

Conditions Attached to Operations by Way of the Freedom of Establishment in Latvia

A payment institution and an electronic money institution (hereinafter – a payment institution) licensed in another Member State intending to commence the activity of payment institution in Latvia under the freedom of establishment (open a branch or perform through an agent) must take account of the essential provisions required by Latvian legislation.

I. Payment Institution Supervision

The authority responsible for supervising compliance of the payment services in Latvia is the Financial and Capital Market Commission (hereinafter – the FCMC). Its address and contact details:

Financial and Capital Market Commission
Kungu ielā 1, Rīgā, LV – 1050
Phone: +371 67774800 Fax: +371 67225755
E-mail: fktk@fktk.lv, single.passport@fktk.lv
Official website: www.fktk.lv

II. Administrative Procedure

According to the Commercial Law, a branch of a Member State payment institution has to be registered with the Latvian Register of Enterprises. The address and contact details of the Enterprise Register: <https://www.ur.gov.lv/en/contacts/>.

III. Legislative Requirements

Laws and other regulation are available on the official website: www.likumi.lv. Laws directly related to payment institutions are also available on the official website of the FCMC: <https://www.fktk.lv/en/law/payment-institutions/>.

The information below is not exhaustive and is provided for general information purposes only and should not be regarded as a substitute for seeking legal advice.

1. Payment Institution Legislation

According to the Section 31, Paragraph 1 of the Law on Payment Services and Electronic Money, a payment institution licensed in another member state may open a branch or perform through an agent in Latvia without receiving the licence specified in this Law only after the FCMC has received a notification from competent authorities of the home Member State according to this Section and according to the Commission delegated Regulation (EU) 2017/2055.

According to the Section 49, Paragraph 2 of this Law, activities of the branch and agent of the payment institution must comply with the requirements of following **Chapters: V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XIV¹ and XV.**

The FCMC has the right to: 1) to request that the branch, agent or central contact point of agent provide the information necessary for supervision; 2) to perform inspections at the branch or at the location of the agent.

According to the Section 44.¹ of this Law, a payment institution shall provide information to the State Revenue Service (www.vid.gov.lv) regarding the suspicious transactions, customers and the payment account in accordance with the Account Register Law and in accordance with the Law on Taxes and Duties.

According to the Section 44.² of this Law, the payment institution shall not enter into business relationship with the gambling organizer or its intermediary listed in a decision provided to the payment institution by the Lotteries and Gambling Supervisory Inspection

(<https://www.iaui.gov.lv/en/>) regarding the ban on entering into and carrying on business relationship with the gambling organizer that performs its activity without a licence as prescribed in the regulatory provisions of the Republic of Latvia or its intermediary.

According to the Section 46.¹ of this Law, the payment institution, which provides services related to a payment account, shall submit to The Consumer Rights Protection Centre (www.ptac.gov.lv) information regarding the service fee referred to in Section 60.¹, Paragraph 2 of this Law. The exceptions from this duty are provided in Section 2, Paragraph 6, 7, and 8.

2. AML/CFT and Sanctions

According to Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing payment institutions (including payment institutions exercising the freedom of establishment in Latvia) are the subject of this law and shall ensure AML/CFT requirements set by the Law, including obligation to establish an internal control system for the prevention of money laundering and terrorism and proliferation financing.

According to Law on International Sanctions and National Sanctions of the Republic of Latvia requirements provided in this Law applies to every person.

In addition, the FCMC as supervisory institution has issued several regulations in AML/CFT area applicable for payment institutions exercising the freedom of establishment via branches. Additional information is available on the official website of the FCMC: <https://www.fktk.lv/en/law/general/legal-acts-in-the-aml-cft-area/>.

3. Consumer Protection

The Consumer Rights Protection Law applies to all contracts concluded between consumers and service providers (payment institutions). Pursuant to the Consumer Rights Protection Law, a consumer is a natural person who expresses a wish to purchase, purchases or might purchase, or use goods or a service for a purpose, which is not related to his or her economic or professional activity. The Consumer Rights Protection Centre (www.ptac.gov.lv) supervises the legality of the use of contract conditions from the point of view of consumer protection.

4. Data Protection

Data protection is regulated by the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

The Data State Inspectorate (www.dvi.gov.lv) is a data supervisory authority within the meaning of the General Data Protection Regulation and carries out the tasks in the area of data processing specified in the General Data Protection Regulation and Personal Data Processing Law.

5. Payments to the FCMC

According to Section 22 of the Law on the Financial and Capital Market Commission, activities of the FCMC are financed from payments of financial and capital market participants made in amounts specified by the Board of the FCMC and not exceeding the amounts set by law.

According to the Section 40, Paragraph 1.⁵ of The Law on Payment Services and Electronic Money, a branch or agent of a payment institution licensed in another Member State shall pay up to EUR 7000 per year for the financing of the activities of the FCMC, making payments by 30 January of the following year.

6. Taxes

According to the Law on Taxes and Fees, a Member State payment institution is responsible for the payment of taxes according to the Latvian tax legislation. For further information, please contact the State Revenue Service (www.vid.gov.lv).

7. Statistical information

7.1. Statistical information to the FCMC

A branch or agent of a payment institution shall submit to the FCMC information needed for supervision purposes as well as statistical information. It shall submit to the FCMC at least once a year a report regarding the payment services provided, as well as information regarding the electronic money issued, distributed and repurchased. It also shall submit to the FCMC twice a year statistical data on fraud and other illegal activities in the previous half-year related to the use of means of payment during the previous half-year.

The relevant regulations and reporting forms are also available on the official website of the FCMC: www.fctk.lv.

7.2. Statistical information to the Bank of Latvia

According to the Section 39 of the Law on Latvijas Banka, the Bank of Latvia shall collect, store and process statistical data as well as develop, compile, analyse and disseminate statistics to ensure the fulfilment of its tasks. Laws and regulations regarding statistical data and procedure for compiling and submission of statistical reports are available on the official website of the Bank of Latvia: www.bank.lv.

8. Other Provisions

Furthermore, the FCMC would like to draw your attention to the following general legislation:

- The Civil Law;
- The Commercial Law;
- The Competition Law; and
- The Law on Advertising.

Apart from that, we would like to note that payment institutions exercising the freedom of establishment in Latvia have to follow other requirements that have not been referred to above, but are provided for in the Latvian legislation applicable to branches or agents.