

Finansinspektionen's Regulatory Code

Publisher: Finansinspektionen, Sweden, www.fi.se
ISSN 1102-7460



This translation is furnished for information purposes only and is not itself a legal document.

Finansinspektionen's regulations and general guidelines governing payment institutions and registered payment service providers;

FFFS 2010:3

Published on
15 July 2010

decided on 8 July 2010.

Finansinspektionen prescribes the following pursuant to Chapter 2, section 10, Chapter 3, section 29, points 1, 3 first line, 4 and 5, Chapter 8, section 27, point 1 of the Payment Services Act (2010:751) and section 5, points 1, 2, 4 first line, 5–9 of the Payment Services Ordinance (2010:1008).

Finansinspektionen provides *general guidelines* following each section of the regulations.

Chapter 1 Scope and definitions

Scope

Section 1 These regulations and general guidelines apply to payment institutions and registered payment service providers in accordance with the Payment Services Act (2010:751).

The regulations contain provisions regarding

- application for a licence to provide payment services (Chapter 2),
- application for exemption from the licence obligation (Chapter 3),
- the provision of ancillary payment services (Chapter 4),
- cross-border operations for payment institutions (Chapter 5),
- ownership and management assessments (Chapter 6),
- other business activities subject to a notice or licence obligation (Chapter 7),
- organisational requirements for payment institutions (Chapter 8),
- capital requirements for payment institutions (Chapter 9),
- outsourcing agreements (Chapter 10),
- safeguarding of funds for executing payment transactions (Chapter 11),
- reporting information to Finansinspektionen (Chapter 12).

Definitions

Section 2 The terms and expressions used in these regulations and general guidelines have the same meaning and scope as in Chapter 1, sections 2–4 of the Payment Services Act (2010:751).

Cf. European Parliament and Council Directive 2007/64/EC of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (EUT L 319, 5.12.2007, p. 1., Celex 32007L0064).

Chapter 2 Application for a licence to provide payment services

Section 1 The provisions in this chapter apply to limited liability companies and economic associations (below *firm*) that are applying for a licence to provide payment services as a payment institution in accordance with Chapter 2, section 1 of the Payment Services Act (2010:751).

In its licence application a firm shall provide the information set out in sections 2–8.

General guidelines

Firms should use the application form available on Finansinspektionen's website.

Section 2 In its application a firm shall indicate which of the payment services set out in Chapter 1, section 2 of the Payment Services Act (2010:751) it is applying to provide.

The application shall include the firm's name, company registration number and address as well as the signature of an authorised representative.

Section 3 In its application a firm shall append a business plan prepared in accordance with sections 9–22.

Ownership

Section 4 In its application a firm shall provide information about the natural and legal persons holding a qualifying holding in the firm.

The firm shall also append the information for ownership assessment provided for in Chapter 6, section 2.

Furthermore, the firm shall provide information about the natural or legal persons it has or is expected to have close relationships with in accordance with Chapter 1, section 5 of the Payment Services Act (2010:751).

If the firm is part of a group that includes other payment institutions, credit institutions, investment firms, fund management companies or insurance companies, it shall furnish the names and company registration numbers of these firms.

Senior management

Section 5 A firm's application shall include information about the members, and if relevant alternate members, of the firm's board of directors and the chairman of the board of directors. The firm shall also state the name of the managing director if such a position has been appointed and the name of the eventual deputy managing director. Furthermore, the firm shall state who is responsible for the payment service operations and this person's potential replacement.

For all of these persons, the firm shall provide the information for management assessment provided for in Chapter 6, section 7.

Financial position

Section 6 A firm shall submit in its application a forecast for the first three financial years. The forecast shall include

1. balance sheets and profit and loss statements,
2. an analysis of the capital requirements, and
3. how the results of the balance sheets and profit and loss statements impact the firm's initial capital.

The forecast shall account for the assumptions upon which it is based. In particular it shall indicate the assumptions about the total sum of payment transactions per year on which the firm is basing its forecast.

The firm's forecast shall account for how the firm intends to finance its payment service activities.

Section 7 In its application, a firm shall state the method it would like to apply for calculating the capital requirement in accordance with Chapter 3, section 3 of the Payment Services Act (2010:751).

The firm shall state its reasons for selecting this method and, if it is not clear that they are not needed, also append forecasts for all three methods set out in the act. The forecasts shall refer to the first two financial years.

General guidelines

A description of how a firm shall regularly report own funds/capital requirements to the authority is available on Finansinspektionen's website. Firms should use the form found on the website when preparing forecasts.

Pending judicial proceedings, etc.

