

DECREE
394/2024 Coll.

of 9 December 2024

amending Decree No 1/2022 Coll., on applications and notifications to perform activities pursuant to the Payment System Act, as amended by Decree No 151/2022 Coll., and Decree No 7/2018 Coll., on some conditions on the pursuit of business of payment institutions, payment account information administrators, small-scale payment service providers, electronic money institutions and small-scale electronic money issuers, as amended

The Czech National Bank determines, pursuant to Article 263 of Act No 370/2017 Coll., on payments, as amended by Act No 129/2022 Coll., for the implementation of Article 10(4), Article 20(4), Article 43(3), Article 48(4), Article 59(4), Article 60(3), Article 69(4), Article 78(4), Article 100(4) and Article 101(3) of the Act:

PART ONE

Amendment to the Decree on applications and notifications to perform activities pursuant to the Payment System Act

Article I

Decree No 1/2022 Coll., on applications and notifications to perform activities pursuant to the Payment System Act, as amended by Decree No 151/2022 Coll., is amended as follows:

1. At the end of footnote No 1, the following words are added: “, as amended by Directive (EU) 2022/2556 of the European Parliament and of the Council”.
2. In Article 2(g), at the end of point 4 the word “and” is deleted.
3. In Article 2(g), at the end of point 5 the word “and” is added after the comma and there is a new point 6, which reads:
“6. the process for data assessment and the reporting of the assessment results within the company management structure,”.
4. In Article 2(h) point 4, the words “for reporting security and operating incidents and for assessing such incidents in terms of their severity, including procedures for reporting serious security and operating incidents pursuant to Article 221 of the Act” are replaced with the words “pursuant to Article 13 and Chapter III of Regulation (EU) 2022/2554 of the European Parliament and of the Council”.
5. In Article 2(i), Article 3(j), Article 6(h), Article 8(j), Article 11(k), Article 14(j) and in Annex No 5(f), the words “ensure continuity” are replaced with the words “maintain operation”.
6. In Article 2(i), the introductory part of the provision, the word “containing” is replaced with the words “including the identification of critical operations, policies and plans for maintaining the operation of information and communications technologies, response and recovery plans for information and communications technologies, a description of the procedures for the regular testing and review of those plans pursuant to Regulation (EU) 2022/2554 of the European Parliament and of the Council,”.

7. In Article 2(i), points 1 to 6 are repealed.

8. In Article 3 and 11, letter q) reads:

“q) a description of the risks and measures to manage them, including

1. a detailed assessment of the risks related to the payment services that the applicant provides or intends to provide, taking into account the planned technical means for the provision of those payment services, including assessment of the risk of fraudulent behaviour, and the security and control measures and procedures to mitigate the identified risks and to protect electronic money holders and payment service users from those risks,
2. a description of the applicant's risk management system pursuant to Chapter II of Regulation (EU) 2022/2554 of the European Parliament and of the Council, including cases where the applicant intends to entrust the performance of some operational activities to another person, and
3. the internal regulation or regulations by which the applicant will ensure the implementation of security and control measures and risk mitigation procedures pursuant to point 1 and which will demonstrate compliance with the requirements under Chapter II of Regulation (EU) 2022/2554 of the European Parliament and of the Council,”.

9. In Article 6, letter k) reads:

“k) a description of the risks and measures to manage them, including

1. a detailed assessment of the risks related to the payment services that the applicant provides or intends to provide, taking into account the planned technical means for the provision of those payment services, including assessment of the risk of fraudulent behaviour, and the security and control measures and procedures to mitigate the identified risks and to protect electronic money holders and payment service users from those risks,
2. a description of the applicant's risk management system pursuant to Chapter II of Regulation (EU) 2022/2554 of the European Parliament and of the Council, including cases where the applicant intends to entrust the performance of some operational activities to another person, and
3. the internal regulation or regulations by which the applicant will ensure the implementation of security and control measures and risk mitigation procedures pursuant to point 1 and which will demonstrate compliance with the requirements under Chapter II of Regulation (EU) 2022/2554 of the European Parliament and of the Council,”.

10. In Articles 8 and 14 letter p) reads:

“p) a description of the risks and measures to manage them, including

1. a detailed assessment of the risks related to the payment services that the applicant provides or intends to provide, taking into account the planned technical means for the provision of those payment services, including assessment of the risk of fraudulent behaviour, and the security and control measures and procedures to mitigate the identified risks and to protect electronic money holders and payment service users from those risks,
2. a description of the applicant's risk management system pursuant to Chapter II of Regulation (EU) 2022/2554 of the European Parliament and of the Council, including cases where the applicant intends to entrust the performance of some operational activities to another person, and

3. the internal regulation or regulations by which the applicant will ensure the implementation of security and control measures and risk mitigation procedures pursuant to point 1 and which will demonstrate compliance with the requirements under Chapter II of Regulation (EU) 2022/2554 of the European Parliament and of the Council.”.
11. In Annex No 2(c) point 3, the words “the flow of funds during an executed payment transaction” are replaced with the words “a detailed breakdown of estimated cash flow”.
12. In Annex No 3(d) points 3 and 7, the number “19” is replaced with the number “17”.
13. *Not relevant for english translation*
14. In Annex No 4(b), the word “documents” is replaced with the word “information”.
15. In Annex No 5, at the end of letter h) the word “and” is deleted.
16. In Annex No 5, at the end of letter i) the full stop is replaced with a comma and the word “and” and there is a new letter j), which reads:
“j) a description of the principles for the use of information and communications technologies services pursuant to Chapter V, Section I of Regulation (EU) 2022/2554 of the European Parliament and of the Council.”.
17. Annex No 6 is repealed.

PART TWO

Amendment to the Decree on some conditions on the pursuit of business of payment institutions, payment account information administrators, small-scale payment service providers, electronic money institutions and small-scale electronic money issuers

Article II

Decree No 7/2018 Coll., on some conditions on the pursuit of business of payment institutions, payment account information administrators, small-scale payment service providers, electronic money institutions and small-scale electronic money issuers, as amended by Decree No 2/2022 Coll. and Decree No 151/2022 Coll., is amended as follows:

1. In footnote No 1, the first sentence is replaced with the sentence “Article 4 point 46, Article 8(2), Article 9(1), Article 9(2) and Article 95(1) of Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010 and repealing Directive 2007/64/EC, as amended by Directive (EU) 2022/2556 of the European Parliament and of the Council.”.
2. In Article 4, paragraph 2 reads:
“(2) Paragraph 1 is without prejudice to the obligations of a payment institution to manage information and communications technologies risks to which the payment institution is or might be exposed in relation to the payment services it provides, pursuant to Chapter II of Regulation (EU) 2022/2554 of the European Parliament and of the Council. Information and communications technologies risk mitigation measures and control mechanisms put in place by a payment institution pursuant to Chapter II of Regulation (EU) 2022/2554 of the European Parliament and of the Council are part of its security and operational risk management pursuant to paragraph 1.”.

3. In Article 4, paragraphs 3 and 4 are repealed.
4. The annex is repealed.

PART THREE
EFFECT

Article III

This Decree will come into effect on 17 January 2025.

Governor:
Aleš Michl