

## CHAPTER II AUTHORIZATION

### SECTION I GENERAL PROVISIONS

#### 1. Scope

The present provisions apply to:

- natural or legal persons intending to establish a payment institution or electronic money institution in Italy;
- already existing companies that intend to be authorized in Italy as payment institutions or electronic money institutions;
- payment institutions that intend to modify the content of the authorization.

#### 2. Criteria for assessing applications

The Bank of Italy shall grant authorization:

- to a payment institution for the provision of one or more payment services;
- to an electronic payment institution for the issue of electronic money and the provision of payment services, including those unrelated to the issue of electronic money,

if it verifies the existence of conditions suited to ensuring the sound and prudent management and smooth functioning of the payments system.

To this end, the Bank of Italy shall:

- verify the existence of the following prerequisites:
  - the adoption of the legal form of a public limited company (*società per azioni*), limited partnership (*società in accomandita per azioni*) or of a limited liability cooperative stock company (*società cooperativa a responsabilità limitata*);
  - the presence of the institution's registered office and head office in the territory of the Italian Republic;

- paid-up capital of an amount not lower than that indicated in Section II, or, in the case of institutions with limited operations, in Chapter IX;
  - the submission, together with the instrument of incorporation and the bylaws, of a programme of operations (see Section III);
  - satisfaction by persons with qualifying holdings in the capital of the payment institution or electronic money institution of the integrity requirements provided for in, respectively, Article 114–*novies* (1)(e) and 114–*quinquies* (1)(e) of the CLB;
  - satisfaction by persons performing direction, management or control functions in the payment institution or electronic money institution of the experience, integrity and independence requirements provided for in, respectively, Article 114–*novies* (1)(e) and 114–*quinquies* (1)(e) of the CLB <sup>(1)</sup>;
  - the absence of impediments to the effective exercise of the supervisory functions with regard to:
    - the group to which the institution belongs;
    - any close links between the institution, or persons of the group to which it belongs, and other persons.
- assess:
- the adequacy of the programme of operations;
  - the suitability of those who hold a qualifying holding in the capital and of the group to which the institution belongs to ensure sound and prudent management;
  - whether the administrative and accounting structures and the internal control system are adequate and proportionate to the type, range and complexity of the activities that the institution intends to carry out.

The Bank of Italy shall refuse authorization when it verifies that the aforementioned conditions do not guarantee the sound and prudent management of the institution or the smooth functioning of the payment system.

---

(1) It is noteworthy that pursuant to Article 1, paragraphs 3-*bis* and 3-*ter* of the CLB, the provisions of the CLB that refer to: i) ‘the board of directors, administrative bodies and directors shall also apply to the management board and its members’; ii) ‘to the board of auditors, the members of the board of auditors and the control body shall also apply to the supervisory board and the management control committee and their members’.

## *SECTION II*

### *MINIMUM INITIAL CAPITAL*

#### **1. Minimum initial capital of the payment institutions**

The minimum initial capital, fully paid up, of payment institutions is equal to:

- €20,000, when the payment institution only provides the service described in Article 1(1)(b) of Legislative Decree 11/2010;
- €50,000, when the payment institution provides only the service described in Article 1(1)(b) of Legislative Decree 11/2010;
- €125,000, when the payment institution provides one or more of the services described in points 1 to 5 of Article 1(1)(b) of Legislative Decree 11/2010.

#### **2. Minimum initial capital of the electronic money institutions**

The minimum initial capital, fully paid up, of electronic money institutions is equal to €350,000.

### *SECTION III*

#### *PROGRAMME OF OPERATIONS*

The institution shall draw up a programme describing:

- the payment services it intends to provide and the procedures for their provision; for electronic money institutions, the activities related to issuing electronic money and any other unrelated payment services that it intends to provide and the related procedures;
- the projected development of operations;
- the main investments implemented or in the course of being implemented;
- the objectives pursued and the entrepreneurial strategies the company intends to adopt for their attainment.

The programme of operations shall be accompanied by:

- the report on the organizational structure, drawn up in accordance with the format provided in Annex C of Chapter VI (Format of the report on the organizational structure);
- a description of the specific payment services the institution intends to provide, their characteristics, procedures for processing and settling payment transactions, the payment system it intends to be a member of, in accordance with the provisions of Annex D, Sections A and B of Chapter VI;
- for electronic money institutions, a description of the activity of issuing electronic money and of managing the related circuit, according to the provisions of Annex D, Sections B <sup>(1)</sup> and C of Chapter VI;
- the forecasting budgets of the first three financial years setting out, amongst other things: the amount of the investment that the institution intends to make to set up the operating and organizational structure and the related financial coverage; what scale of operations the institution aspires to attain; the expected financial results; compliance with the prudential requirements;
- a report describing the measures taken to safeguard the funds received from customers, in accordance with the provisions of Chapter IV, Section II.