Section 8 A firm shall state in its application if it is a party to any judicial or arbitration proceedings that can result in financial uncertainty and risk for the firm's payment service operations and, if it is, describe the circumstances.

Content of the business plan

The firm's operations

Section 9 A firm's business plan shall include

1. a detailed description of the payment service activities the firm intends to carry out and
2. detailed flow charts showing the administrative processes in place for the payment services the firm intends to provide.

If the firm receives deposits or other repayable funds from the general public, information about the national or international payment systems it intends to participate in shall be provided.

Organisation

Section 10 The business plan shall include a schematic overview of how the firm will be organised. The overview shall specify who is responsible for each area or function.

Furthermore, the business plan shall include a detailed description of the different areas or functions within its payment service operations and a general account of the actions carried out within each area.

Related services and other business activities

Section 11 If a firm also carries out or intends to carry out related services and business activities other than payment services, the firm shall account in its business plan for these activities and their scope as well as for how the firm will ensure its financial soundness and that Finansinspektionen's ability to exercise supervision over the firm will not be compromised.

Safeguarding funds for execution of payment transactions

Section 12 In its business plan a firm shall account for how it intends to fulfil the requirement to safeguard the funds held to execute payment transactions in accordance with Chapter 3, section 7 of the Payment Services Act (2010:751) and Chapter 11 of these regulations.

Outsourcing agreements

Section 13 If a firm has outsourced or intends to outsource to a third party activities that entail carrying out work or functions related to payment services, the firm shall provide information in its business plan about who it will assign or intends to assign the duties and account for the scope of the assignment.

In its business plan the firm shall also account for how it will ensure that

1. the conditions set out in Chapter 3, section 28, second paragraph of the Payment Services Act (2010:751) and Chapter 10 of these regulations are fulfilled, and
2. the firm otherwise complies with the Payment Services Act and other regulations governing the firm's operations when it has outsourced to third parties work or functions related to payment services.

The firm shall also append to its business plan the outsourcing agreements it has entered into, or intends to enter into, that refer to functions of material significance to its payment service operations.

Payment services via agents in Sweden

Section 14 A firm's business plan shall state if it engages or intends to engage agents in its payment service operations and which payment services the agent shall provide on behalf of the firm.

The firm shall also provide information about each agent as set out in Chapter 3, section 17 of the Payment Services Act (2010:751), including the agent's personal identification number or company registration number.

Payment services via cross-border operations

Section 15 A firm's business plan shall state if it intends to provide payment services via cross-border operations as set out in Chapter 3, sections 18, 19, 21 and 23 of the Payment Services Act (2010:751).

Information systems and security issues

Section 16 The business plan shall state how a firm's IT operations for payment services shall be organised. This shall include a general description of the IT systems' functions and application areas as well as an account of the confidentiality functions used to prevent unauthorised persons from obtaining access to classified information from payment service activities.

The business plan shall also state if the firm shares its premises or technical equipment with other parties and how the firm, when applicable, intends to handle confidentiality issues within its payment service operations due to such an arrangement.

Compliance

Section 17 The business plan shall state how a firm intends to ensure that it complies with the regulations that apply to its payment service operations.

The firm shall also append to its business plan compliance instructions in accordance with Chapter 8, section 6.

The business plan shall furthermore contain an account of how a compliance function will be designed and how its work will be carried out.

Risk management and risk control

Section 18 The business plan shall state how a firm intends to identify, measure, govern, report internally and control the risks associated with its payment service operations.

The firm shall also append to its business plan risk management instructions in accordance with Chapter 8, section 9.

The business plan shall furthermore contain an account of how a risk management function will be designed and how its work will be carried out.

Internal audit

Section 19 In its business plan, a firm that has an internal audit function in accordance with Chapter 8, section 11 shall account for how this function will be designed and how its work will be carried out.

Complaints handling

Section 20 The business plan shall state the procedures in accordance with Chapter 8, section 12 that the firm intends to apply when handling complaints from payment service users.

Measures against money laundering and financing of terrorism

Section 21 The business plan shall state how a firm intends to carry out the prevention of money laundering and financing of terrorism in its payment service operations. Information about the person at the firm responsible for the central function in these issues shall be specified. The firm shall also append to the business plan internal rules governing measures against money laundering and financing of terrorism.

Events of material significance

Section 22 A firm shall account in its business plan for its procedures for reporting to Finansinspektionen events of material significance in accordance with Chapter 12, sections 4 and 5.

Chapter 3 Application for exemption from the licence obligation

Section 1 The provisions in this chapter apply to legal and natural persons applying for exemption from the licence obligation in accordance with Chapter 2, section 3 of the Payment Services Act (2010:751) in order to instead provide payment services as a registered payment service provider.

