LIETUVOS BANKAS
FINANCIAL MARKET SUPERVISION DEPARTMENT

Electronic money institutions and payment institutions on the list

No

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Associations on the list

RE: IMPROVING THE INFORMATION EXPERIENCE OF PAYMENT SERVICE USERS WHEN THE BUSINESS MODEL INVOLVES THIRD PARTIES ENGAGED BY ELECTRONIC MONEY AND PAYMENT INSTITUTIONS LICENCED BY LIETUVOS BANKAS TO ACT ON THEIR BEHALF, OR OTHER ENTITIES

As part of its mandate under the Republic of Lithuania Law on the Bank of Lithuania (hereinafter – the Law on Lietuvos bankas) and supervision of compliance by financial market participants, including electronic money and payment institutions (hereinafter – the Institutions), with the requirements laid down in legal instruments governing the financial market, and acting in accordance with Article 42(4)(5) of the Law on Lietuvos bankas, Lietuvos bankas hereby draws the attention of the Institutions supervised by Lietuvos bankas to the observed potential deficiencies in the activities of the Institutions supervised by Lietuvos bankas, when their business model involves third parties engaged by the Institutions to act on behalf of the Institutions, such as agents and/or electronic money distributors or other entities acting on the basis of white-label partnership (hereinafter – the Partners),[1] and non-compliance with the requirements laid down in the Republic of Lithuania Law on Payments (hereinafter – the Law), which, if not remedied by the Institutions, lead to the risk of breach of the requirements of legal instruments applicable to their activities.

As we conduct the supervision of Institutions providing payment services, the business model of which involves the engagement of Partners, we would like to draw your attention to certain requirements that the Institutions must comply with in their day-to-day activities and the implementation of which will be the focus of Lietuvos bankas' supervision of such Institutions operating through their Partners in 2025.

It should be noted that in 2024, in the performance of its supervisory function under the Law on Lietuvos bankas, Lietuvos bankas analysed, by way of random sampling, the information published on the websites of the Institutions operating through their Partners, i.e. analysed the activities of the Institutions and their Partners from the perspective of the payment service user (PSU) and identified certain deficiencies in their activities. It has been observed that not only do Institutions publish inaccurate or misleading information on their websites regarding their activities through Partners (in some cases, such information is also published on the websites of the Partners engaged by the Institution), but also that the website addresses of the Partners engaged by the Institution provided on the websites of the Partners and/or the Institution are not functional, and that PSU-relevant references to the websites of the Institutions and/or of the Partners engaged by them, including links to the terms and conditions of provision of payment

[1] We would like to further clarify that, under the current legal regulation, only agents that have been assessed by Lietuvos bankas and included in the List can provide payment services on behalf of the Institutions, while distributors engaged by the Institutions can only place and redeem electronic money, and white-label partnership refers to activities where the marketing functions are performed through the engagement of third parties. More information on the activities of the Institutions through agents and electronic money distributors is available on the website of Lietuvos bankas in the FAQ and Consultations sections.

services, to framework agreements on payment services, annexes thereof, and other documents forming an integral part of the agreements (hereinafter collectively or individually – the Documents), do not work either. Other potential deficiencies in the activities of the Institutions supervised by Lietuvos bankas and acting through their Partners will be dealt with in separate sections of this Letter.

In view of the above, Lietuvos bankas hereby provides recommendations and shares proposals that are in line with good market practices on how to improve the provision of payment services, better inform PSUs and ensure the protection of the rights and legitimate interests of PSUs.

It should be noted that the expectations concerning the information provided in the terms and conditions of payment services and/or framework agreements on payment services and regarding the control of the activities of Partners of the Institutions, as set out in the Letter of Lietuvos bankas of 16 November 2023, No S 2023/(34.55.E-3900)-12-4559 *Re: Improving the provision of payment services and the experience of payment service users* (hereinafter – Dear CEO Letter 2023)[2] remain relevant.

