM TO PROVIDE SERVICES)**

<b>Type of notification:</b>	[e.g. initial notification / change of services]
<b>Notification reference:</b>	[home Member State reference]
<b>Date of receipt of notification by home Member State's competent authority:</b>	[date]
<b>Member State in which the EMI intends to provide its services:</b>	[host Member State]
<b>Electronic money institution:</b>	[name and registration number of EMI]
<b>Address:</b>	[address]
<b>Telephone number:</b>	[tel. no]
<b>E-mail:</b>	[e-mail]
<b>Contact person:</b>	[name]
<b>Home Member State:</b>	[Home Member State]
<b>Authorisation status:</b>	Authorised by [home Member State competent authority]
<b>Date from which services are to be provided:</b>	[date]

**Services provided:**

- ☐ Electronic money issue.
- ☐ Electronic money distribution/redemption.

**Payment services to be provided:**

- ☐ 1. Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account.
- ☐ 2. Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account.
- ☐ 3. Execution of payment transactions, including transfers of funds to 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.
- ☐ 4. Execution of payment transactions where the funds are covered by a credit line for a payment service user.\*<sup>1</sup>
  - 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.
- ☐ 5. Issuing and/or acquiring of payment instruments.\*<sup>1</sup>
- ☐ 6. Money remittance.
- ☐ 7. Execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator acting only as an intermediary between the payment service user and the supplier of the goods and services.\*<sup>1</sup>

<sup>1</sup> including granting credits in accordance with the rules provided for in Article 16(3) of the Directive

- ☐ yes ☐ no

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**STANDARD NOTIFICATION FORM FOR THE INTENTION OF AN ELECTRONIC  
MONEY INSTITUTION TO PROVIDE PAYMENT SERVICES THROUGH A  
BRANCH, AGENT OR OTHER PERSON LOCATED IN SLOVAKIA**

Direct line:

Local fax:

E-mail:

[Date]

Our Ref.:

Dear ....

**Notification of an electronic money institution's intention in accordance with Article 17  
or Article 25 of the Payment Services Directive (No 2007/64/EC) and Article 3(1) of  
Directive 2009/110/EC**

In accordance with [Article 25 or Article 17] of the Payment Services Directive, I am writing to notify you that on [date] **[name of electronic money institution]**, an electronic money institution (hereinafter "the EMI") authorised by [competent authority of the home Member State], notified us of its intention [to establish a branch] / [engage an agent / other person located in [host Member State]] to exercise the freedom to provide services by carrying out the activities listed in the attached schedule / to widen or reduce the scope of the activities provided through its branch(es)/agent(s) / other persons) located in [host Member State]] notified in the initial notification.

Please kindly send us an acknowledgment of receipt of this notification.

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If you have any concerns in relation to the branch/agent/other person, in accordance with Article 17(6), please confirm these in writing without delay and no later than one month after receipt of the notification by the competent authority of the home Member State. If no response is received within this timeframe, we will consider you to have accepted the information contained in the notification.

Yours sincerely,

[Signatory details]

**SCHEDULE TO NOTIFICATION DATED [date of letter] PURSUANT TO  
ARTICLE 3(1) OF DIRECTIVE 2009/110/EC (ARTICLE 17 / OR ARTICLE 25 OF  
PAYMENT SERVICES DIRECTIVE – BRANCH ESTABLISHMENT AND  
PROVISION OF SERVICES THROUGH AN AGENT OR OTHER PERSON  
LOCATED IN HOST MEMBER STATE**

<b>Type of notification:</b>	[e.g. initial notification / change of services]
<b>Notification reference:</b>	[home Member State reference]
<b>Date of receipt of notification by home Member State's competent authority:</b>	[date]
<b>Member State in which the branch/agent is to be established:</b>	[host Member State]
<b>Electronic money institution:</b>	[name and registration number of EMI]
<b>Address:</b>	[address]
<b>Telephone number:</b>	[tel. no]
<b>E-mail:</b>	[e-mail]
<b>Contact person:</b>	[name]
<b>Home Member State:</b>	[Home Member State]
<b>Authorisation status:</b>	Authorised by [home Member State competent authority]
<b>Date when the branch is to be established / agent engaged:</b>	[upon confirmation from the host Member State, which should be issued on XX/ exact date]
<b>Branch/agent address:</b>	[address of the branch/agent]
<b>Persons responsible for managing the branch/agent:</b>	[names]

**Services provided:**

- ☐ Electronic money issue.
- ☐ Electronic money distribution/redemption.

**Payment services to be provided:**

- ☐ 1. Services enabling cash to be placed on a payment account and all the operations required for operating a payment account.
- ☐ 2. Services enabling cash withdrawals from a payment account and all the operations required for operating a payment account.
- ☐ 3. Execution of payment transactions, including transfers of funds to 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.
- ☐ 4. Execution of payment transactions where the funds are covered by a credit line for a payment service user: \*<sup>1</sup>
  - 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.
- ☐ 5. Issuing and/or acquiring of payment instruments. \*<sup>1</sup>
- ☐ 6. Money remittance.
- ☐ 7. Execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator acting only as an intermediary between the payment service user and the supplier of the goods and services. \*<sup>1</sup>

<sup>1</sup> including the grant of credits in accordance with the rules laid down in Article 16(3) of the Directive

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☐ yes ☐ no

**Information on organisational structure**  
**(Part II Article 1 point III(2) in the second subparagraph and Part II Article 2**  
**point III(2) in the second subparagraph)**

<b>REQUIREMENT</b>	<b>RESPONSE</b>
(a) A full description of the branch/agent's organisational structure (number of organisational units, anticipated initial number of employees, organisational chart, showing both the functional and management reporting lines, and a full description of the distribution of the powers, competences and responsibilities of each department and managing employee) and a description of how the branch/agent fits into the corporate structure of the group.	
(b) A full and detailed description of all contracts and outsourcing arrangements, including a complete list of other persons under Article 81(10) of the Act in the host Member State.	
(c) A full description of participation in or intention to participate in a payment system.	
(d) A full and detailed description of the electronic money institution's / agent's / other persons' procedures and internal management acts adopted in order to comply with the host Member State's legislation in force in the area of the prevention of money laundering and financing of terrorism.	
(e) A full and detailed description of the electronic money institution's internal control and internal audit system.	