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Chapter Overview:

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The EEA Agreement, Annex IX 16b (Dir 98/26).

Chapter 1 Definitions

§ 1-1. *Payment*

The payment system means systems for transmitting funds with formal and standardized arrangements and common rules for processing, clearing or settlement of payment transactions. A payment system enters into interbank system or payment systems.

Interbank system shall mean a system based on common rules for clearing, settlement and transfer of funds between financial institutions.

As payment systems considered systems based on standard conditions for the transfer of funds from or between customer accounts in banks or others who can provide payment services under the Financial Institutions Act § 4b-1, first paragraph when transfers involve the use of

payment cards, numeric codes or other form of independent user identification issued to an indefinite range.

0 Endret ved lov 4 juni 2010 nr. 20 (1 Juli 2010 ikr. iflg. Res. 4 juni 2010 nr. 771).

§ 1.2. Securities Settlement Systems

As a securities settlement system shall mean a system based on common rules for clearing, settlement and transfer of financial instruments as mentioned in the Securities Trading Act § 2-2.

Securities settlement systems should have an operator who is responsible for the establishment and operation, and which is organized as mentioned in § 2-4 first paragraph of this Act.

0 Endret ved Lov 29 juni 2007 nr. 75 (1 nov 2007 ikr. iflg. Res. 29 juni 2007 nr. 752), 18 nov 2011 nr. 42 (1 ikr. how iflg 2012. Res. Nov 18 2011 nr. 1107).

§ 1-3. Additional definitions

Participant shall mean a clearing house, clearing house, central counterparty, the operator of another system and other institutions or undertakings participating in an international banking or securities settlement system.

The clearing house means an undertaking which carries out the settlement.

The settlement bank shall mean accounts for participants in an international system or securities settlement system.

Central counterparty shall mean an institution that acts as a party or otherwise guarantee that other participants meet their obligations.

The settlement means the conversion of orders between two or more participants to a total net obligation or net asset.

Settlement shall mean the final transfer of funds or financial instruments between participants in the interbank and securities settlement systems.

Shall mean participant's orders to transfer payments or financial instruments to another participant in the system.

With the opening of insolvency proceedings means the date of opening of debt negotiation under the Act of 8 June 1984 No. 58 relating to debt negotiation and bankruptcy (bankruptcy law) § 4, fourth paragraph, the date of bankruptcy under the Bankruptcy Act, § 74, first paragraph, or time for public administration by the Act of 6 December 1996 No. 75 on Guarantee Schemes for Banks and Public Administration etc. of financial institutions § 4-5.

With credit card means cash, debit and credit cards or similar cards for withdrawal or transfer of money.

The EEA means the European Economic Area.

With interlocking system means two or more system where operators have made an agreement with each other about executing missions across systems. A scheme is introduced between interacting systems, does not constitute a system.

0 Endret ved lov nr 18 nov 2011. 42 (1 ikr. how iflg 2012. Res. Nov 18 2011 nr. 1107).

Chapter 2 Interbank systems

§ 2-1. Objectives

The purpose of this Chapter is to ensure that internal systems are organized to ensure financial stability. Particular emphasis is placed on reducing the risks associated with liquidity or insolvency of participants in such systems.

§ 2-2. Operating Area

The provisions of this chapter apply to the establishment and operation of interbank systems in this country.

The provisions of this chapter shall not apply to Norges Bank.

§ 3.2. Concession

An internal system can not be established or operated without the permission of Norges Bank.

Norges Bank may grant exemptions from the permit systems that are limited to the extent that it is not expected to have an impact on financial stability.

§ 2-4. Conditions of license

An internal system shall have an operator who is responsible for the establishment and operation. The operator can be one of the participating banks, other companies, private foundation or association.

The manager of the operator's activities shall comply with the necessary requirements for good conduct and experience. The same applies to the directors.

The agreement between the participants in an interbank system shall specify the rights and obligations of participants have towards each other, and to define operator.

Norges Bank may stipulate specific requirements of the business, including capital and collateral requirements the operator, settlement bank or central counterparty.

§ 5.2. Application for license

The application for a license shall state:

- a) owners and participants, and plan for the organization and operation, including the distribution of tasks between banks and other institutions participating in the system,
- b) the criteria established for participation in the system. Is participation in the system conditional on membership or capital shall be disclosed,

- c) measures to ensure the technical management, including preparedness for disruptions should the ordinary system does not work,
- d) measures to limit the risks in the system as a result of illiquidity or insolvency of participants in such systems,
- e) principles of association of payment systems and other transfer of funds between customer accounts.