1. On the provision of information in a clear and comprehensible manner

Article 13(1) of the Law obliges payment service providers (PSPs), including the Institutions, to set out the information published in the Documents and on websites in such a way that all the information provided to PSUs is presented in a clear and comprehensible manner. It should be noted that the Law transposes into the national law the provisions 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. Under recital 54 of the Preamble to that Directive, the purpose of the obligation of PSPs as regards the provision of information to PSUs is to ensure that PSUs receive the high level of clear information about payment services in order to make well-informed choices and be able to choose freely within the Union. This interpretation is fully in line with the case law of the Supreme Court of Lithuania (hereinafter – the SCL) that ensuring the implementation of the right to information is one of the main objectives of not only the European Union, but also of national consumer protection legislation. Only having sufficient information is the consumer in a position to make an informed decision on the purchase of goods or services.[3] The SCL has emphasised[4] that the consumer's right to information is one of the essential guarantees of a high level of consumer protection. The implementation of this consumer right is ensured by the legal regulation imposing an obligation on the entrepreneur to provide the consumer with information (the duty of disclosure of information). Adequate consumer information not only enables the consumer to make an informed decision – to consider his or her decision to purchase the goods and services concerned, to compare the goods and services available on the market and their prices – but also creates the conditions for the market to operate efficiently. According to the interpretation of the SCL, the provision of information in a "clear and comprehensible manner" means, inter alia, that the information must be presented in such a way and in such a manner that it is easily understandable to the consumer (the consumer can easily grasp its meaning, the characteristics and risks of the product) and not misleading. The question of whether the information has been presented in a clear and comprehensible manner in the context of a contractual consumer relationship is to be determined in the light of all the factual circumstances and the level of attention that can be expected of the average consumer, i.e. the standard of the average consumer is applied to the perception of the information. It should be noted that the standard of the average consumer relates to the perception of the information received and not to the ability to obtain it. Thus, the PSP, including the Institutions, must not only ensure that certain information is provided to the PSU, but also that it is presented in such a way that the PSU can easily perceive the substance of the information provided and avoid any misleading implications.

2. On the provision of information in accordance with the requirements laid down in Article 13 of the Law and other recommendations of Lietuvos bankas on the publication of standard information in the Documents and on the websites of the Institutions and of the Partners engaged by the Institutions

[2] See Lietuvos bankas' Dear CEO Letter 2023.
[3] Ruling of the Supreme Court of Lithuania of 27 June 2016 in Civil Case No e3K-3-332-687/2016.
[4] Ruling of the Supreme Court of Lithuania of 13 October 2021 in Civil Case No 3K-3-246-1075/ 2021.

Pursuant to Article 13(2) of the Law, the following information on the PSP must be indicated in the conditions of provision of payment services: 1) the PSP's name, identification number, address of its head office and/or branch established in the Member State where the payment service is offered or of its agent, and any other address, including e-mail address, relevant for communication with the PSP; 2) the particulars of the supervisory authorities and of the public list of payment institutions of the PSP's home Member State or of any other relevant public and/or sectoral register in which the licence of the PSP is registered and the registration number, or equivalent means of identification in that register. In light of the above, the current legal regulation imposes an obligation on the Institutions to provide the information on the entity providing payment services as specified in the Law. In the Dear CEO Letter 2023, Lietuvos bankas, inter alia, covered the control of the activities of Partners of the Institutions and the good practices on the adequate information to PSUs about the direct entity that provides payment services, where the Institutions act through Partners engaged by them.

In the public message[5] and in FAQ,[6] Lietuvos bankas has notified the Institutions on the responsibility to be assumed, the possible consequences and the necessary control measures when they engage Partners. In the FAQ[7] and Dear CEO Letter 2023, Lietuvos bankas noted that the Institutions must ensure that information on the terms of provision of payment services is provided in such a way that the PSU easily understands to whom he or she is bound by the legal relationship with regard to the provision of payment or other services and is not misled. Particular attention should be paid to the clarity of the presentation of information when the Institutions, while providing payment services themselves, also act as Partners of another Institution. In this way, there must be a clear separation of responsibilities between the Institutions, and the PSUs must be able to easily understand which payment services and by which Institution are provided to them. It should be noted that, upon assessment of the Documents of the Institutions acting through Partners and the information publicly available on the websites of the Institutions and of the Partners engaged by the Institutions, some cases were found where PSUs were inadequately informed about the terms and conditions of provision of a certain part of payment services provided through Partners, the direct payment service provider within the meaning of the Law, to whom PSUs should submit requests or complaints regarding the terms and the quality of the payment services provided. It is often the case that due to, probably, insufficient control of the Institutions and their Partners, the information provided on the websites of the Partners, including the published terms and conditions of provision of payment services, is presented in such a way that, in the opinion of Lietuvos bankas, PSUs have a wrong impression about the service provider actually providing payment services to PSUs. Lietuvos bankas shall not tolerate cases where such presentation of information deliberate, aimed at positioning the Partner as a financial market participant licensed by Lietuvos bankas. Lietuvos bankas insistently recommends that Institutions acting through Partners list on their websites and in their Documents all persons involved in the provision of the activities and provide a link to the website www.lb.lt.