General guidelines

Applicants should use the form provided by Finansinspektionen on its website.

Legal person

Section 2 A legal person shall, when applying for an exception from the licence obligation, provide information in accordance with Chapter 2, sections 2 and 8.

The application shall also include the information set out in sections 3–8.

Section 3 The application shall contain a forecast of the total sum of expected payment transactions for the first two financial years. The forecast shall account for the assumptions on which it is based.

A legal person that on the date the application is submitted is already conducting payment service operations shall also provide information about the total sum of the payment transactions executed by the legal person over the preceding twelve months.

Section 4 The application shall include a list of the parties holding a qualifying holding in the legal person.

The legal person shall also append information for ownership assessment as set out in Chapter 6, section 3, points 1–3 and Chapter 6, section 4, points 1–4.

Section 5 A legal person shall include in its application information about the members, and, if any, alternate members or the equivalent, of its board of directors and the chairman of the board of directors. The application shall state the name of the managing director, if one has been appointed, and the name of the eventual deputy managing director. Furthermore, the application shall state the name of the person responsible for the payment service operations and this person's eventual replacement.

For all of the persons mentioned above, the information for the management assessment set out in Chapter 6, section 8 shall be provided.

Section 6 A legal person shall append a business plan prepared in accordance with Chapter 2.:

- sections 9–14,
- section 17, first paragraph,
- section 18, first paragraph, and
- section 21.

Section 7 The business plan shall outline the legal person's procedures for monitoring that the conditions for exemption from the licence obligation in accordance with Chapter 2, section 3 of the Payment Services Act (2010:751) are fulfilled at any time and for notifying Finansinspektionen in accordance with Chapter 2, section 4 of the same act.

Section 8 A legal person shall account in its business plan for the procedures in place for determining the total sum of the payment transactions executed by the legal person over a period of one month.

The business plan shall also state how the legal person ensures that the half-year reporting of this information is submitted to Finansinspektionen in accordance with Chapter 12, section 9.

Natural person

Section 9 A natural person shall, when applying for an exemption from the licence obligation, provide information in accordance with Chapter 2, sections 2 and 8.

The application for a natural person shall also include the information set out in sections 10-12.

Section 10 The application for a natural person shall contain a forecast of the total sum of expected payment transactions for the first two financial years. The forecast shall account for the assumptions on which it is based.

A natural person that on the date the application is submitted is already conducting payment service operations shall also provide information about the actual total of payment transactions over the preceding twelve months.

Section 11 The information for ownership assessment with regard to the natural person and the person responsible for the payment service operations shall be appended as set out in Chapter 6, section 8.

Section 12 A natural person shall append a business plan prepared in accordance with sections 6–8.

Chapter 4 Provision of ancillary payment services

Section 1 The provisions in this chapter apply for payment institutions and registered payment service providers that want to provide payment services in addition to those previously registered with Finansinspektionen.

Payment institutions

Section 2 A payment institution shall append to its application to provide ancillary payment services documents and information in accordance with Chapter 2:

- section 2, and
- section 6, first and second paragraph about the capital requirement in accordance with Chapter 3, section 1 of the Payment Services Act (2010:751) if payment services are modified as a result of the ancillary payment services the institution is applying to provide.

In its application the institute shall also provide an updated business plan with modifications made in accordance with Chapter 2:

- section 9, first paragraph,
- sections 10 and 12 if the institution makes modifications as a result of an ancillary payment service it is applying to provide,
- section 13 if an ancillary payment service in total or in part will be outsourced to a third party,
- section 14 if an ancillary payment service will be provided via an agent,
- section 17 if an ancillary payment service that will be provided affects how the institution carries out its work to ensure that it complies with the rules that apply to its payment service operations,
- section 18 if an ancillary payment service that will be provided affects how the institution carries out its work to manage the risks associated with its the payment service operations,
- section 19 if an ancillary payment service that will be provided modifies the need for an internal audit function, or modifies how the existing function is formed and carries out its work, and
- section 21 if the institution's internal rules regarding money laundering and financing of terrorism need to be modified as a result of the ancillary payment services the institution is applying to provide.

Section 3 In its application a payment institution shall submit an updated calculation in accordance with Chapter 2, section 6, first paragraph, points 1–3 for the following financial year that also includes the modifications resulting from the ancillary payment services.

Registered payment service provider

Section 4 In its application to provide ancillary payment services a registered payment service provider shall append documents and information in accordance with Chapter 2, section 2.

