**Annexe I**

**Application form for the authorisation of a payment institution pursuant to the law of 10 November 2009 on payment services (the "Law").**

**Version of 1st June 2010**

This application form shall be duly filled in by the applicant firm and handed in for the processing of the application file for the authorisation as payment institution.

The applicant firm shall tick the boxes which correspond to its request and enclose with the duly filled in application form all the descriptions, explanations, information and copies required in the latter.

The "curriculum vitae" to be enclosed with the file shall be complete and shall include detailed information on the training, previous professional experience and activities or additional functions carried out at the moment.

Payment institutions are only authorised to provide payment services covered by their authorisation. If an institution wishes to provide several payment services listed in the Annexe to the Law, it shall request an authorisation for every intended payment service.

Authorisation is required prior to any change of the type of payment services provided.

Person in charge of the file:

|  |  |
| --- | --- |
| Surname, First name: |  |
| Title/Function: |  |
| Tel. no. |  |
| E-mail address: |  |

**Identification**

Name of the applicant firm:

|  |
| --- |
|  |

Legal status of the applicant firm / date of incorporation:

|  |
| --- |
|  |

Company name[[1]](#footnote-1)\*:

|  |
| --- |
|  |

Description of the corporate purpose:

|  |
| --- |
|  |

Address of the central administration and the registered office of the applicant firm[[2]](#footnote-2)\*:

|  |
| --- |
|  |

Copy of the applicant firm's articles of incorporation / copy of the draft articles of incorporation if the company is in the process of incorporation (to be enclosed with the file)

Balance sheet of the three last years and profit and loss account[[3]](#footnote-3)\*

1. **The authorisation as payment institution**
2. **1st authorisation request**

Authorisation as pure payment institution (Article 6 of the Law)

Authorisation as hybrid payment institution (Article 10(1), point c of the Law)

**Payment services which require an authorisation**

|  |  |  |  |
| --- | --- | --- | --- |
| 1. | Services enabling cash to be placed on a payment account and any operations required for operating a payment account. | |  |
| 2. | Services enabling cash withdrawals from a payment account and any operations required for operating a payment account. | |  |
| 3. | Execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or another payment service provider: | |  |
|  |  | execution of direct debits, including one-off direct debits; |  |
|  |  | execution of payment transactions through a payment card or a similar device; |  |
|  |  | execution of credit transfers, including standing orders. |  |
| 4. | Execution of payment transactions where the funds are covered by a credit line for a payment service user\* | |  |
|  |  | execution of direct debits, including one-off direct debits; |  |
|  |  | execution of payment transactions through a payment card or a similar device; |  |
|  |  | execution of credit transfers, including standing orders. |  |
| 5. | Issuing and/or acquiring payment instruments\* | |  |
| 6. | Money remittance. | |  |
| 7. | Execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication or IT system or network operator, acting only as an intermediary between the payment service user and the supplier of the goods and services. | |  |

\*including granting credits pursuant to Article 16(3) of Directive 2007/64/EC

yes  no

1. **Amendment to the initial authorisation**

Extension of the activity

Removal of one or several activities

**Payment services which require an amendment to the authorisation**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  | | Extension | Removal |
| 1. | Services enabling cash to be placed on a payment account and any operations required for operating a payment account. | |  |  |
| 2. | Services enabling cash withdrawals from a payment account and any operations required for operating a payment account. | |  |  |
| 3. | Execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or another payment service provider: | |  |  |
|  |  | execution of direct debits, including one-off direct debits; |  |  |
|  |  | execution of payment transactions through a payment card or a similar device; |  |  |
|  |  | execution of credit transfers, including standing orders. |  |  |
| 4. | Execution of payment transactions where the funds are covered by a credit line for a payment service user\* | |  |  |  |
|  |  | execution of direct debits, including one-off direct debits; |  |  |
|  |  | execution of payment transactions through a payment card or a similar device; |  |  |
|  |  | execution of credit transfers, including standing orders. |  |  |
| 5. | Issuing and/or acquiring payment instruments\* | |  |  |
| 6. | Money remittance. | |  |  |
| 7. | Execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication or IT system or network operator, acting only as an intermediary between the payment service user and the supplier of the goods and services. | |  |  |

\*including granting credits pursuant to Article 16(3) of Directive 2007/64/EC

yes  no

1. **Related services which the applicant firm would like to carry out**

|  |  |  |
| --- | --- | --- |
|  | Ensuring the execution of payment transactions |  |
|  | Foreign exchange services |  |
|  | Safekeeping activities, and the storage and processing of data |  |
|  | The operation of payment systems |  |

1. **Regular activity of the hybrid payment institution**

Describe in detail the regular activity.

