

Ordinance No. 3

of 16 July 2009

on the Terms and Procedure for the Execution of Payment Transactions and Use of Payment Instruments

(Issued by the Bulgarian National Bank; published in the Darjaven Vestnik,
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Chapter One

Subject

Article 1. This Ordinance shall govern:

1. opening and keeping payment accounts and reporting thereon;
2. requirements for payment transactions;
3. carrying out settlement in the Bulgarian National Bank (hereinafter referred to as 'BNB').

Chapter Two

Payment Accounts

General Provisions

Article 2. (1) A payment account shall mean an account held in the name of one or more payment service users which is used for the execution of payment transactions.

(2) Payments out of payment accounts shall be effected only by order of, or with the prior consent of the titleholder, up to the amount and under the terms and conditions specified by the titleholder of the account.

(3) Paragraph 2 shall not apply in cases of forced collection under the procedure set by law.

(4) Payment accounts shall be opened after signing a framework contract for providing payment services between the payment service provider and the payment service user in compliance with the requirements of Chapter Three, Section III of the Law on Payment Services and Payment Systems.

(5) According to Article 22 of the Law on Obligations and Contracts, when opening an account in favour of a third party, the contract under paragraph 4 shall be signed by the person who opens the account. The third party may assume the obligations

under the contract or terminate the contract pursuant to Article 44 of the Law on Payment Services and Payment Systems.

(6) The payment service provider may refuse to conclude the contract referred to in paragraph 4 without giving reasons for this.

Providing Information before Signing a Contract

Article 3. (1) Before signing a payment service contract, the payment service provider shall provide the payment service user with preliminary information under Article 41 of the Law on Payment Services and Payment Systems.

(2) The preliminary information shall be provided in the form of general terms and conditions or a draft framework contract.

(3) Providing preliminary information does not give rise to an obligation to conclude a contract between the payment service provider and the person to whom the information has been provided.

Unique Identifier

Article 4. (1) Upon opening a payment account, a unique identifier shall be assigned to it by the payment service provider.

(2) An international bank account number (IBAN) shall be assigned to payment accounts kept by banks in compliance with the requirements laid down by an ordinance of the BNB.

(3) Payment service providers that are not banks may not determine the unique identifier under the applicable banking standard.

Opening Payment Accounts

Article 5. (1) A legal entity willing to open a payment account shall provide the payment service provider with the following documents and information:

1. a unified identification code or a registration certificate under BULSTAT;
2. a statement of the Articles of Association of the person opening the account which shall establish the powers to dispose with his property;
3. a current certificate of registration of the person who opens the account, which certifies persons managing and representing the titleholder and their personal identity data;
4. a letter of attorney, if any, by which the person (persons) managing and representing the titleholder, authorize another person/persons to dispose of the money on the account on behalf of the titleholder; the signature of the authorizer shall be affixed in the presence of a person authorized by the payment service provider or shall be notary legalized;
5. personal identity data and specimens of the signatures of the persons authorized to dispose of the money on the account; these persons shall sign their names in the

presence of the person authorized by the payment service provider or their signatures shall be notary legalized.

(2) A natural person willing to open a payment account shall provide the payment service provider with the following documents and information:

1. personal identity data of the account titleholder;

2. a letter of attorney, if any, by which the titleholder authorizes another person/ persons to dispose of the money available on the account on behalf of the titleholder; the signature of the authorizer shall be affixed in the presence of the person authorized by the payment service provider or shall be notary legalized;

3. personal identity data and specimens of the signatures of the persons authorized to dispose of the money on the account; these persons shall sign their names in the presence of the person authorized by the payment service provider or their signatures shall be notary legalized.

(3) Changes in the documents under paragraphs 1 and 2 shall have effect in relation to the payment service provider who keeps the account only from the moment he was notified of them in writing by the authorized person.

(4) The documents under paragraph 1, items 2 and 3 and the documents of any changes thereto may not be provided by the persons who are registered in the commercial register, unless otherwise agreed with the payment service provider in the framework contract.

(5) The payment service provider may require other documents for opening and keeping a payment account, of which it shall notify in advance the person who opens the account.

(6) The payment service provider shall negotiate with the person to whom an account is opened the manner in which the account balance information shall be provided.

