



Electronic Money Association

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Belgium

www.e-ma.org

The Bank of Lithuania
Law and Licensing Department
Director Arūnas Raišutis

By email prieziura@lb.lt

25 November 2022

Dear Arūnas Raišutis,

Re: EMA response to the Bank of Lithuania consultation on changes of approval of senior managers.

Thank you for the opportunity to respond to the consultation. The EMA is the EU trade body of FinTech, BigTech and technology firms engaging in the provision of alternative digital payment services, including the issuance of e-money, e-money tokens and cryptoassets. Our members include leading payments and e-commerce businesses worldwide, providing online payments, card-based products, electronic vouchers, and mobile payment instruments, and increasingly cryptocurrency exchanges and other cryptocurrency related products and services. Most members operate across the EU, most frequently on a cross-border basis. A list of current EMA members is provided at the end of this document.

I would be grateful for your consideration of our comments and proposals.

Yours sincerely,

A handwritten signature in black ink that reads 'Thaer Sabri'. The signature is written in a cursive style and is underlined with a long horizontal stroke.

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

EMA comments

The EMA's comments to the draft amendments to the Resolution of the Board of the Bank of Lithuania No 03-181 of 14 November 2013 "On the Approval of the Provisions on the Evaluation of the Managers of Financial Market Participants Supervised by the Bank of Lithuania and the Persons Performing Key Functions" (the draft Resolution) are set out below.

Amendment to Provisions on the assessment of managers and key function holders of financial market participants supervised by the Bank of Lithuania Annex 3

(i) The requirement to provide information on the legal entities of which the person is or has been a director and key person in the last 10 years.

RESPONSE: The EMA believes that a requirement to provide the data on previous directorships and key person roles going back for a period of up to 10 years for directors and other key function holders of Electronic Money Institutions (EMIs) and Payment Institutions (PIs) may be disproportionate.

We do not see the legal or other regulatory basis for applying such requirement to EMIs and PIs. The EBA Guidelines on Authorisation of Payment Institutions (EBA-GL-2017-09) do not require submission of such information for the purposes of assessment of directors and management body of EMIs and PIs. These guidelines do require PIs to provide a curriculum vitae containing details of education and professional experience, including academic qualifications, other relevant training, the name and nature of all organisations for which the individual works or has worked (Guideline 16.1(c)). The requirement to submit the same information, in a different format, duplicates administrative effort, and seems unnecessary.

We note that that the Joint ESMA and EBA Guidelines on the assessment of the suitability of members of the management body and key functions holders under Directive 2013/36/EU and Directive 2014/65/65/EU (ESMA35-36-2319; EBA/GL/2021/06) requires supervisory authorities, as part of their assessment of suitability, to carry out checks in the EBA and ESMA databases to identify any penalties in the last ten years against institutions where the assessed person was a member of their management body or a key function holder. We deduce that the information requested is intended for the purposes of carrying out such checks. However, the said Guidelines apply to institutions falling within the scope of Directive 2013/36/EU and Directive 2014/65/EU (banks and investment firms) – not to EMIs and PIs. We therefore query the purpose and the need for requiring them to provide such information.

(i) The requirement to provide information on the legal entities of which the person is or has been the direct or indirect holder of a qualifying holding in the share capital and/or voting rights, and the legal entities of

which the person is or has been the direct or indirect holder of a qualifying holding in the share capital and/or voting rights, as indicated in the questionnaire of the manager and key person.

RESPONSE: Similarly to our comments above, we do not see the legal or regulatory basis to require, for directors and other key function holders of EMIs and PIs, to submit information on their qualifying holdings in other entities. We believe such requirements, going back up to 10 years in order to provide the said information, impose a disproportionate administrative burden and, further, might disproportionately infringe on persons' privacy. We would therefore welcome a reassessment of the application of this requirement as regards EMIs and PIs.

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