1. **Information on the persons responsible for the management of the institution**

**Pure payment institution**

The applicant firm shall provide information regarding the natural persons responsible for the payment institution's effective management.

The applicant firm shall indicate the identity of the persons responsible for the management of the payment institution to be authorised and provide evidence of professional standing and of appropriate professional knowledge and experience required to perform payment services.

|  |  |
| --- | --- |
| Surname, First name | Title, Function |
|  |  |
|  |  |

Curriculum vitae\*

Extract from the police record[[4]](#footnote-4)\*

Declaration of honour\*

Copy of the identity card\*

**Hybrid payment institution**

In case of a hybrid payment institution, the applicant firm shall provide information regarding the person responsible for the management of the payment services activities.

|  |  |
| --- | --- |
| Surname, First name | Title, Function |
|  |  |
|  |  |

Curriculum vitae\*

Extract from the police record[[5]](#footnote-5)\*

Declaration of honour\*

Copy of the identity card\*

1. **Internal bodies**

Unitary board structure:

Composition of the board of directors:

|  |  |
| --- | --- |
| Surname, First name | Title, Function |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |

Curriculum vitae\*

Extract from the police record[[6]](#footnote-6)\*

Declaration of honour\*

Copy of the identity card\*

Dual board structure:

Composition of the management board:

|  |  |
| --- | --- |
| Surname, First name | Title, Function |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |

Curriculum vitae\*

Extract from the police record[[7]](#footnote-7)\*

Declaration of honour\*

Copy of the identity card\*

Composition of the supervisory board:

|  |  |
| --- | --- |
| Surname, First name | Title, Function |
|  |  |
|  |  |
|  |  |
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|  |  |

Curriculum vitae\*

Extract from the police record[[8]](#footnote-8)\*

Declaration of honour\*

Copy of the identity card\*

1. **Share capital**

The capital requirements vary depending on the payment services provided (Article 15 of the Law). In case the payment institution intends to provide several payment services, the capital requirement shall correspond to the activity for which the capital requirement is the highest.

Indicate the amount of the share capital:

|  |  |
| --- | --- |
| EUR 20,000 |  |
| EUR 50,000 |  |
| EUR 125,000 |  |

Other amount

|  |
| --- |
|  |

1. **Calculation of own funds**

The Law provides three methods to calculate the capital requirements in relation to payment services (Article 17 of the Law).

The payment institutions may choose any of these methods. However, they must justify their choice according to the risks associated with the contemplated activities and prove that they can apply the method.

Method A and justification of the choice

Method B and justification of the choice

Method C and justification of the choice

1. **Safeguarding requirements for hybrid institutions**

Article 14 of the Law.

Hybrid payment institutions are required to safeguard the funds they received for the execution of payment transactions either from payment service users or from other payment service providers.

Method for the segregation of funds

The applicant firm shall provide the contact details of the credit institution in which it has an account and with which it signed account agreements ensuring the segregation of funds. In addition, it shall explain the contemplated investment policy and the criteria for the selection of securities.

Method to cover funds

The applicant firm shall provide a copy of the insurance policy or the guarantee from an insurance undertaking or credit institution which does not belong to the same group as the payment institution itself.

1. **Business plan**

1. Indicate the type(s) of payment services that the payment institution contemplates providing. Provide a synthetic description of the contemplated activity(ies).

2. Describe the nature and volume of the contemplated transactions including a scheme representing all financial flows per contemplated payment service.

3. Present a detailed breakdown of the amount of forecast transaction flows per payment service over a period of three years.