Payment Accounts Kept by Banks

Article 6. (1) Payment accounts kept by banks (bank accounts) shall also be used for money storage. A requirement for maintaining minimum availability on these accounts may be negotiated.

(2) The requirements of Chapter Three, Section III of the Law on Payment Services and Payment Systems shall not apply where the contract for opening a bank account does not provide for the funds kept on the account to be used for executing payment services or these services are related only to the opening and closing of the account. Where the bank account is used only for money storage in single payment transactions – cash deposit and withdrawal – the requirements of Chapter Three, Section II of the Law on Payment Services and Payment Systems shall apply.

(3) Bank accounts may be:

1. current accounts – for keeping money payable at sight, without any notice from the titleholder to the bank;
2. deposit accounts – for keeping money payable on a specified date (maturity), or under other preliminary agreed payment terms and conditions;
3. savings accounts – for keeping money of natural persons against issuance of a personal savings book or a document containing analogous information;
4. accounts of budget spending units – for keeping money of budget spending units and money extended from the budget to other persons, extra-budgetary accounts and funds included in the consolidated fiscal programme;
5. cumulative accounts – for keeping money for establishment of a legal entity;
6. letter of credit accounts – for keeping money for settlement between the titleholder and a third party entitled to receive the funds upon meeting the terms and conditions set forth at the opening of the letter of credit;
7. liquidation accounts – for keeping money of persons declared in liquidation;
8. special accounts – for keeping money of persons against which bankruptcy proceedings have been instituted;
9. other types of accounts for keeping money which are serviced under the terms and conditions set forth by a contract.

(4) To open a liquidation account under paragraph 2, item 7, the following documents shall be enclosed to the application:

1. a copy of the act on announcing the liquidation and appointing liquidators verified by the authority which has issued it;
2. specimens of the signature of the liquidator in compliance with the requirements under Article 5, paragraph 1, item 5.

(5) To open a special account under paragraph 2, item 8, the following documents shall be enclosed to the application:

1. a copy of the decision for opening bankruptcy proceedings and for appointing a receiver, verified by the court;
2. specimens of the signature of the receiver in compliance with the requirements of Article 5, paragraph 1, item 5.

(6) The order and manner of opening, keeping and closing of accounts under paragraph 3, item 4, including limitations and conditions under which budget spending units may use payment accounts shall be defined by instructions of the Minister of Finance and the Governor of the BNB.

(7) The Deputy Governor heading the BNB Banking Department shall, in an instruction published on the BNB website, specify sample model forms and templates, as well as minimum requirements for completing a deposit slip in case of depositing cash in a bank account and an order receipt in case of drawing cash from a bank account.

Closing a Payment Account

Article 7. (1) A payment account shall be closed upon termination of the framework contract under which it has been opened in compliance with the requirements of Article 44 of the Law on Payment Services and Payment Systems.

(2) Upon closing a payment account, the payment service provider shall reimburse to the titleholder the remaining funds in the account or those not used for payment transactions.

Chapter Three

Payment Transactions Requirements

Section I

General Provisions

Payment Order

Article 8. (1) A payment order shall mean any instruction by the payer or payee to the payment service provider requesting the execution of a payment transaction.

(2) The payment order may be given in writing or electronically if agreed between the parties.

(3) Payment orders shall be executed in a chronological order of their receipt at the payment service provider in compliance with the requirements of Chapter Four of the Law on Payment Services and Payment Systems.

Execution of Payment Orders

Article 9. (1) In executing a payment order, the payment service providers shall use technical means to ensure compliance with the Law on Payment Services and Payment Systems.

(2) When submitting a message to a payment system for executing a payment order, the payment service provider shall enter all the details of the payment order and bear responsibility for any discrepancy between the message and the order.

(3) Where the payer and the payee have opened payment accounts with one and the same payment service provider, the value date of crediting the payee's payment account shall be the same business day.

(4) When making payments, the payment service provider shall comply with the requirements of 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 and Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001 on cross-border payments in euro.

(5) In case of defectively executed performance of a payment transaction, the payment service providers shall be liable under Chapter Four, Section V of the Law on Payment Services and Payment Systems.

