

Electronic Money Directive (2000/46/EC)

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Objectives of the Directive 2000/46/EC (I)

- Create legal certainty, thereby encouraging new market entrants, encouraging competition, and contributing generally to the development of electronic commerce.
- Assist electronic money in delivering its full potential and avoid hampering technological innovation.
- Preserve a level playing field between ELMIs and other credit institutions issuing e-money, and, thus, ensure fair competition among a wider range of institutions to the benefit of the bearers.

Objectives of the Directive 2000/46/EC (I)

- Ensure the stability and soundness of issuers, thereby safeguarding customers' interests.
- Facilitate access by ELMIs from one Member State into another Member State, contributing to the free movement of capital and to the freedom of cross-border services.

What is E-Money?

E-Money is a monetary value which is:

- i. Stored electronically**
- ii. Issued on receipt of funds (i.e. – it is pre-paid)**
- iii. Accepted as a means of payment by undertakings other than the issuer**

Key provisions in the Directive (I)

- Creates E-Money institutions which are allowed to issue E-Money, but restricted from undertaking other activities
- Allows mutual recognition of such institutions – via provisions in the Banking Directive (2000/12/EC)
- E-Money must be redeemable at par value

Key provisions in the Directive (II) – the prudential regime

- **Initial capital €1 million**
- **Own funds requirement 2%**
- **ELMIs must at all times maintain investments of at least the value of outstanding E-Money in a restricted list of highly liquid asset items**
- **Sound and prudent management, administrative and accounting procedures and internal control mechanisms**

Key provisions in the Directive (III) – the waiver regime

- **Possibility to waive certain provisions of the Directive, if:**
 - Outstanding E-Money < €5 mio normally or € 6 mio exceptionally, or
 - E-Money accepted only by subsidiaries, or
 - E-Money accepted by limited number of undertakings which are distinguished by location in same premises or limited locally, or have a close financial relationship with issuer
- **Waived institutions cannot cross borders**

Key considerations for the future

- **Directive is in the process of being reviewed**
- **E-Money has not developed as originally anticipated**
- **Scope must be clarified (particularly vis-à-vis Mobile Phone Operators) and rules made more proportionate to risks**
- **Consistency with new Payment Services Directive will also be vital...**