4. If the applicant firm intends to provide related services (Article 10(1), points a and b of the Law), a detailed description of the transactions and of the realised/expected turnover per related activity carried out/contemplated shall be included in the file.

5. If the applicant firm is a hybrid institution or intends to adopt the status of hybrid payment institution, a detailed description of the activities carried out or contemplated by the institution containing all information necessary including audited annual accounts of the three last financial years shall be added in the file.

6. If the applicant firm intends to use agents, it shall specify the number of agents the payment institution intends to use. *(The form “***Declaration of an agent in accordance with the requirements of Article 18 of the law of 10 November 2009 on payment services***” shall be filled in by the applicant firm and included in the file.)*

1. **Organisation of the activity**

1. A business plan shall be appended to the file which will allow assessing whether the applicant firm took indeed into account all the elements related to the feasibility of the project.

The business plan shall include:

A forecast budget calculation for the first three financial years which proves that the applicant firm is able to implement the appropriate and proportionate systems, resources and procedures to operate soundly

Information concerning the origin of the funds

Targeted markets

Targeted customers

Marketing strategy

Reasons for the establishment in Luxembourg

2. A description of the applicant firm's internal governance and internal control mechanisms, including administrative, risk management and accounting procedures, which demonstrates that these internal governance arrangements, control mechanisms and procedures are proportionate, appropriate, sound and adequate compared to the nature, the range and complexity of the payment services provided by the payment institution.

The applicant firm shall provide:

A description of the detection, management control and reporting process of the risks it may be exposed to.

A description of the mechanisms of internal control, including administrative and accounting procedures as well as control and security mechanisms of the IT systems.

3. A description of the applicant firm's structural organisation

Scheme explaining how the activity will be organised

General organisation chart of the institution (repartition of the activities and functions and the organisation of the lines of responsibility)

Description of the forecast of the applicant firm's global staff evolution for the three next years and the corresponding payroll

Description of the intended use of agents and branches and a description of outsourcing arrangements

confirmation/proof that in case of outsourcing of the accounting function, the accounting organisation shall be such that the basic accounting system (including in principle the general ledger and the general journal) as well as the accounting documents are available in Luxembourg and that the institution took the measures which allow the autonomous drawing-up of a balance sheet and profit and loss account in the event that the service provided by the payment service provider be discontinued. Moreover, the person in charge of the accounting in Luxembourg shall have adequate knowledge.

Participation in a national or international payment system

4. A description of the internal control mechanisms which the applicant firm has established in order to comply with obligations laid down in the law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended, and Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds.

**Name of the officer responsible for the fight against money laundering and terrorist financing:**

1. **External audit**

1. Is the applicant firm allowed derogation as set out in the law of 19 December 2002 concerning the trade and companies register as well as the accounting and annual accounts of companies[[9]](#footnote-9)?

Yes

No (In case of a negative answer, please go to point 2.)

2.

|  |  |
| --- | --- |
| Name of the "*réviseur(s) d'entreprises agréé(s)*" (approved statutory auditor(s)) |  |
| Address |  |
| Tel. no. |  |

1. **Structure of the shareholders**

The information below shall be provided for all the shareholders of the incorporated company or in the process of incorporation.

1. **Identity of the shareholder**

Natural person.

1. Name, place and date of birth, address:
2. Curriculum vitae

Legal person

1. Name of the company, trade description, address of the head office. The shareholder shall provide documentary evidence;
2. Registration of the legal form according to national legislation;
3. A recent overview of the entrepreneur activities;
4. Identity of all the other "beneficial owners" of the legal person.

The shareholder is a trust already existing or resulting from the creation.