(6) Within the terms set out in Article 72 of the Law on Payment Services and Payment Systems, the payer's payment service provider may require the payee's payment service provider to *ex-officio* make a corrective transfer or the payee's payment service provider may on its initiative make such a transfer in case of a defectively executed payment transaction where the payee's payment service provider has credited an account of a person other than that indicated by the payer in the payment order, or he has credited the payee's account with an amount other than that indicated by the payer in the payment order.

(7) In executing an *ex-officio* corrective transfer, the payment service providers of the payer and the payee shall provide them with the information under Article 39 or Article 47 of the Law on Payment Services and Payment Systems.

(8) The *ex-officio* corrective transfer shall be in an amount by which the payment account restores its state in which it would be without the defectively executed transaction, but no more than the funds that are available or will be credited to the account within the term set out in Article 72, paragraph 2 of the Law on Payment Services and Payment Systems.

(9) The *ex-officio* corrective transfer may be executed irrespective of the restrictions in the effective legislation or in the payment service contract as far as funds received as a result of the defectively executed payment order do not belong to the account titleholder.

(10) In executing an *ex-officio* corrective transfer, no fees and commissions shall be collected from the customers.

Availability on the Account

Article 10. (1) The payment order may be executed only up to the amount of the availability on the bank account, up to the amount of the funds provided by the user for executing the payment transaction or up to the amount of the contracted loan, if any. No partial transfers shall be allowed on individual payment orders.

(2) If the conditions under paragraph 1 are not met, the payment service provider shall refuse to execute the payment order, and Article 61 of the Law on Payment Services and Payment Systems shall apply.

Refusal to Execute Payment Transactions

Article 11. The payment service provider may refuse to execute a payment transaction in case of restrictions under the effective legislation, applicable rules for execution of payment transactions and contractual terms under which the account is kept.

Section II

Credit Transfer Transactions

Execution of a Credit Transfer

Article 12. (1) A credit transfer shall be a payment transaction ordered by the payer through his payment service provider with the aim funds to become available to the payee through his payment service provider. The payer and the payee may be one and the same person.

(2) Where the payee’s payment service provider is a bank, the payer shall provide a Bank Identifier Code (BIC) and an International Bank Account Number (IBAN) or another unique identifier of the payee’s account by completing them in the payment order.

(3) Where the payee’s payment service provider is not a bank, the payer shall provide a unique identifier of the payee’s account by completing it in the payment order.

(4) A payment order for a credit transfer shall be drawn up by the payer who bears responsibility for the consequences resulting from its incorrect drawing up.

Content of the Payment Order for a Credit Transfer in Levs

Article 13. (1) A payment order for a credit transfer in levs shall contain:

1. the name of the bank or another payment service provider to which the order is addressed;
2. the name (denomination) of the originator;
3. the International Bank Account Number (IBAN) or another unique identifier of the originator’s account;
4. the name of the bank or another payment service provider of the beneficiary;
5. the Bank Identifier Code (BIC) of the beneficiary’s bank;
6. the name (denomination) of the beneficiary;
7. the International Bank Account Number (IBAN) or another unique identifier of the beneficiary’s account;
8. the amount of the payment transaction;
9. the currency;
10. the date of execution;
11. grounds (information about the beneficiary);
12. the manner of allocating charges;
13. additional clarifications;
14. the date of submission of the payment order;
15. the signature of the originator.

(2) The payment order for a credit transfer may also contain other elements, including such that are necessary to meet the requirements under other legislative acts.

(3) Orders sent electronically shall comply with the requirements of the Law on the Electronic Document and Electronic Signature.

Sample Model Forms

Article 14. The Deputy Governor heading the Banking Department of the BNB shall in an instruction published on the website of the BNB, specify sample model forms of the payment order for a credit transfer and requirements for completing it where the payment service provider is a bank and the payment is made in levs.

Execution of a Credit Transfer in Currency Other Than Levs

Article 15. In executing a credit transfer in currency other than levs, the payment order may contain data other than those specified in Article 13, as required under the rules of the particular payment system.

Section III

Direct Debit Transactions

Execution of a Direct Debit in Levs

Article 16. (1) In direct debit payments in levs, the payer shall grant a preliminary consent to the payment service provider that keeps his payment account, and a copy of his consent shall be sent to the payee.

(2) The payee's payment service provider shall accept the direct debit order under paragraph 1 and submit it to the payer's payment service provider without checking the grounds for using a direct debit.