The registered payment service provider shall also append to its application an updated business plan with modifications in accordance with Chapter 2 and the following sections:

- section 9, first paragraph,
- section 10 and section 12 if the registered payment service provider makes modifications as a result of an ancillary payment service that it is applying to provide,
- section 13 if an ancillary payment service in total or in part will be outsourced to a third party,
- section 14 if an ancillary payment service will be provided via an agent,
- section 17 if an ancillary payment service that will be provided affects how the registered payment service provider ensures that it complies with the rules that apply to its payment service operations,
- section 19 if an ancillary payment service that will be provided modifies the need for an eventual internal audit function, or modifies how the existing function is formed and carries out its work, and
- section 21 if the registered payment service provider's internal rules regarding money laundering and financing of terrorism need to be modified as a result of the ancillary payment services it is applying to provide.

Section 5 The application shall also contain a forecast of the total sum of expected payment transactions for the next financial year. The forecast shall account for the assumptions on which it is based.

Chapter 5 Cross-border operations for payment institutions

Section 1 The general guidelines in this chapter state how a payment institution that intends to provide payment services via agents, branches or cross-border operations within the EEA in accordance with Chapter 3, sections 18, 19 and 21 of the Payment Services Act (2010:751) should notify Finansinspektionen.

General guidelines

A payment institution should use the form available on Finansinspektionen's website. The form is available in both Swedish and English. Finansinspektionen will send the form to the supervisory authority in the country in which the operations will be carried out. If the institution submits the form in Swedish to Finansinspektionen, it should therefore also submit the form in English at the same time.

Chapter 6 Ownership and management assessment

Section 1 These provisions of this chapter state the information a payment institution or a registered payment service provider and its owners shall submit to Finansinspektionen in conjunction with an ownership and management assessment.

Ownership assessment - payment institution

Section 2 An application for permission to acquire or increase a qualifying holding in a payment institution shall be submitted in accordance with Finansinspektionen's regulations (FFFS 2009:3) governing ownership and management assessment.

Ownership assessment - registered payment service provider

Section 3 An application for permission for a natural person to acquire a qualifying holding in a registered payment service provider that is a legal person shall include

1. information identifying the acquirer,
2. a description of the ownership chain before and after the acquisition,
3. information about the acquirer's reputation,
4. information about the size, date and purpose of the acquisition, and
5. information about how the acquisition will be financed.

Section 4 An application for permission for a legal person to acquire a qualifying holding in a registered payment service provider that is a legal person shall include

1. information identifying the acquirer and information about its operations,
2. information identifying the members of the board of directors and senior management of the acquirer, their education, work experience, other assignments and reputation,
3. a description of the ownership chain before and after the acquisition,
4. information about the acquirer's reputation,
5. information about the size, date and purpose of the acquisition, and
6. information about how the acquisition will be financed.

Section 5 When a registered payment service provider that is a legal person becomes aware that shares or participations in the registered payment service provider were acquired in accordance with sections 3 or 4, or were disposed of such that a previous qualifying holding no longer is qualifying, it shall immediately report the acquisition or disposal to Finansinspektionen.

Section 6 If a legal person holds a qualifying holding of shares or participations in a registered payment service provider that is a legal person, the qualifying holder shall immediately report changes in senior management to Finansinspektionen.

Such a report shall contain information that identifies the new members of the board of directors and senior management as well as information about their education, work experience, other assignments and reputation.

General guidelines

The forms available on Finansinspektionen's website should be used for reporting in accordance with sections 3, 4 and 6.

Management assessment - payment institution

Section 7 A payment institution shall immediately report a change to its board of directors or senior management in accordance with Finansinspektionen's regulations (FFFS 2009:3) governing ownership and management assessment.

When a new head of the payment service operations or the deputy head is appointed, information in accordance with that set out in the first paragraph shall be provided for the person in question.

Management assessment - registered payment service provider

Section 8 A registered payment service provider that is a legal person shall immediately report to Finansinspektionen changes to its board of directors, senior management or head or deputy head of its payment service operations.

Such a report shall contain information that identifies members of the board of directors and senior management as well as information about their education, work experience, other assignments and reputation.

The provisions set out in the first and second paragraph concerning the board of directors or senior management shall correspondingly apply to authorised representatives of the legal entities where a board of directors or senior management does not exist or has not been appointed.

General guidelines

A registered payment service provider should use the form available on Finansinspektionen's website.

Chapter 7 Other business activities subject to a notice or licence obligation

Section 1 This chapter contains provisions governing other business activities subject to a notice or licence obligation in accordance with the Payment Services Act (2010:751).

Outsourcing agreements

Section 2 A payment institution or a registered payment service provider shall in a report in accordance with Chapter 3, section 28, first paragraph of the Payment Services Act (2010:751) provide the information about outsourcing agreements set out in Chapter 2, section 13.