Cases where a PSU that has entered into a business relationship with the Institution via platforms of the Partners engaged is provided with the possibility to additionally agree (consent) or tick a box indicating that he or she accepts and understands that the Institution is a direct service provider, shall be considered *good practices*. By accepting the terms of provision of services and the privacy policy, the PSU becomes a customer of the Institution.

It should be noted that where the website of the Partner engaged by the Institution publishes information for PSUs on the model of the activities carried out, by indicating who the direct PSP is, this would also be considered as *good practice*. Also cases where the website of the Institution publishes information on all related parties and entities involved in the business model (all the Partners), i.e. shows the name of each Partner, including email and website addresses of the Partner, and such information is updated in a timely manner in the event of any change. The information provided on the websites of the Institutions and Partners must coincide and correlate, must be complementary, and the PSU who has entered into a business relationship with the Institution through the platforms of the Partners engaged must have the possibility to find the information on the website of the Institution and to obtain assurance that the Partner is acting lawfully on behalf of the Institution. Please note that Lietuvos bankas has provided recommendations on the publishing of standard information of the Institutions[8] and urges that

[5] See more at https://www.lb.lt/en/news/bank-of-lithuania-activities-of-selected-agents-and-e-money-distributors-are-the-responsibility-of-the-financial-institutions.
[6] See https://www.lb.lt/en/faq/who-is-responsible-for-payment-services-provided-through-agents-or-for-activities-of-electronic-money-distributors? | Lietuvos bankas.
[7] See https://www.lb.lt/en/faq/in-what-way-should-consumers-be-informed-that-payment-services-are-provided-through-agents-or-that-electronic-money-distributors-are-engaged? | Lietuvos bankas.
[8] See Recommendations on the operational requirements and governance of EMIs and PIs | Lietuvos bankas.

they are taken into account when forming the content of the website.

Cases where the Institutions to tend to consider their Partners (agents) as their customers, while referring to PSUs as customers of the agents, this would be considered by Lietuvos bankas as bad practice. Such practices not only distort the perception of the entity that can provide licensed financial services, but also have great influence on the division of responsibilities between them, i.e. who is responsible for the proper provision of services, communication, final settlement, etc.

3. On the provision of information to PSUs when the business model of the Institution involves the engagement of Partners that give out /issue payment cards and manage payment card accounts

Lietuvos bankas would like to single out cases where the Partner or another Institution is engaged to give out/issue payment cards and manage payment card accounts. As shown by complaints received by Lietuvos bankas from PSUs, PSUs often refer to Partners rather than Institutions, which are payment card issuers and/or payment card account service providers, as the party to the legal relationship in the provision of the aforementioned payment services. The likely reason behind it is the fact that the name or logo (trademark) of the Partner appears on the payment card (e.g. Visa, MasterCard), which makes it unclear to the PSU who the actual issuer of these cards is and/or who the direct provider of the payment card account service is. In the opinion of Lietuvos bankas, such depiction of the Partner's name or logo (trademark) on the payment card is misleading to the PSU, notwithstanding the fact that names of the issuer of the payment card and the provider of the payment card account service are written in small case letters at the bottom of the page of the Partner's website (in the footnote). Such presentation of information on payment cards, in the opinion of Lietuvos bankas, is not sufficient for avoiding the misleading PSUs. Despite the fact that, according to the explanations provided by the Institutions to Lietuvos bankas, the Partner's logo (trademark) is used on the payment card for marketing purposes only, the Institutions must aim at the greatest possible clarity in all cases when providing information and make decisions on the way in which this could be ensured.