The Bank of Italy may request changes to the programme when the projected development of operations conflicts with the sound and prudent management or smooth functioning of the payments system.

---

(1) Electronic money institutions shall complete Section B on the activity of issuing electronic money and, in the event that they also provide other unrelated payment services, also with reference to the specific services provided.

On granting authorization, the Bank of Italy may provide indications to the institution so that it can modify its projected development of operations in order to comply with the prudential rules, the supervisory information requirements, and the rules regulating the smooth functioning of the payments system.

## *SECTION IV*

### *OWNERSHIP STRUCTURE*

#### **1. Shareholdings**

Persons that directly or indirectly hold qualifying holdings in a payment institution or in an electronic money institution must satisfy the integrity requirements provided for, respectively, in Article 114-*novies*(1)(e) and Article 114-*quinquies*(1)(e) of the CLB, as well be capable of ensuring the sound and prudent management of the institution.

With the aim of safeguarding the sound and prudent management of the institution, the Bank of Italy shall assess the merit and financial solidity of these shareholders in accordance with the criteria established in Section I of Chapter III.

More specifically, at the time authorization is granted to the institution, the satisfaction of the requirements shall not prevent the Bank of Italy from assessing any prior criminal conviction or criminal investigation involving those who have a holding, including a non-qualifying holding, in the institution.

#### **2. The group to which the institution belongs**

The Bank of Italy shall assess whether the structure of the group to which the institution belongs is not such as to impede the effective exercise of supervision thereof.

To this end, the Bank of Italy shall take account of both the group's structure and of the ability of its members to ensure the sound and prudent management of the institution.

If the institution belongs to a group that comprises companies established abroad, the Bank of Italy shall assess if their being located in foreign jurisdictions or the activities carried out in such jurisdictions allow the effective exercise of supervision of the institution.

#### **3. Confirmation of the requirements for shareholders**

In order to verify satisfaction of the integrity requirements by shareholders in the institution and check the related minimum documentation, see annexes A and D of Chapter III. For compliance with the other notification obligations to the Bank of Italy, see the provisions in Chapter III.

## *SECTION V*

### *PROCEDURE FOR THE GRANTING OF AUTHORIZATION*

#### **1. Application for authorization**

The granting of authorization is a prerequisite for inclusion of the institution in the Company Register.

In the instrument of incorporation the company members shall designate the members of the institution's corporate bodies.

After the signing of the instrument of incorporation and before initiating the procedure for entry in the Company Register the directors shall submit the request for authorization to the Bank of Italy.

The following must be attached to the application:

- a) the instrument of incorporation and the bylaws<sup>(1)</sup>;
- b) the programme of operations provided for in Section III;
- c) a list of the persons with direct or indirect holdings in the institution, ordered by the value and percentage of their respective holdings; for indirect holdings, the person through which the holding is held must be indicated;
- d) the documentation requested in Section IV in order to verify that the integrity requirements are satisfied and to verify the merits of those who have, directly or indirectly, qualifying holdings in the bank;
- e) a chart showing the group structure;
- f) the attestation of the paying up of the minimum capital amount established in these provisions, issued by the head office of the bank where the payment was made;
- g) the minutes of the meeting in which the administrative bodies verified the satisfaction of the experience, integrity and independence requirements of those tasked with performing direction, management or control functions <sup>(2)</sup>;
- h) information on the provenance of the sums with which the capital of the institution is subscribed;

The documentation indicated under d), f) and g) must bear a date not more than 6 months prior to that of submission of the application for authorization.

---

(1) The instrument of incorporation must indicate the location of the head office of the institution when this differs from its registered office.

(2) For the procedure to verify the requirements and for communications to the Bank of Italy, see Chapter III, Section IV, paragraph 2.

## 2. Granting of authorization

Once it has verified the existence of the conditions for authorization, and taking account of the need to ensure the sound and prudent management of the institution and smooth functioning of the payments system, the Bank of Italy shall grant or refuse said authorization within ninety days of the date of receipt of the application with the accompanying documentation.

## 3. Entry in the registers referred to in Articles 114-*septies* and 114-*quater* CLB

### *Payment institutions*

The payment institution shall send the Bank of Italy the certificate attesting to the date of entry of the company in the Company Register. The Bank of Italy then proceeds to enter the payment institution in the register referred to in Article 114-*septies* of the CLB, indicating the branches of the payment institution and the agents it intends to avail itself of.

Following entry in the register the payment institution shall notify the Bank of Italy of the start of its operations.

### *Electronic money institutions*

The electronic money institution shall send the Bank of Italy the certificate attesting to the date of entry of the company in the Company Register. The Bank of Italy then proceeds to enter the electronic money institution in the register referred to in Article 114-*quater* of the CLB, indicating the branches of the electronic money institution as well as the agents it intends to avail itself of to provide the payment services.

Following entry in the register the electronic payment institution shall notify the Bank of Italy of the start of its operations.