(3) Before executing a direct debit order, the payer's payment service provider shall verify whether:

1. there is a preliminary consent of the direct debit payer;
2. there are sufficient available funds or a loan allowed on the payer's account for executing the direct debit;
3. the terms and conditions for executing the direct debit order have been met, including all the documents required for its execution have been received, if the submission of such documents has been agreed upon.

(4) If within five business days from the receipt of the direct debit order the conditions for its execution under paragraph 3 do not occur, the payer's payment service provider shall refuse to execute the direct debit order and notify the payee's payment service provider thereof.

Content of the Consent to a Direct Debit in Levs

Article 17. (1) The consent to a direct debit in levs shall contain:

1. the name and address of the payment service provider to which the consent is deposited;
2. the date of submission of the document;
3. the name (denomination) of the payer;
4. the signature of the payer;
5. the International Bank Account Number (IBAN) or another unique identifier of the payer's account;
6. the name (denomination) of the payee;
7. the time limit for validity of the consent;
8. conditions under which the consent is given.

(2) The consent to a direct debit may also contain other elements if agreed upon between the payer and his payment service provider.

Content of the Payment Order for a Direct Debit in Levs

Article 18. (1) The payment order for a direct debit in levs shall contain:

1. the name of the bank or the other payment service provider to which the order is addressed;
2. the name (denomination) of the originator – beneficiary of the amount;
3. the International Bank Account Number (IBAN) or another unique identifier of the originator's account – beneficiary of the amount;
4. the international Bank Identifier Code (BIC) of the bank of the originator – beneficiary of the amount;
5. the name of the bank or the other payment service provider of the payer;
6. the name (denomination) of the payer;
7. the International Bank Account Number (IBAN) or another unique identifier of the payer's account;
8. the amount of the payment transaction;
9. the currency;
10. the date of execution;
11. grounds (information about the payer);
12. the manner of allocating charges;
13. additional clarifications;
14. the international Bank Identifier Code (BIC) of the payer's bank;
15. the date of submission of the payment order;
16. the signature of the originator – beneficiary of the amount.

(2) The payment order for a direct debit may also contain other elements, including such that are necessary to meet the requirements under other legislative acts.

(3) Payment orders sent electronically shall comply with the requirements of the Law on the Electronic Document and Electronic Signature.

Sample Model Forms

Article 19. The Deputy Governor heading the Banking Department of the BNB shall, in an instruction published on the BNB website, specify sample model forms and requirements for completing the payment order for a direct debit and consent to a direct debit where the payment service provider is a bank and the payment is made in levs.

Execution of a Direct Debit in Currency Other Than Levs

Article 20. (1) In executing a direct debit in currency other than levs, the payment order and the consent to a direct debit may contain data other than those specified in Articles 17 and 18, as determined by the rules of the particular payment system.

(2) In executing a direct debit in currency other than levs, the payment service providers may follow another sequence and procedures for giving consent and executing a direct debit, by applying the rules and procedures of the payment system used for processing these payments.

Executing Payments with Preliminary Consent of the Account Titleholder

Article 21. In case the payment service provider and the payee are one and the same person, the payment service provider may collect on a payment account opened with its funds owed by the account titleholder based on his preliminary written consent. The payment service provider shall notify the titleholder of the grounds, size and value date of the amount collected on its payment account.

Section IV

Money Remittance Transactions

Money Remittance

Article 22. Money remittance shall be a payment service where funds are provided by a payer, without any payment accounts being opened in the name of the payer or the payee, for the sole purpose of transferring the corresponding amount to the payee or to another payment service provider acting on behalf of the payee, and/or where such funds are received on behalf of and made available to the payee.

Content of the Payment Order for Money Remittance

Article 23. (1) The payment order for money remittance shall contain:

1. the name (denomination) of the payer;
2. the address of the payer, including the payer’s country;
3. the unique identifier of the payer or his account;
4. the name (denomination) of the payee;
5. the unique identifier of the payee or his account;
6. the amount of the payment transaction;
7. the currency;
8. grounds for remittance;
9. additional clarifications;
10. the date of submitting the payment order;
11. the payer’s signature.

(2) Upon receipt of the payment order, the payer’s payment service provider shall provide the payer with a registration number of the payment order.