The payment institution or the registered payment service provider shall submit the report to Finansinspektionen no later than one month before the agreement will enter into force.

Payment services via agents in Sweden

Section 3 A report in accordance with Chapter 3, section 17, first paragraph of the Payment Services Act (2010:751) from a payment institution or a registered payment service provider shall contain the information set out in Chapter 2, section 14.

Changes to related services and other business operations

Section 4 A payment institution or a registered payment service provider that also intends to provide related services or carry out business activities other than providing payment services shall report such intent to Finansinspektionen. The notification shall contain the information set out in Chapter 2, section 10, first paragraph and section 11.

The payment institution or the registered payment service provider shall notify Finansinspektionen no later than one month before the related services are intended to be provided or the other business activities are commenced.

Possibility to estimate the portion of the payment service user's funds that shall be safeguarded

Section 5 A payment institution or a registered payment service provider shall furnish information in its application for a licence to make an estimation based on historical information in accordance with Chapter 3, section 7, third paragraph of the Payment Services Act (2010:751) that shows the portion of funds per month the firm has used for payment transactions. As a minimum, the information shall refer to the two preceding financial years.

Chapter 8 Organisational requirements for payment institutions

Section 1 The provisions in this chapter govern how a payment institution shall organise its payment service operations and the procedures it shall have to fulfil the requirement on sufficient governance and control for payment service operations in accordance with Chapter 2, section 6, point 2a of the Payment Services Act (2010:751).

General organisational requirements

Section 2 A payment institution shall have

1. documented decision-making procedures that clearly specify reporting lines and an organisational structure that clearly allocates functions and areas of responsibility,
2. internal control mechanisms that ensure compliance with decisions and procedures at all levels within the institution, and
3. effective internal reporting and dissemination of information within the institution.

The institution shall, when applying the first paragraph, take into consideration the nature, scope and complexity of its payment service operations.

Section 3 A payment institution shall have organisational procedures in place to minimise the risks of loss of payment service user's funds as a result of misuse of the funds, fraud, poor administration, inadequate record-keeping, negligence, etc.

Section 4 A payment institution shall monitor and, on a regular basis, evaluate its internal control mechanisms, instructions and procedures implemented in accordance with sections 1-3 to ensure that they are current, effective and adequate. The institution shall also take measures to rectify any deficiencies.

Section 5 The board of directors and the managing director shall ensure that they regularly, at least annually, receive written reports on the areas covered by the provisions in this chapter with regard to compliance and risk control as well as internal audits, where applicable. The reports shall contain information about the measures taken following the identification of deficiencies.

Compliance

Section 6 A payment institution shall maintain current and adequate instructions and procedures to detect any risks of failure by the institution to fulfil its obligations under the Payment Services Act (2010:751) and other regulations that regulate the institution's payment service operations. The institution shall also implement adequate procedures and take measures to minimise these risks.

The institution shall take into account the nature, scope and complexity of its payment service operations when creating the instructions and procedures.

Section 7 A payment institution shall have an effective compliance function. The function shall be responsible for

1. controlling and assessing if the measures and procedures that shall be implemented in accordance with section 6, second paragraph are adequate and effective,
2. evaluating the measures taken to resolve any deficiencies in the institution's compliance, and
3. providing counsel and support to persons responsible for the payment service operations and for the institution's agents to ensure that the payment service operations are operated in accordance with the Payment Services Act (2010:751) and other regulations that regulate the institution's payment service operations.

Section 8 In order for the compliance function to discharge its responsibilities properly, the board of directors and the managing director are responsible for ensuring that

1. the function has the requisite authorities, resources and expertise for, as well as access to, all relevant information,
2. a person is appointed to be responsible for the function and all compliance reporting to senior management as set out in section 5,
3. the persons working in the function are independent and do not participate in the execution of payment services in the operations they are controlling, and
4. the method for determining remuneration to employees of the function does not compromise their objectivity, or most likely will not do so.

However, an institution is not obligated to comply with the first paragraph, points 3 or 4 if the institution can demonstrate, taking into account the nature, scope and complexity of its payment service operations, that these requirements are not proportionate and that its compliance function is still effective.

Risk management

Section 9 A payment institution shall have instructions and procedures for risk management in order to identify and manage the risks that exist in its payment service operations.

Section 10 A payment institution shall have an effective risk control function that works independently. The institution shall appoint a person to be responsible for the function and to furnish reports and counsel to the board of directors and the managing director with regard to risk control in accordance with the requirements set out in section 5.

