

Electronic money: taking up, pursuit and prudential supervision of the business of electronic money institutions

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The Committee on Economic and Monetary Affairs adopted the report drafted by John PURVIS (EPP-ED, UK), and amended the proposal for a directive of the European Parliament and of the Council 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.

The main amendments – made in the framework of the codecision procedure – are as follows:

Scope: MEPs intend to clarify that this Directive lays down rules for the taking up and pursuit of the activity of issuing electronic money and for the prudential supervision of electronic money institutions. The general provisions in the directive and the definition of what constitutes electronic money are also relevant for credit institutions when issuing electronic money. Another amendment introduces a clarification as to what can be considered a "limited network". Lastly, MEPs specify that this Directive shall not apply to undertakings issuing electronic money which can be used to acquire goods or services only.

Outstanding electronic money: MEPs amended the definition of this term. Outstanding electronic money means the total amount of financial liabilities related to electronic money in issue at any time as opposed to meaning the monthly average of the preceding 12 months' financial liabilities related to electronic money (as proposed by the European Commission).

Issuance and redeemability: MEPs propose to amend the report by removing "free of charge", as some business models charge the consumer for issuing or redeeming e-money. It also clarifies that redemption charges between e-money institutions and merchants should be determined by contractual arrangement.

Minimum capital: the amended text stipulates that the Member States shall require electronic money institutions to hold, at the time of authorisation, initial capital of not less than **EUR 200 000** (EUR 125 000 according to the Commission proposal).

Own funds: the Commission's proposal provides that the own funds of electronic money institutions shall be calculated in accordance with one of the three methods (A, B or C) set out in Directive 2007/64/EC and in accordance with Method D set out in the present Directive for the activity of issuing electronic money. In this context, MEPs underline that an electronic money institution is not a payment institution. The methodologies used for the latter may therefore not be appropriate for electronic money institutions. According to the report, the total amount of own funds required should therefore be based on the different activities and the risks inherent in those activities.

Moreover, where electronic money institutions undertake e-money and non e-money business it may be appropriate to allow for own funds calculations to be based on costs, payment volume or revenue (methods A,B or C) rather than float funds (method D).

In addition, MEPs consider that there is no need to require 20% capital more or less than the result of the calculation.

Activities: an amendment confirms that the activities of an electronic money institution may be the same as those of a payment institution, thereby allowing a payment institution to ‘graduate’ or upgrade its status to an electronic money institution without losing any of the activities permitted for a payment institution. Another amendment clarifies the difference between money received as a deposit (in banks) and that held as a float (in e-money institutions). Reduced capital requirements due to the lower risk profile of e-money institutions must be accompanied by the clarification that the e-money float must be safeguarded and cannot be used to provide credit.

Safeguarding of funds: according to MEPs, Member States shall require an electronic money institution to safeguard all funds that have been received in relation to those activities for the execution of payment transactions, in relation to which credit and debit card receivables shall be considered to qualify as liquid low-risk assets.

Optional exemptions: MEPs consider that the waiver threshold should continue to be based on e-money float, rather than payment volume. According to the amended text, Member States may waive or allow their competent authorities to waive the application of all or part of the procedures and conditions set out in this Directive, and allow legal persons to be entered in the register for electronic money institutions if the total business activities generate a total amount of financial liabilities related to outstanding electronic money that does not exceed EUR 3 million.