(3) The payment order for money remittance may also contain other elements, including such that are necessary to meet the requirements under other legislative acts.

Section V

Other Payment Transactions

Payment Transactions in Which Other Payment Instruments or Means of Communication Are Used

Article 24. The requirements for executing payment transactions in which other payment instruments or means of communication are used may be defined in the rules and procedures of the payment service provider or the payment system which processes them in accordance with the Law on Payment Services and Payment Systems.

Chapter Four

Execution of Payment Transactions by a Payment Card

Section I

General Provisions

Payment Card

Article 25. (1) A payment card shall be a type of a payment instrument on which information is electronically recorded and used repeatedly for identification of the authorized users of payment services and remote access to a payment account and/or to preliminary set credit limit negotiated between the authorized payment service user to whom the card was issued and the payment service provider.

(2) The payment card shall be owned by the payment service provider, issuer of the card.

(3) The payment card shall be used only by the authorized user of payment services himself.

(4) The payment card shall be issued for a fixed term. The name of the authorized user, the card's number and the expiry date shall be printed on the obverse. The payment service provider that is the card issuer shall bear responsibility for the personalization of the card.

(5) The payment service provider, issuer of the payment card, shall provide it to the authorized user of payment services within a period not exceeding ten days from the conclusion of the payment card framework contract.

(6) The Deputy Governor heading the Banking Department of the BNB may issue instructions containing requirements for numbering, design, physical and technical characteristics of the payment cards.

Personal Identification Number

Article 26. (1) The Personal Identification Number (hereinafter referred to as "PIN") of each authorized payment service user, related to his card, shall be determined by the issuer of the card. The issuer shall assign a PIN to the authorized user of payment services and ensure that it is kept in secrecy.

(2) The personal identification number is at least a four-digit number and is used to identify the authorized users of payment services. The personal identification number shall not have characteristics of an electronic signature.

(3) If the authorized payment service user forgets his PIN, the issuer shall issue a new card with a new PIN within the term specified in Article 25, paragraph 5 of this Ordinance or the issuer shall within the same term generate a new PIN of the card in compliance with the procedure under paragraphs 1 and 2.

(4) The payment card issuer must provide opportunity for each authorized user of payment services to change his PIN, through an ATM terminal, to a new digital combination of which only he is aware.

Execution of Payment Card Operations

Article 27. (1) The following operations may be executed by a payment card:

1. withdrawal and/or depositing of cash through Automated Teller Machines (ATM) terminals;
2. payment of goods and services and cash withdrawal through Point of Sale (POS) terminals;
3. payment of goods and services, as well as transfer of funds between accounts through virtual Point of Sale (POS) terminals;
4. transfer of funds between payment accounts through ATM terminals;
5. payment of services through ATM terminals;
6. receipt of statements and other payment and non-payment operations.

(2) Acceptance of payments and execution of payment operations by payment cards may be effected also by a payment service provider other than the payment card issuer referred to as an accepting institution.

Registration and Storage

Article 28. (1) All operations executed by payment cards through terminal devices, as well as notifications under Article 53, item 2 of the Law on Payment Services and Payment Systems shall be automatically recorded in a chronological order according to the operating rules of the payment system operator servicing issuers by means of certain procedures and technical tools that allow for safe storage and accurate reproduction of the information and exclude any possibility of its subsequent amendment.

(2) The information under paragraph 1 shall be stored for at least five years.

Authorization

Article 29. The operations under Article 27, paragraph 1 made on the territory of the Republic of Bulgaria shall be authorized (approved) or refused by the authorization system of the issuer or the card payment system operator after a check of the cover balance on the payment account of the payment service user and/or up to the preliminary agreed credit limit, as well as of the agreed transaction limits determined for the authorized payment service user.

Functions of a Card Payment System Operator

Article 30. (1) The authorization of payments in payment card operations on the territory of the Republic of Bulgaria shall be made by the issuer or its servicing payment system operator through messages sent by the payment service provider on whose ATM or POS terminals the operation is executed (the accepting institution). The payment system operator servicing the accepting institution shall be the intermediary in transmitting the message to the issuer or the payment system operator servicing the issuer it is connected to.

(2) The authorization of payments made on-line on the territory of the Republic of Bulgaria by payment cards issued abroad shall be effected through authorizing messages sent directly by the accepting institution to the issuer or through the payment system operator servicing the accepting institution.