The function shall be responsible for

1. controlling that the instructions and procedures pursuant to section 9 are current, adequate and effective,
2. implementing the instructions and procedures set out in section 9,
3. controlling the degree to which the institution, its employees and its agents follow the instructions and procedures for managing risks in accordance with section 9, and
4. controlling that measures taken by the institution to resolve identified deficiencies in its instructions and procedures, and the inadequate application of such by the institution's employees and agents, are adequate and effective.

However, the institution is not obligated to comply with the independence requirement in the first paragraph if the institution can demonstrate, taking into account the nature, scope and complexity of its payment service operations, that these requirements are not proportionate and that its risk control function is still effective.

Internal audit function

Section 11 A payment institution shall have an internal audit function if it is adequate and suitable given the nature, scope and complexity of the payment service operations. The function shall be separate and independent from the institution's other functions and payment service activities.

The internal audit function shall

1. maintain a current audit plan to examine and assess if the institution's systems, internal control mechanisms and procedures are adequate and effective,
2. issue recommendations based on the work carried out in accordance with point 1,
3. verify compliance with such recommendations, and
4. furnish reports about internal audit issues to the board of directors and the managing director in accordance with section 5.

Complaints handling

Section 12 A payment institution shall maintain effective and openly reported procedures for the prompt and reasonable handling of complaints about payment services.

A payment institution shall keep a record of each complaint and the measures taken for its resolution.

Documentation

Section 13 A payment institution shall keep the following relevant information in accordance with Chapter 3, section 8 of the Payment Services Act (2010:751):

1. the business plan in accordance with Chapter 2, section 3,
2. internal rules, procedures, instructions and reports for the payment service operations,
3. the basis for applications, reporting and notifications to Finansinspektionen,
4. minutes from board meetings,
5. information about the rights and obligations of the institution and the customer with regard to agreements to provide payment services or the terms and conditions the institution applies to provide the customer with payment services,
6. information about executed payment transactions, and
7. information about balances of payment accounts.

Chapter 9 Capital requirements for payment institutions

Section 1 A payment institution shall apply the provisions in this chapter when calculating its capital requirement in accordance with Chapter 3, section 3 of the Payment Services Act.

After an application is submitted in accordance with Chapter 2, section 7, Finansinspektionen decides which method the firm shall use. The provisions for calculating own funds and its composition are set out in Chapter 3 of the Capital Adequacy and Large Exposures Act (2006:1371) and Chapters 6–9 of Finansinspektionen's regulations and general guidelines (FFFS 2007:1) governing capital adequacy and large exposures.

Method A (Fixed overheads)

Section 2 A payment institution's fixed overheads refer to

- a) personnel costs such as wages and salaries (including commissions and bonus payments), social security fees and pension obligations,
- b) costs for buildings and premises and associated costs,
- c) other contractual costs such as for computers and other equipment, and
- d) depreciation and amortisation.

A payment institution that shall apply Chapter 3, section 10 of the Payment Services Act (2010:751) only needs to include fixed overheads attributed to its payment service operations.

The capital requirement is 10 per cent of the firm's fixed overheads for the preceding financial year or, if the institution has conducted its operations for less than one year, the fixed overheads stated in its business plan.

If the institution's operations changed materially since the preceding year or if Finansinspektionen believes the business plan needs to be changed, the authority may decide to change the basis for the calculation.

General guidelines

Example 1:

The Euro rate on the date the licence is granted is 1 EUR = 10 SEK.

A payment institution that provides money transfers in accordance with Chapter 1, section 2, point 5 of the Payment Services Act has fixed overheads totalling SEK 5 million.

The capital requirement is subsequently SEK 500,000.

Example 2:

The Euro rate on the date the licence is granted is 1 EUR = 10 SEK.

A payment institution that provides money transfers in accordance with Chapter 1, section 2, point 5 of the Payment Services Act has fixed overheads totalling SEK 1 million. The initial capital for providing money transfers according to Chapter 3, section 1 of the act is SEK 200,000. Since the required initial capital is greater than 10 per cent of the fixed overheads, the capital requirement is the same as the initial capital requirement, i.e. SEK 200,000.

Method B (Payment volume)

Section 3 Payment volume refers to one-twelfth of the total amount of the payment transactions executed by the payment institution the preceding financial year.

The capital requirement is the sum of the elements calculated under a–e, multiplied by an appropriate scaling factor in accordance with the third paragraph.

- a) 4 per cent of the slice of the payment volume up to EUR 5 million,
- b) 2.5 per cent of the slice of the payment volume above EUR 5 million up to EUR 10 million,
- c) 1 per cent of the slice of the payment volume above EUR 10 million up to EUR 100 million,
- d) 0.5 per cent of the slice of the payment volume above EUR 100 million up to EUR 250 million, and
- e) 0.25 per cent of the slice of the payment volume above EUR 250 million.