The agreement referred to in § 2-4 third paragraph shall accompany the application.

§ 2-6. *Changes agreements and new agreements*

The operator shall notify Norges Bank before making significant changes with respect to ownership, organization and operations, etc. as mentioned in § 2-4 to 2-5.

Changes may be implemented if Norges Bank has not taken a different decision within two months after notification.

Norges Bank may adopt further rules changes covered by this section, including rules for exemption from notification.

§ 7.2. , *the right to participate in interbank*

Credit institutions that are authorized to operate in this country has the right to be a member of the internal systems and to use them in accordance with established tariffs and general business conditions. This does not apply if the license is granted and the agreement for inter-system stipulates special conditions for direct or indirect participation in the system.

§ 2-8. *suspension of participants*

The operator shall suspend a participant from the system if continued participation would be contrary to § 1.2. Before the decision to suspend is made, the matter shall as far as possible, to Norges Bank.

§ 2-9. *Supervision etc.*

Norges Bank may require the operator to provide information that Norges Bank considers necessary to ensure that the system is organized and operated in accordance with the provisions set out in or pursuant to this Act.

Norges Bank finds that the system is not organized or operated in accordance with the provisions laid down in or pursuant to law, the Bank can provide the operator with such orders as are necessary to remedy the situation.

Norges Bank may require the appointment of a new operator if the operator is no longer considered capable of conducting business.

§ 10.02. *Revocation of license*

Norges Bank may revoke the permit pursuant to § 2-3 in whole or in part if:

- a) operator has been guilty of gross or repeated violations of its obligations provided in or pursuant to the law,

- b) there are other irregularities by the operator or other circumstances give reason to fear that the system does not work as specified in § 2.1,
- c) operator is no longer engaged in active operations related to the licensed activity.

Chapter 3 Systems of payment services

§ 3-1. Objectives

The purpose of this Chapter is to ensure that payment systems are organized and operated to promoting safe and efficient payment and effective and coordinated execution of payment services.

§ 3.2. Notification requirements

It shall, without unnecessary delay, be notified to the FSA for the establishment and operation of the payment system.

The notification shall include information on:

- a) agreements between participating institutions for transfer or withdrawal of funds,
- b) conditions of association of merchants,
- c) agreements between payment systems,
- d) use of payment, numeric codes or other form of independent user identification to be used for payment.

0 Endret ved lov 19 juni 2009 nr. 48 (21 Dec. 2009 ikr. iflg. Res. Dec. 18, 2009 nr. 1603).

§ 3-3. General system

Payment systems should be designed and operated in accordance with the purpose of § 3.1. FSA may lay down further rules on the standardization of contracts, terms, technical issues etc. for payment systems.

Can FSA that a system is not organized or operated in accordance with the provisions laid down in or pursuant to the law, it may issue the institution that runs the system such orders as are necessary to remedy the situation.

0 Endret ved lov 19 juni 2009 nr. 48 (21 Dec. 2009 ikr. iflg. Res. Dec. 18, 2009 nr. 1603).

Chapter 4 Legal protection and safety of clearing and settlement agreements

§ 4-1. Operating Area

Provisions in this chapter apply to interbank authorized under § 02.03, the Central Bank and securities settlement systems after approval by the Financial Supervisory Authority.

The provisions of this chapter, after approval, be applied to internal systems and securities settlement systems established in another Member State. Approval shall be granted only if its rules are considered appropriate. Approval of interbank granted by Norges Bank. Approval of securities settlement systems is given by the Financial Supervisory Authority.

The provisions of this chapter apply only systems with at least three participants, in addition to the operator, any settlement bank, any central counterparty and any clearing house, which has been agreed that Norwegian legislation shall apply to the system in accordance with § 4-3 and reported to the Commission Surveillance Authority in accordance with § 4-5.

The provisions of § § 4-2, first and third paragraphs and 4-4 also apply to Norwegian participants in the interbank and securities settlement systems that have chosen the law of another Member State for the system and notified to the Commission or the European Commission in accordance with Council Directive 98/26/EC on final settlement in payment and settlement systems for securities.

0 Endret ved Lov 19 juni 2009 nr. 48 (21 Dec. 2009 ikr. iflg. Res. Dec. 18, 2009 nr. 1603), 18 nov 2011 nr. 42 (1 ikr. how iflg 2012. Res. Nov 18 2011 nr. 1107).

§ 4.2. *Legal protection for clearing and settlement*

Agreements for clearing and settlement can be enforced according to their content even if insolvency proceedings against a participant in that system, in an interoperable system, or a system administrator for an interoperable system which is not itself a participant, when the contract is entered into the system before the opening of insolvency proceedings.