(3) The card payment system operator shall:

1. set forth operational rules compulsory for all participants in the payment system serviced by it, to be applied to the contracts under paragraph 5;

2. test and approve the technical equipment and software resources of participants in the payment system serviced by it to ensure that they are compatible with the authorization systems and that they are capable of preventing unauthorized access;

3. be technically equipped for running a direct and indirect on-line connection with ATM and POS terminals, serviced financially by the participants in the system.

(4) The card payment system operator shall provide opportunity to:

1. authorize (approve) payment transactions under Article 4, item 3, letter 'b' and Article 4, item 4, letter 'b' of the Law on Payment Services and Payment Systems;
2. activate payment cards;
3. personalize payment cards;
4. determine and change the PINs of payment cards;
5. perform other services related to its activity.

(5) Relationships between the card payment system operator and the payment card issuers participating in the payment system serviced by it shall be contractually established.

Section II

Payment Card Operations on ATM and POS Terminals at Merchant Locations

Contractual Relationship between the Payment Service Provider and the Merchant

Article 31. (1) Where the POS terminal is located at the merchant other than a payment service provider, the relationship between them shall be governed by a contract that provides compliance with the Law on Payment Services and Payment Systems and regulations on its enactment.

(2) The contract under paragraph 1 shall contain at least the following:

1. types of payment cards through which operations with the merchant may be carried out;
2. applicable procedures and obligations of the merchant in execution of payment card operations, including security procedures;
3. the term and manner of payment to the merchant by the payment service provider.

Refusal to Execute a Payment Card Operation

Article 32. (1) The merchant whose POS terminal is used to effect the payment may refuse a payment card to be used in case of:

1. invalidity of the payment card;
2. a discrepancy between the signature on the payment card and the signature on the receiving document or the identity document or a lack of signature on the payment card if such is required for its validity;
3. a refusal by the holder to provide a document confirming his identity, or where the merchant finds that an unauthorized person uses the payment card;
4. inability to obtain confirmation for execution of the operation;
5. a suspicion of a false or fraudulent payment card.

(2) The merchant may retain a payment card on behalf of the issuer in the cases referred to in paragraph 1 under the procedure specified in the contract pursuant to Article 31 of this Ordinance.

(3) The requirements for information in providing payment services under the provisions of Chapter Three, Section II of the Law on Payment Services and Payment Systems shall also refer to the merchant at whose premises the terminal is located.

Section III

Requirements for Processing Bank Payment Cards

Bank Payment Card Issuer

Article 33. (1) Banks licensed by the BNB to carry out banking activities, branches of banks from third countries licensed by the BNB pursuant to Article 17 of the Law on Credit Institutions and branches of banks from Member States operating on the territory of the Republic of Bulgaria under Articles 20 and 21 of the Law on Credit Institutions shall provide an opportunity for any terminal supported by them financially to perform payment services in all payment cards issued by other banks and branches of banks which operate on the territory of the Republic of Bulgaria.

(2) The terminals on the territory of the Republic of Bulgaria and authorization systems maintained by banks must have a direct or indirect on-line connection with the payment system operator under Article 88, paragraph 3 of the Law on Payment Services and Payment Systems.

(3) Protection of the terminals used by the bank shall comply with the requirements of the payment system operator servicing the bank.

Settlement Mediation

Article 34. Clearing and settlement of payments initiated by payment cards issued by banks licensed by the BNB and branches of banks operating on the territory of the Republic of Bulgaria shall be carried out by a payment system operator under Article 88, paragraph 3 of the Law on Payment Services and Payment Systems.

Chapter Five

Settlement in the Bulgarian National Bank

Real-time Gross Settlement System (RINGS)

Article 35. (1) The Bulgarian National Bank shall build up and operate a real-time gross settlement system in levs called RINGS (Real-time Interbank Gross Settlement System).

(2) RINGS is a payment system which transfers monetary funds in levs between settlement accounts of the participants finally, individually (transaction by transaction) and in real time upon the receipt by the system of a transfer order on the part of the participants.