Scaling factors:

- a) 0.5 if the payment institution shall provide payment services provided for in Chapter 2, section 5 of the Payment Services Act (2010:751),
- b) 0.8 if the payment institution shall provide payment services provided for in Chapter 2, section 6 of the Payment Services Act,
- c) 1 if the payment institution shall provide payment services provided for in Chapter 1, sections 1–4 of the Payment Services Act.

General guidelines

Example:

d) The Euro rate on the reporting date is 1 EUR = 10 SEK.

A payment institution that provides money transfers in accordance with Chapter 1, section 2, point 5 of the Payment Services Act (2010:751) had the preceding year a total payment volume of SEK 12 billion, which corresponds to EUR 1.2 billion.

Step 1:

Payment volume = EUR 1.2 billion/12 = EUR 100 million.

Step 2:

4 per cent of EUR 5 million (0 to EUR 5 million) = EUR 200,000 + 2.5 per cent of EUR 5 million (EUR 5 to 10 million) = EUR 125,000 + 1 per cent of EUR 90 million (EUR 10 to 100 million) = EUR 900,000
Total = EUR 1,225,000.

Step 3:

x 0.5 = EUR 612,000, which corresponds to SEK 6,120,000.

Conclusion: The capital requirement for the payment institution is SEK 6,120,000.

Method C (Income method)

Section 4 The elements set out in Chapter 3, section 3 of the Payment Services Act (2010:751) shall be calculated using the data from the most recent financial year. The sum of these elements is hereafter referred to as the "relevant indicator".

If the relevant indicator falls below 80 per cent of the average of the relevant indicator for the three previous financial years, 80 per cent of the average shall be used as the relevant indicator.

The capital requirement is the value of the relevant indicator multiplied partly by a multiplication factor calculated in accordance with the fifth paragraph and partly by an appropriate scaling factor as set out in section 3, fourth paragraph.

If revised information is not available, the business forecasts may be used for the calculation.

Multiplication factor:

- a) 10 per cent of the slice of the sum up to EUR 2.5 million,
- b) 8 per cent of the slice of the sum above EUR 2.5 million up to EUR 5 million,
- c) 6 per cent of the slice of the sum above EUR 5 million up to EUR 25 million,
- d) 3 per cent of the slice of the sum above EUR 25 million up to EUR 50 million,
- e) 1.5 per cent of the slice of the sum above EUR 50 million.

General guidelines

Example:

The Euro rate on the reporting date is 1 EUR = 10 SEK.

Step 1:

A payment institution that provides money transfers in accordance with Chapter 1, section 2, point 5 of the Payment Services Act (2010:751) has an income indicator totalling EUR 25 million.

Step 2:

10 per cent of EUR 2.5 million (0 to EUR 2.5 million) = EUR 250,000 + 8 per cent of EUR 2.5 million (EUR 2.5 to 5 million) = EUR 200,000 + 6 per cent of EUR 20 million (EUR 5 to 25 million) = EUR 1,200,000
Total = EUR 1,650,000.

Step 3:

x 0.5 = EUR 825,000, which corresponds to SEK 8,250,000.

Conclusion: The capital requirement for the payment institution is SEK 8,250,000.

Chapter 10 Outsourcing agreements

Section 1 This chapter contains provisions governing how payment institutions and registered payment service providers shall enter into, maintain and terminate outsourcing agreements that are of material significance to their payment service operations.

Section 2 An outsourcing agreement shall exist in writing and clearly regulate the rights and obligations of the payment institution, the registered payment service provider and the third party service provider.

A payment institution or a registered payment service provider shall take necessary measures to ensure in the outsourcing agreement that

1. the third party service provider has the skills, capacity and authorisations required by law to reliably and professionally perform the outsourced duties and manage risks related to these duties,
2. the payment institution or registered payment service provider can assess and monitor how well the third party service provider is carrying out its duties,
3. the payment institution or the registered payment service provider can take adequate measures if the third party service provider is not carrying out the duties assigned to it in accordance with point 1,
4. the third party service provider informs the payment institution or the registered payment service provider about events that can have a material impact on the third party service provider's ability to carry out the duties assigned to it in accordance with point 1,
5. the outsourcing agreement can be terminated without having an impact on the continuity or quality of the operations of the payment institution or the registered payment service provider,
6. the third party service provider cooperates with Finansinspektionen with regard to the outsourced duties,
7. the payment institution or the registered payment service provider, the institution's auditors and Finansinspektionen have access to information about the outsourced duties and to the third party service provider's premises, and Finansinspektionen can exercise its supervision,
8. the service provider protects all confidential information referring to the payment institution or the registered payment service provider or the customers thereof, and
9. the payment institution or the registered payment service provider and the third party service provider have a contingency plan for re-establishing operations after unforeseen events, and for the periodic testing of back-up procedures, where necessary, with regard to the parts of the operations that were outsourced.