The timing of the order shall be deemed entered into the system shall be agreed between the participants in the system. The same applies to the time at which the right to revoke the order has lapsed. Norges Bank may interbank lay down further rules on when the mission shall be deemed entered into the system after the first paragraph. FSA may adopt such rules for securities settlement systems.

If the order is entered into the system after the opening of insolvency proceedings under subsection mission carried out during the working day insolvency proceedings initiated, the first paragraph also applies if the operator can prove that the operator had or should have had knowledge of the insolvency proceedings were initiated on the time the court to revoke the order lapsed. The system shall in its rules determine what is meant by day, and covering the settlement both day and night and include all events during the cycle of the system.

The Ministry may issue further regulations, including exemptions from coverage law on the use of a participant's available funds to complete settlement on the settlement date in connection with preceded by insolvency proceedings against the participant.

0 Endret ved Lov 5 Juli 2002 nr. 64 (5 ikr. Juli 2002 iflg. Res. 5 Juli 2002 nr. 719), 19 juni 2009 nr. 48 (21 Dec. 2009 ikr. iflg. Res. Dec. 18, 2009 nr. 1603), 18 nov 2011 nr. 42 (1 ikr. how iflg 2012. Res. Nov 18 2011 nr. 1107).

§ 4-3. *Lovvalg*

Participants may only choose the law of a Member State in which at least one participant is headquartered.

The laws of the State in which the participants selected for the system under subsection determines the rights and obligations of an insolvent participant's participation in the system.

§ 4-4. Security

Security is provided to a central bank within the European Economic Area, an operator or a participant in the interbank system or securities settlement system may not be invalidated by Recovery Act § 5-7.

If financial instruments mentioned in the Securities Trading Act § 2-2 are pledged as security under the first paragraph, and the right to the financial instruments are recorded in a register, an account or a securities register of a Member State, the law of that country shall determine for the rights of the holder of the collateral.

0 Endret ved Lov 5 Juli 2002 nr. 64 (1 ikr. how iflg 2003. Forskr. Dec. 20 2002 nr. 1627), 29 juni 2007 nr. 75 (1 nov 2007 ikr. iflg. Res. 29 juni 2007 nr. 752), 18 nov 2011 nr. 42 (1 ikr. how iflg 2012. Res. Nov 18 2011 nr. 1107).

§ 4-5. Notification requirements

The operator of interbank systems as mentioned in § 4-1 shall notify Norges Bank on who is participating in the system, and changes in participants. The operator of a securities settlement system as mentioned in § 4.1 should provide similar information to the FSA.

Norges Bank shall notify the Commission of systems and operators of the systems covered by this chapter, and notify the institution of insolvency proceedings against a participant in such a system.

A participant in the system shall inform any third party that has a justified interest in such information systems in which participants are members and the main rules for system operations.

0 Endret ved Lov 19 juni 2009 nr. 48 (21 Dec. 2009 ikr. iflg. Res. Dec. 18, 2009 nr. 1603), 18 nov 2011 nr. 42 (1 ikr. how iflg 2012. Res. Nov 18 2011 nr. 1107).

Kapittel 5 Access to payment

0 Chapter added by the Act of June 4, 2010 No. 20 (in force from 1 July 2010 pursuant to the Decree. 4 June 2010 No 771), former chapter 5 section numbers changed to 6

§ 1.5. Scope

The provisions of this chapter apply to payment institutions permitted to participate in payment systems in Norway. Provisions shall apply mutatis mutandis for other payment service providers as mentioned in the Financial Institutions Act § 4b-1.

Payment institution means an undertaking authorized to conduct payment service operations in accordance with or pursuant to the Financial Institutions Act § 4b-2.

With payment services means activities mentioned in the Financial Contracts § 11

0 Tilføyd ved lov 4 juni 2010 nr. 20 (1 Juli 2010 ikr. iflg. Res. 4 juni 2010 nr. 771).

§ 5.2. Conditions for participation payment etc..

Conditions for participation in payment systems shall be objective, non-discriminatory and proportionate, so that conditions do not hinder access and participation to a greater extent than is

necessary to protect against specific types of risks such as settlement risk, operational risk and business risk and to protect the financial and operational stability.

Payment shall not require payment service providers, users of payment services or other payment systems:

- a) restrictive rules on effective participation in other payment systems,
- b) rule which discriminates between payment institutions and other payment service providers when it comes to the participants' rights, obligations and entitlements, or
- c) restriction on the basis of institutional status.