Participants in RINGS

Article 36. (1) Participants in RINGS shall be:

1. the Bulgarian National Bank;
2. a bank licensed by the BNB to carry out banking activities;
3. a branch of a bank from a third country, licensed by the BNB pursuant to Article 17 of the Law on Credit Institutions;
4. a branch of a bank from a Member State operating on the territory of the Republic of Bulgaria pursuant to Articles 20 and 21 of the Law on Credit Institutions.

(2) Each RINGS participant is required to open and maintain a settlement account with the BNB.

(3) The Bulgarian National Bank shall service the settlement accounts of the RINGS participants on the basis of an agreement concluded with them, specifying their rights and obligations under the rules and procedures of the system.

(4) Following an approval by the BNB for compliance with technical, organizational and financial conditions for participation in RINGS, banks from Member States may become RINGS participants on the basis of an agreement concluded with the BNB, setting out their rights and obligations under the rules and procedures of the system.

(5) Within the RINGS rules and procedures, the BNB may specify additional requirements for the participants in the system.

Settlement Agent

Article 37. (1) The Bulgarian National Bank shall provide for executing settlement if there are sufficient funds on the payer bank's settlement account.

(2) Settlement of transfer orders shall be carried out on the settlement accounts with the BNB, as follows:

1. for payments initiated by settlement requests by the payment system operators and securities settlement systems at a designated time – in accordance with a schedule approved by the BNB;
2. for all other payments – immediately.

(3) The settlement in the BNB shall be finalized after crediting the settlement account of the RINGS participant who is a beneficiary of the amount specified in the order.

Execution of Operations in RINGS

Article 38. (1) In payments of bank customers through RINGS, the payer's bank shall send a transfer order to RINGS no later than one hour after receipt of the payment order within the RINGS schedule.

(2) In payments of bank customers through RINGS, the payee's bank shall credit the payee's account within one hour after the receipt of funds on its settlement account in the BNB.

(3) In case of failure to fulfill an order for transfer within the terms under paragraphs 1 and 2, the bank must immediately notify in writing the titleholder of the account from which the payment is made.

(4) The conditions, procedure and form of electronic message exchange between RINGS and payment and security settlement systems under Article 107, paragraph 2 of the Law on Payment Services and Payment Systems shall be determined by the BNB.

Ex-officio Operations

Article 39. (1) On the basis of a preliminary consent provided for in the agreement on participation in RINGS, the BNB shall *ex-officio* collect from the banks' settlement accounts charges for services provided according to a tariff approved by the Governing Council of the BNB.

(2) Under paragraph 1, the BNB shall also collect the amounts due by banks in relation to application of legislative acts governing banking activities and money circulation.

(3) The Bulgarian National Bank shall *ex-officio* execute the operations on the accounts of the participants in the electronic system for registering and servicing government securities trading (ESROT) in relation to government securities transactions.

Rejection of Transfer Orders

Article 40. (1) Transfer orders forwarded to RINGS, which have not been settled by the end of the system day due to lack of sufficient funds on the bank's settlement account, shall be rejected and the information related thereto preserved.

(2) A bank whose transfer order has been rejected by RINGS under paragraph 1 shall in the beginning of the next system day forward to RINGS the same order with current value date and this order shall bear the corresponding unique registration number.

(3) The requirement under paragraph 2 shall not apply in cases where the payment order has been called off by the payment service user's written order. In such a case, the bank shall immediately notify in writing the BNB about the reasons for not ordering again the rejected transfer order, with enclosing relevant attesting documents.

Powers of the BNB as a Settlement Agent

Article 41. (1) To ensure a smooth settlement process, the BNB may:

1. determine and set the minimum availability on participants' settlement accounts and reserve liquidity on participants' settlement accounts for execution of requests for settlement made by payment system and security settlement system operators;

2. determine the types of payment priorities;
3. create mechanisms for providing sufficient funds on settlement accounts with a view to finalizing payments initiated by the payment system and securities settlement system operators, including through establishment of guarantee schemes with funds raised from the settlement accounts of banks and branches of banks – participants in RINGS.

(2) In case of a license revocation of a payment system participant pursuant to Article 36, paragraph 2 of the Law on Credit Institutions, the BNB shall immediately exclude this participant from RINGS and notify the other participants in RINGS and the operators of all other payment and securities settlement systems operating on the territory of the Republic of Bulgaria which shall immediately undertake measures against the participant as provided for in their rules.