Cases where the PSU is given the opportunity to tick an additional box in the Documents before entering into a business relationship with the PSP, thus expressing their agreement/consent that the PSU understands who the direct PSP is and what entity should be contacted in case of any questions or claims regarding the payment instrument issued and/or payment services provided improperly, shall be considered *good practices*. Furthermore, to achieve full clarity, when in business relationship with the PSP, the PSU could be additionally informed about the direct PSP, both in the online bank and/or by means of communication (email, etc.), in cases where the PSU takes the first and/or significant steps related to payment services provided by the PSP, e.g. when the PSU activates the payment card or carries out the first payment.

4. On the handling of complaints from PSUs and the recommendations of Lietuvos bankas on the content of information provided to PSUs

Lietuvos bankas recommends that the Institutions regularly update their internal complaints management procedures, policies and descriptions of procedures intended for monitoring and supervising the Partners engaged by the Institution. In such internal documents, the Institutions should define in more detail the complaints from PSUs, related to the services and/or products provided by the Institution, that should be forwarded directly to the Institution as the PSP. This is relevant in cases where part of the services is provided by the Institutions on their own behalf and other through Partners, or where the Partner does not have all the information to be able to provide the PSU with a detailed, reasoned and documented response. The Institutions must aim at a clear division of functions between the Institution and the Partner, as the responsibility for the quality of the response provided to the PSU and for a situation where an issue related to the provision of payment services and the resulting damages is improperly resolved rests with the Institution itself. It is the responsibility of the Institutions to ensure that the communication with customers, the content and time limits of responses to complaints/requests from PSUs, irrespective of whether it is specifically provided by the Institution or the Partner, comply with the requirements laid down in the legislation, including the requirements of Article 90(1) of the Law for a detailed, reasoned and documented response within 15 business days. In exceptional situations, where the reply cannot be given within 15 business days for reasons beyond the control of the PSP, including the Institutions, it must send a holding reply, clearly stating the reasons for a delay in replying to the complaint and the deadline by which the PSU will receive

the final reply. In any event, the deadline for submitting the final reply should not exceed 35 business days from the receipt of the complaint.

There are cases where Partners engaged by the Institution fail to respond to complaints/requests from PSUs (when the PSU uses the only available option on the Partner's website to submit enquiries, i.e. fills in the enquiry form, the response is not provided to the PSU) or when responding, provide contradictory or even misleading information (for example, in case of cooperation with several Institutions, provide irrelevant contact details, give an incorrect name of the Institution, provide untrue information about the competent supervisory authority, etc.). The responses from Partners are often unreasoned, incomplete and unsupported by documents, which is why Lietuvos bankas, upon receipt of a complaint from a PSU pertaining to actions of the Institution, has to contact the Institution in order to clarify the services provided, the scope and content of the services, the Partner role, the terms and conditions and the nature of the cooperation, and the division of responsibilities. In the view of Lietuvos bankas, the Partners of the Institution are obliged to ensure that the information provided to the PSU duly contains the name of the entity the actions of which the PSU wishes to complain about, the party to the complaint/dispute, the applicable law, the competent authority that can deal with the PSU's complaint about the actions of the Institution or to resolve the dispute between the PSU and the Institution, i.e. the responses of the Partners of the Institution provided to the PSU should make it clear as to on behalf of which Institution such Partners are acting.

Cases where the PSU, upon receipt of a response from a Partner of the Institution, has to apply to the Institution for review of and/or complaining about the response provided by the Partner of the Institution are treated by Lietuvos bankas as wrong practices. Please note that **Partners act on behalf of the Institution, and all actions of the Partner are considered as taken by the Institution, and that full responsibility for the Partner's actions, including proper communication with PSUs, responses provided to PSUs, the time limits for responding, etc., rests with the Institution, i.e. the Partner's response to the PSU is considered to be the official response from the Institution.**

Cases where communications with PSUs, responses to PSUs each time contain an indication that the Partner is acting on behalf of the Institution, for example, it is stated at the end of an email or response that the response is provided on behalf of the Institution, shall be considered *good practices*.