0 Tilføyd ved lov 4 juni 2010 nr. 20 (1 Juli 2010 ikr. iflg. Res. 4 juni 2010 nr. 771).

§ 5-3. Unntak

The provisions of § 02.05 do not apply to

- a) payment covered by Council Directive 98/26/EC on settlement finality in payment and securities settlement systems,
- b) payment systems composed exclusively of payment service providers within a financial group composed of entities linked by capital where one of the linked entities enjoys effective control over the other linked entities, or
- c) payment systems where a sole payment service provider, as a unit or as a group,
 - 1. acts or can act as the payment service provider for both the payer and the payee and is exclusively responsible for the management of the system, and
 - 2. allows for other payment service providers to participate in the system and the latter has no right to negotiate fees between themselves in relation to the payment system although they may establish their own pricing across payers and payees.

0 Tilføyd ved lov 4 juni 2010 nr. 20 (1 Juli 2010 ikr. iflg. Res. 4 juni 2010 nr. 771).

Chapter 6 Other provisions

0 Amended by Act 4 June 2010 No. 20 (in force from 1 July 2010 pursuant to the Decree. 4 June 2010 No 771), as amended chapter numbers from the 5th

§ 6-1. Requirements

The Ministry may issue further rules concerning:

- a) Norwegian financial institutions' participation in international payment systems,
- b) clearing, settlement and transfer of funds to and from overseas
- c) systems for payments that are not related to customer accounts in banks and financial institutions,
- d) completion and refinement of the provisions of this Act.

0 AMENDED by Act June 4, 2010 20 (ikr. July 1, 2010 acc. Res. 4 June 2010 No 771) AMENDED article number from § 5-1.

§ 6-2. Taushetsplikt

Employees and officers of an institution covered by this Act, the duty of confidentiality with regard to information they receive about the business and private matters, unless otherwise provided by law. The same applies to others who perform services for the institution.

The confidentiality obligation shall not prevent the Board or any authorized representative of the Board and other financial information received in their capacity as operator.

0 AMENDED by Act June 4, 2010 20 (ikr. July 1, 2010 acc. Res. 4 June 2010 No 771) AMENDED article number from § 5-2.

§ 6-3. Penalties and tvangsmulkt

Employees or representatives of institutions subject to this Act who willfully or negligently violates the law or regulation or order issued pursuant thereto, shall be punished with fines or aggravating circumstances, imprisonment for up to one year, if the situation does not fall under stricter penal provisions. Complicity is punishable in the same manner.

Violation of the provisions laid down in or pursuant to this Act is an offense. The limitation period for instituting criminal proceedings is five years.

If an order under this Act is not complied with, the Ministry may decide that the person or the institution shall comply with the order, shall pay a daily fine until the situation is rectified. Imposition of fines are enforceable by execution.

0 AMENDED by Act June 4, 2010 20 (ikr. July 1, 2010 acc. Res. 4 June 2010 No 771) AMENDED article number from § 5-3. Endres by Act 20 May 2005 No. 28 (ikr. from the time that fastsettes by law) as AMENDED by law June 19, 2009 No. 74

§ 6-4. Act applies to Svalbard

The king gives regulation of this Act apply to Norway's economic and atone for Svalbard, Jan Mayen and bilandene and can fastsette special rules to reflect the conditions there.

0 AMENDED by Act June 4, 2010 20 (ikr. July 1, 2010 acc. Res. 4 June 2010 No 771) AMENDED article number from § 5-4.

Chapter 7. Transitional rules. Amendments to other Acts

0 Amended by Act 4 June 2010 No. 20 (in force from 1 July 2010 pursuant to the Decree. 4 June 2010 No 771), as amended chapter numbers from 6

§ 1.7. Commencement and transitional provisions

This Act comes into force from the date decided by the King. ¹ The individual provisions may be in force at different times.

Ministry ¹ may stipulate specific transitional provisions.

0 AMENDED by Act June 4, 2010 20 (ikr. July 1, 2010 acc. Res. 4 June 2010 No 771) AMENDED article number from § 6-1.

1 Finansdepartementet iflg. res. 17 Dec. 1999 nr. 1344, the sum ved forskr. 13 Apr 2000 nr. 324 satte loven ikr. HRF 14 Apr 2000.

§ 6.2. ¹ Amendments to other Acts

From the time the law takes effect the following amendments to other Acts: ---

1 By amending 4 June 2010 No. 20 (in force from 1 July 2010 pursuant to the Decree. 4 June 2010 No 771) amended Section 6, Chapter No. 7, and § 01.06 amended paragraph numbers to § 7.1. § 6.2 was not mentioned.