Reserve Guarantee Fund

Article 42. (1) The Reserve Guarantee Fund (the Fund) shall be established as a guarantee mechanism for ensuring the settlement of requests forwarded to RINGS by the payment system and securities settlement system operators, formed by recalculation on a multilateral basis of the mutual obligations of participants in the particular system.

(2) The Fund shall be constituted by deducting funds from settlement accounts of banks and branches of banks – participants in RINGS. The Fund's resources shall be kept in a separate account with the BNB.

(3) The Fund shall be managed by a Management Board consisting of five members – natural persons; two of the members shall be appointed by the Governing Council of the BNB and three members, by the representative organization of the banks.

(4) Management and operation of the Fund shall be based on rules approved by its Management Board.

(5) Participation in the Fund shall be mandatory for banks and branches of banks participating in RINGS, as the size of their participation share shall be determined as a proportion to the total amount of Fund resources in accordance with a methodology coordinated with the BNB and adopted by the Fund's Management Board. The participation share of the banks and branches of banks in the Fund shall be included in the amount of their reserve assets when reporting the fulfillment of their obligation to maintain minimum required reserves.

(6) Fund resources, including interest income from loans granted by the Fund, shall be owned by banks proportionally to their participation share.

(7) Where additional funds are required for providing the settlement of the requests forwarded by the payment system and securities settlement system operators, any bank shall be allowed to use resources from the Fund, as follows:

1. up to the amount of its participation share – without additional requirements and without accruing interest;

2. for the amount exceeding its participation share – against a collateral; collaterals accepted by the Fund, the interest due on the loan and its amount shall be determined by the Management Board of the Fund.

(8) The resources used by the Fund shall become payable in the beginning of the system day following the date of extension, and shall be deemed past due from the moment of forwarding the first settlement request for the day to RINGS by a payment system and securities settlement system operator.

(9) Reimbursement of the used resources on the Fund's account shall not be deemed a repaid obligation provided a new obligation to the Fund arises at the end of the system day following the day of using the resources.

(10) Where a bank ends in liabilities to the Fund for seven consecutive business days, the provision of Article 36, paragraph 2, item 1 of the Law on Credit Institutions shall apply to this bank.

Additional Provisions

§ 1. Within the meaning of this Ordinance:

1. 'budget spending units' shall mean the units under § 1, item 1 of the Law on Accountancy;

2. 'virtual POS terminal' shall be a logically defined POS terminal used to execute transfer of funds on payment accounts or to pay for goods and services *via* Internet, ATM terminals or digital telephones by payment cards operating in on-line regime;

3. 'settlement request' shall mean an order forwarded to RINGS by a payment system and securities settlement system operator in a predetermined format by which settlement accounts are credited or debited;

4. 'consolidated fiscal programme' shall mean budgets, accounts and funds according to § 1, item 14 of the Law on the Structure of the State Budget;

5. 'personalization of a payment card' shall mean recording relevant data about the authorised user of payment services on bank cards' media;

6. 'on-line regime' shall mean a regime under which each transaction by a payment card is immediately approved by the authorization system of the payment service provider – issuer of the payment card, or of the servicing operator of a card system connected through a telecommunication medium to the terminal on which the payment transaction is made;

7. 'ATM (Automated Teller Machine) terminal' shall be a machine which allows withdrawal and/or deposit of cash, payments for services, transfer of funds between payment accounts, receipt of statements and execution of other payment and non-payment operations;

8. 'POS (Point of Sale, Point of Service) terminal' shall be a device where payment cards are used to pay for the purchase of goods and services or to obtain cash.

Transitional and Final Provisions

§ 2. This Ordinance is issued on the grounds of Article 48, paragraph 3 and § 10 of the Law on Payment Services and Payment Systems. The Ordinance is approved by Resolution No. 85 of 16 July 2009 of the Governing Council of the Bulgarian National Bank and shall come into effect on 1 November 2009.

§ 3. This Ordinance shall repeal Ordinance No. 3 of 2005 on Funds Transfers and Payment Systems (published in the Darjaven Vestnik, issue 81 of 2005; amended, issues 15 and 24 of 2006, issue 10 of 2007; amended, issue 20 of 2008).

§ 4. The BNB Deputy Governor heading the Banking Department shall issue instructions on enactment of this Ordinance.