1. Identity of all the trustees under the terms of the trust instrument and details on their share in the breakdown of incomes;
2. Identity of all the other "beneficial owners" of the assets invested in the trust.
3. **Additional information concerning the shareholders**

The shareholder is a natural person

1. As regards the shareholder and *any other undertaking* managed or controlled by the shareholder in the past, information on:
   * + - 1. all the relevant past judicial proceedings, all enquiry or criminal procedure in process, all relevant civil and administrative cases and all disciplinary actions (including any dismissal as manager of the company, any bankruptcy or insolvency procedure and any other similar procedure);
         2. any enquiry, coercive measure or sanction imposed by a supervisory authority against it;
         3. any refusal of registration, authorisation, agreement or affiliation necessary to the exercise of the professional activities; any withdrawal, dismissal or termination of registration, authorisation, agreement or affiliation; any removal by a public or regulatory body;
         4. any redundancy or dismissal from a trustworthy post or any other request for dismissal from such a job or post; any break in the business relationship or any other similar situation;
2. Information which allows determining whether another authority for the supervision of the financial sector has already assessed the reputation of the person concerned as shareholder, proposed acquirer or manager of a financial institution (including the name of this authority and evidence of the assessment results);
3. Information which allows determining whether an authority for the supervision of another sector than the financial sector has already carried out an assessment (including the name of this authority and evidence of the assessment results);
4. Information regarding the financial position and soundness of the shareholder: details concerning his income, assets and liabilities, guarantees and collateral;
5. Description of the shareholder's professional activities;
6. Financial information, including ratings, and public reports on undertakings controlled or managed by the shareholder and, if available, ratings of the applicant and public reports regarding the shareholder;
7. Description of financial[[10]](#footnote-10) and non financial[[11]](#footnote-11) interests or relations between the shareholder and:
   * + - 1. any other shareholder of the payment institution;
         2. any person authorised to exercise the voting rights attached to securities issued by the payment institution;
         3. any member of the board of directors or an equivalent body or of the authorised management of the payment institution;
         4. the payment institution and the group to which it belongs;
         5. any other interest or activity of the shareholder that may give rise to a conflict of interest with the payment institution and possible solutions to deal with it.

The shareholder is a legal person

1. As regards the shareholder and *any other undertaking* managed or controlled by the shareholder in the past, information on:
   * + - 1. all the relevant past judicial proceedings, all enquiry or criminal procedure in process, all relevant civil and administrative cases and all disciplinary actions (including any dismissal as manager of the company, any bankruptcy or insolvency procedure and any other similar procedure);
         2. any enquiry, coercive measure or sanction imposed by a supervisory authority;
         3. any refusal of registration, authorisation, agreement or affiliation necessary to the exercise of the professional activities; any withdrawal, dismissal or termination of registration, authorisation, agreement or affiliation; any removal by a public or regulatory body;
2. Information which allows determining whether another authority for the supervision of the financial sector has already assessed the reputation of the person concerned as shareholder, proposed acquirer or manager of a financial institution (including the name of this authority and evidence of the assessment results);
3. Information which allows determining whether an authority for the supervision of another sector than the financial sector has already carried out an assessment (including the name of this authority and evidence of the assessment results);
4. Description of financial[[12]](#footnote-12) and non financial[[13]](#footnote-13) interests or relations between the shareholder and:
   * + - 1. any other shareholder of the payment institution;
         2. any person authorised to exercise the voting rights attached to securities issued by the payment institution [[14]](#footnote-14)
         3. any member of the board of directors or an equivalent body or of the authorised management of the payment institution
         4. the payment institution and the group to which it belongs;
         5. any other interest or activity of the shareholder that may give rise to a conflict of interest with the payment institution and possible solutions to deal with it;
5. Structure of the shareholders, identity of all the shareholders who can exercise a significant influence, proportion of the capital and voting rights they hold, information on shareholders' agreements;
6. If the shareholder is part of a group (as a subsidiary or parent undertaking), detailed organisation chart of the structure of the entire group and information on the proportion (of capital and voting rights) held by the significant shareholders and on the activities exercised by the group;
7. Identification of the entities of the group subject to supervision and name of the supervisory authorities in their home country;
8. Financial statements required by the law, irrespective of the size of the undertaking, for the last three financial years, approved by an audit firm and including:
   * + - 1. the balance sheet;
         2. the income statement;
         3. annual reports and financial annexes and any other document filed with the trade register;
9. Information on the applicant's solvency reputation and general rating of the shareholder's group, where applicable.
10. **Description of the control and security mechanisms of the IT systems**

The institutions shall organise their IT function so as to control it, to ensure its quality and to guarantee the protection of confidential data entrusted to them by their clients.