Section 3 A payment institution or a registered payment service provider shall have the resources and skills required to manage risks associated with outsourcing its operations and to monitor the outsourced activities.

Chapter 11 Safeguarding of funds for executing payment transactions

Section 1 This chapter contains provisions governing how payment institutions and registered payment service providers shall handle payment service user's funds in accordance with Chapter 3, section 7, second paragraph of the Payment Services Act (2010:751).

Section 2 A payment institution or a registered payment service provider that in accordance with Chapter 3, section 7, second paragraph of the Payment Services

Act (2010:751) chooses to deposit funds into a separate account shall ensure that the account can be identified as separate from the accounts that are used for funds that belong to the payment institution or the registered payment service provider.

Section 3 A payment institution or a registered payment service provider that in accordance with Chapter 3, section 7, second paragraph of the Payment Services Act (2010:751) chooses to invest funds in liquid assets with low risk shall invest in treasury bills.

Chapter 12 Reporting information to Finansinspektionen

Section 1 This chapter contains provisions governing the information payment institutions and registered payment service providers shall report to Finansinspektionen.

Commenced operations

Section 2 A payment institution shall inform Finansinspektionen in writing when it commences payment service operations.

Material modifications to the business plan

Section 3 A payment institution or a registered payment service provider shall regularly update its business plan regarding changes to its operations.

The payment institution or the registered payment service provider shall without undue delay notify Finansinspektionen about modifications to the business plan that are of material significance.

Reporting events of material significance

Section 4 A payment institution shall without undue delay report to Finansinspektionen events that can compromise the institution's stability and safeguarding of the payment service users' funds or that may entail that the institution cannot fulfil its obligations to its payment service users.

The payment institution shall also without undue delay report to Finansinspektionen any events that can result in significant financial harm to a large portion of its payment service users.

The payment institution shall also state the measures it has taken as a result of such an event.

General guidelines

A payment institution should use the form available on Finansinspektionen's website for reporting in accordance with section 4.

Section 5 If an accountant in a payment institution takes measures such as those set out in Chapter 9, sections 43 and 44 of the Companies Act (2005:551), the payment institution shall immediately notify Finansinspektionen.

Reporting for payment institutions

Section 6 A payment institution shall submit to Finansinspektionen twice a year information for calculating its own funds and capital requirement in accordance

with the method the authority determined the firm shall use. The institution shall also submit the total payment volume for each month since the previous reporting date and state which method(s) in accordance with Chapter 3, section 7 of the Payment Services Act (2010:751) it uses to safeguard the funds of its payment service users.

The payment institution shall submit information via Finansinspektionen's online periodic reporting service following the instructions provided there.

Finansinspektionen shall have received the information no later than 21 January and 21 July, respectively. With regard to annual accounts, Finansinspektionen shall have received the information no later than the fifteenth day of the second month following the reporting date. If the annual accounts do not coincide with any of the reporting dates, the information shall be reported on the reporting date that immediately follows the closing of the annual accounts.

Section 7 Information about the calculation of own funds and capital requirements shall refer to the circumstances as of 30 June and 31 December (balance sheet dates), and be reported in SEK.

When translating into a different currency, the spot rate that applies on the balance sheet date shall be used.

Section 8 Information about payment volume shall refer to the total amount that the institution has brokered on behalf of its payment service users as well as to the periods between the first and last day of the month for each month between the balance sheet dates.

When translating into a different currency, the spot rate that applies on the balance sheet date shall be used.

Reporting for registered payment service providers

Section 9 A registered payment service provider shall submit information to Finansinspektionen twice a year about the total payment volume per month since the previous reporting date. A registered payment service provider shall at the same time state the method(s) in accordance with Chapter 3, section 7 of the Payment Services Act it uses to safeguard the funds of its payment service users.

The registered payment service provider shall submit information via Finansinspektionen's online periodic reporting service following the instructions provided there.

Finansinspektionen shall have received the information no later than 10 January and 10 July, respectively.

Section 10 Information about payment volume shall refer to the total amount that the registered payment service provider has brokered on behalf of its payment service users as well as to the periods between the first and last day of a month for each month between the balance sheet dates as set out in section 7.

When translating into a different currency, the spot rate that applies on the balance sheet date shall be used.

Exemptions

Section 11 Finansinspektionen decides on exemptions from sections 6 and 9, if special grounds exist.

These regulations and general guidelines enter into force on 1 August 2010.

MARTIN ANDERSSON
Johan Terfelt