## *SECTION VI*

### *AUTHORIZATION FOR ALREADY EXISTING COMPANIES*

#### **1. Authorization procedure**

Already existing companies that intend to be authorized as payment or electronic money institutions shall apply to the Bank of Italy for authorization. For the procedures governing the submission of the application, the provisions in Section V apply.

The application for authorization shall be sent after approval of the resolution to amend the bylaws and before the required entry of this act in the Company Register.

The granting of authorization shall be subject to compliance with the same conditions established for newly formed companies (Section V).

#### **2. Programme of operations**

In addition to what is provided for in Section III, in the programme of operations the company shall indicate:

- the activities carried out previously, annexing the financial statements for the last three financial years;
- the initiatives it intends to take – and the implementation times thereof – to convert the resources available in the production processes of the payment or electronic money institution.

#### **3. Verification of capital and business functionality**

As part of the authorization procedure, the Bank of Italy may request a verification of the overall functionality of the business structure and of the existence and amount of the applicant company's capital. To this end, the Bank of Italy may require access for its inspectors or request a third-party expert opinion.

If the Bank of Italy requests a third-party expert opinion, the related report must assess:

- the existence and amount of the capital;
- compliance with the prudential regulations;
- the adequacy of the company's organizational-accounting arrangements, of the internal control system and of the ability to satisfy the supervisory information requirements.

In relation to the type of activity performed, the Bank of Italy may indicate additional aspects for inclusion in the expert opinion and which the report must address.

## *SECTION VII*

### *LAPSING AND REVOCATION OF AUTHORIZATION*

The authorization granted shall lapse if:

- the institution explicitly renounces authorization within 12 months of the granting of same and in any event prior to the commencement of operations;
- it does not avail itself of the authorization within 12 months of its inclusion in the Company Register. Before the expiry of this deadline, when there are reasoned and new grounds, the institution can apply to the Bank of Italy for an extension of normally not more than 6 months <sup>(1)</sup>;
- it has ceased to perform the activity for a continuous period of more than 12 months.

Once the authorization has lapsed, the Bank of Italy shall, without any further formalities, delete the institution from the relevant register. The institution shall proceed to modify its corporate purpose.

Aside from the scenarios outlined in Article 113-*ter* of the CLB, the Bank of Italy shall revoke the authorization of an institution or delete it from the register when the institution no longer satisfies the conditions foreseen in this Chapter for granting authorization.

Authorization is revoked in accordance with the procedures outlined in Article 113-*ter* if there are sums of money received from customers still registered in the payment accounts or received in return for the issue of electronic money, as well as assets deriving from lending activities. In all other cases, the institution shall modify its corporate purpose.

---

(1) For payment institutions, the revocation can refer to just one of the services that the institution has been authorized to provide. In this instance the institution is not deleted from the register and the provisions on liquidation do not apply.

## *SECTION VIII*

### *MODIFICATION OF AUTHORIZATION*

The payment institutions shall notify the Bank of Italy in advance of their intention to provide payment services other than those for which they have been granted authorization.

The payment institutions shall attach to the notification a new programme of activities, drawn up in accordance with the provisions of Section III.

The payment institutions can provide the new payment services if, within 60 days of said notification, the Bank of Italy has not already initiated an administrative procedure for rejecting authorization, which it must conclude within 90 days.

The Bank of Italy shall update the relevant register in relation to the provision of payment services by the payment institutions.

With the exception of the last paragraph, the provisions in this Section shall apply, *mutatis mutandis*, to the electronic money institutions that intend to provide payment services unrelated to the issue of electronic money other than those specifically indicated in the programme of activities.

## SECTION IX ADMINISTRATIVE PROCEDURES

The organizational units tasked with the administrative procedures covered in this chapter are:

- for *authorization to establish a payment institution or electronic money institution or to authorize an already existing company to provide payment services or issue electronic money*, the Regulation and Macroeprudential Analysis Directorate;

Upon granting authorization, the Bank of Italy informs the institution of the name of the organizational unit tasked with its supervision (Banking Supervision 1 Directorate, Banking Supervision 2 Directorate, Financial Supervision Directorate, or the territorially competent Branch), in accordance with the criteria established in Article 9 of Bank of Italy Regulation of 25 June 2008, which identifies the deadlines and organizational units responsible for the administrative procedures;

- for *the prohibition to modify the content of the authorization issued*, the organizational unit already tasked with supervising the institution, according to what the Bank of Italy communicated at the time of authorization or subsequently;
- for *the extension of the deadline for commencing operations*, the organizational unit already competent for supervising the institution, according to what the Bank of Italy communicated at the time of authorization or subsequently;
- for *the inclusion, modification or deletion from the register*, the Regulation and Macroeprudential Analysis Directorate when the application for inclusion in the register is related to that for authorization to establish the institution or for authorization as an already existing company; in the other cases, the organizational unit tasked with supervision.