1. Drawing description of the systems' architecture including the network elements.

2. Description of the geographical distribution of the services and IT systems relating thereto.

3. Are those systems already used by the applicant firm's company?

Yes (continue on question 3)

No (indicate the estimated date from which your system will be operational.)

4. Description of the physical location of the equipment described above, physical securities and controls of holding rooms.

5. Description of the contemplated outsourcing and of their covering (functional, system, physical) in relation to the systems described and indication of the subcontractor's name.

6. Description of the control of the systems' security and of these controls' content. Please indicate the number of controls per year.

7. Precise description of management information which are provided by the system (transactions' volume, value and destination, etc.).

8. Description of the procedures that the applicant has/will have in place for identifying suspicious or unusual transactions.

9. Are there any already existing written procedures of the IT system?

Yes.

No (Please indicate the estimated date for the finalisation of the procedures).

10. Inventory of the control and security mechanisms linked to the provided services, covering the authentication of the participants (among others the payer and payee), the segregation of the functions, the integrity of the technical and financial data and flows with an indication of their frequency.

11. Description of the recovery plan in case of disaster (Disaster Recovery Plan, DPR) and the mechanisms ensuring the availability of services.

12. Brief presentation of the method to assess and deal with risks, which shall cover the manner in which the audit is performed.

13. Description of the IT policy between the applicant and his agents (only if the applicant intends to use agents).

Any changes regarding information provided during the processing of the application file shall be immediately communicated to the CSSF.

Any change between the file submitted during the processing and the file submitted to the Minister shall be communicated to the CSSF by the applicant.

If the CSSF considers that the provided information is false or insufficient, it reserves the right to request any information necessary for the duly processing of the application file.

The applicant firm declares that it is aware of the provisions of the law of 10 November 2009 on payment services.

The applicant firm confirms that the information provided during the application file processing is correct and complete.

Signature of the persons responsible and in charge of the application file (in case of an incorporated company: administrators, persons in charge of the daily management).

|  |  |  |  |
| --- | --- | --- | --- |
| Surname, First name | Title/Function | Signature | Date |
|  |  |  |  |

1. \* To be submitted in case of an incorporated company. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)
3. [↑](#footnote-ref-3)
4. \* These documents shall be provided for every person mentioned in the table. [↑](#footnote-ref-4)
5. \* These documents shall be provided for every person mentioned in the table. [↑](#footnote-ref-5)
6. \* These documents shall be provided for every person mentioned in the table. [↑](#footnote-ref-6)
7. \* These documents shall be provided for every person mentioned in the table. [↑](#footnote-ref-7)
8. [↑](#footnote-ref-8)
9. **Art. 35. -** The undertakings which do not exceed the limits of two of the following three criteria at the balance sheet date:

   - balance sheet total: EUR 4.4 million

   - net turnover: EUR 8.8 million

   - number of persons employed full time and on average during the financial year: 50,

   may draw up their balance sheet in the form of an abridged balance sheet showing only the items preceded by capital letters and Roman numbers set out in Article 34 with a separate indication of the assets and liabilities becoming due and payable after more than one year in items D II under "Assets" and B and D under "Liabilities", but in a global manner for every item concerned.

   However, this ability does not exist for undertakings whose securities are admitted to trading on a regulated market of a Member State of the European Community within the meaning of Article 4(1), point (14) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments.

   The above-mentioned amounts may be modified through a grand-ducal regulation. [↑](#footnote-ref-9)
10. Financial interests include, for example, credit transactions and guarantees and collateral. [↑](#footnote-ref-10)
11. Non financial interests include, for example, family relations. [↑](#footnote-ref-11)
12. Financial interests include, for example, credit transactions and guarantees and collateral. [↑](#footnote-ref-12)
13. Non financial interests include, for example, family relations. [↑](#footnote-ref-13)
14. See the cases listed in Article 10 of Directive 2004/109/EC on the harmonisation of transparency requirements. [↑](#footnote-ref-14)