In its Dear CEO Letter 2023, Lietuvos bankas has already drawn the attention of supervised PSPs to the fact that Lietuvos bankas a is authorised to deal with complaints from PSUs and consumer disputes out-of-court only in relation to financial services provided by financial market participants under its supervision. In addition, the services provided by the Institutions and/or their partners to PSUs that are not considered financial services (e.g. premiums, bonuses granted by PSPs, etc.) are not supervised or assessed by Lietuvos bankas. Therefore, **the Institutions and/or their Partners should not mislead PSUs and offer them to contact Lietuvos bankas for services which are not supervised by Lietuvos bankas and for which Lietuvos bankas is not empowered to deal with complaints and consumer disputes.**

Please note that, under paragraph 19.4 of the Rules for the Handling of Complaints Received by the Financial Market Participants approved by Resolution No 03-105 of 6 June 2013 of the Board of Lietuvos bankas,[9] the response to the PSU, where their complaint is not upheld or is only partially upheld, shall set out the reasons for the refusal and shall list the other remedies available to the applicant, including, but not limited to, possible means of dispute settlement and courts. Therefore, please ensure that PSUs are duly informed after the complaint has been examined, when the customer's complaint is not upheld or is partially upheld. Please be reminded that paragraph 21 of the Rules lays down, inter alia, an obligation for financial market participants to continuously assess the outcomes of complaint handling and, where deficiencies are identified, to take decisions on the elimination deficiencies identified on the basis of complaints and on risk management.

Please also note that Lietuvos bankas **handles complaints from PSUs (natural and legal persons)[10]** regarding the actions of financial market participants supervised by Lietuvos bankas that may be in breach of the requirements of legal acts regulating the financial market and the supervision of which is assigned to Lietuvos bankas, **but does not deal with disputes of legal persons**. In this context, **it is important for the Institutions and/or their Partners to properly inform the PSUs that are legal persons, without misleading them about their right to apply to Lietuvos bankas for a dispute settlement.** In addition to other

[9] Rules for the Handling of Complaints Received by the Financial Market Participants approved by Resolution No 03-105 of 6 June 2013 of the Board of Lietuvos bankas (https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.450611/asr).
[10] More information on the procedure of filing and examination of complaints is provided on the website of Lietuvos bankas (see https://www.lb.lt/en/complaints-against-a-financial-service-provider).

functions assigned to Lietuvos bankas, it handles consumer disputes with financial market participants arising from the provision of financial services,[11] however, the out-of-court dispute resolution procedure of Lietuvos bankas is designed for settlement of disputes between consumers, i.e. individuals,[12] and financial market participants. Disputes between legal persons, are to be dealt with by courts, and legal persons should therefore be referred to the competent court for the resolution of their dispute that may arise, unless a different procedure is provided for.

Institutions must choose their Partners responsibly and must continuously monitor the information published on their own websites and on the websites of the Partners engaged, and assess whether the content and presentation of the information meet the requirements laid down by the legislation, and whether the accessibility of the information is ensured. If the Institution finds that the Partner is not acting in accordance with the requirements laid down by the legislation, it shall immediately suspend the Partner's actions that are contrary to the legislation and shall take measures to eliminate the deficiencies.

Cases where the Institutions have scenarios for resolution of possible situations that may affect the rights and legitimate interests of PSUs, proactively communicate and cooperate with their Partners, and seek solutions that mitigate potential negative impact on the interests of PSUs, as it is the Institution itself that is responsible for its PSUs in the event that its Partners fail to fulfil or fulfil their obligations under cooperation and/or partnership agreements improperly, shall be considered *good practices*.

Once again, please note the requirements of the above-mentioned legal acts, the recommendations of Lietuvos bankas and take measures to ensure that the expectations set out in this Letter are met, and that the Institutions acting through Partners comply with the requirements of the legal acts governing their activities and are in line with good practices.

The Institution is always solely responsible for the proper compliance with the requirements laid down in the legal acts governing the activities of the Institutions.

There is no need to reply to this letter from Lietuvos bankas.

Director Vaidas Cibas

[11] Article 8(2)(3) of the Law on Lietuvos bankas (see https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/0380bae0b86311e6a3e9de0fc8d85cd8?positionInSearchResults=0&searchModelUUID=b1b2f6cb-0ba8-478f-a6e4-dccbe8173023).

[12] Article 47(2) of the Law on Lietuvos bankas.