

Conformity Assessment of Directive 2007/64/EC

PORTUGAL

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The conformity assessment of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC has been performed under Framework Service Contract No 10015 on the Provision of services in connection with the codification of Community law and with the assessment of the conformity of the laws of Member States with Community law.

The conformity assessment of Directive 2007/64/EC concerns at this stage 26 Member States as Poland has not been assessed yet in view of its late implementation of the Directive. The national implementing measures notified by the Member States to the European Commission as a result of the Directive transposition process basically represent the scope of and form the background for the assessment.

Reports on each Member State were drafted as a result of the assessment performed and they aim to present the main conclusions and observations on the Directive provisions. The first part of these assessment reports present the notified national implementing measures and additional legislation assessed. The second part provides a general conclusion on the conformity assessment and introduces the work performed as well as presenting cases that raise concerns of conformity according to the method used for assessment. The third and final part of the report covers the core of the assessment report. It takes the form of a concordance table, whereby the national provisions implementing the Directive provisions are listed and assessed. In addition, a general report also aims to provide a comprehensive overview of all assessments.

The views expressed in the assessment reports and the general report are those of the authors alone. Publication of this report on the Commission's web-site does not mean that the Commission endorses the views expressed and the assessments carried out. The Commission does not guarantee the accuracy of the data included in the reports, nor does it accept responsibility for any use made thereof.

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**Conformity Assessment of Directive 2007/64/EC
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GENERAL COMMENTS AND OBSERVATIONS

List of the national Implementing Measures (notified to the European Commission)	SUMMARY –General observations and Comments
Decreto-Lei n.º 317/2009. D.R. n.º 211, Série I de 2009-10-30 (Decree Law No 317/2009. Official Journal No 211, Series I of 30 October 2009) (hereinafter referred to as “DL 317/2009”)	DL 317/2009 transposed the new EU framework in terms of payment services into national legislation. DL 317/2009 consists of amendments to several legislation. The main purpose of DL 317/2009 is to approve, in Annex I, the legal framework which governs the taking up of the business of payment institutions and the provision of payment services (“<i>Regime jurídico que regula o acesso à actividade das instituições de pagamento e a prestação de serviços de pagamento</i>”). Therefore, Annex I to DL 317/2009 is the main instrument of analysis in this assessment. However, other legislation was also amended as a consequence of the transposition of Directive 2007/64/EC (hereinafter referred to as “the Directive”) into the national legal framework. Articles 3 and 4 of DL 317/2009 amend the Legal Framework on Credit Institutions and Finance Companies (“<i>Regime Geral das Instituições de Crédito e Sociedades Financeiras</i>”) which was first approved by Decree Law 298/92. Article 5 of DL 317/2009 amends Law No 25/2008 which sets preventive and repressive measures against money laundering of benefits with illicit origin and against the terrorist financing. Article 6 of DL 317/2009 amends Annex I to Decree Law 156/2005 laying down the obligatory character of the availability of the complaints book to all the suppliers of goods or service providers which are in contact with the public in general. Article 7 of DL 317/2009 amends Decree Law 95/2006 laying down the rules applicable to the distance contracts relating to the financial service concluded with the consumers, transposing into the national legislation Directive 2002/65/EC, of the European Parliament and the Council, of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC. Article 8 amends Law 5/2002 laying down the fight against organised, economical and financial crimes. DL 317/2009 entered into force on 1 November 2009. It was promulgated on 16 October 2009 and enacted on 21 October 2009.

List of additional National Implementing Measures (referred to in the Conformity Assessment)	SUMMARY –General observations and Comments
Regime Geral das Instituições de Crédito e Sociedades Financeiras (Aprovado pelo Decreto-Lei nº 298/92, de 31 de Dezembro e alterado posteriormente) Legal framework on Credit Institutions and Finance Companies approved by Decree Law No 298/92 (Approved by Decree Law No 298/92, of 31 December and later amended) (hereinafter referred to as RGICSF)	The RGICSF regulates the procedures of the establishment and on the exercise of the business of the credit institutions and the finance companies. The RGICSF was amended by Articles 3 and 4 of DL 317/2009 as a consequence of the application of the Directive into the Portuguese legislation. The RGICSF is used at several opportunities since it is regularly cross-referred to in Annex I to DL 317/2009.
Decreto-Lei n.º 42/2002 de 2 de Março Decree Law No 42/2002 of 2 March (hereinafter referred to as DL 42/2002)	DL 42/2002 transposed into the national legislation Directive 2000/28/EC of the European Parliament and of the Council of 18 September 2000 amending Directive 2000/12/EC relating to the taking up and pursuit of the business of credit institutions. Directive 2000/28/EC included the electronic money institutions as seen in the definition of the credit institutions. DL 42/2002 also transposed into the national legislation Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000 on the taking up, pursuit of and prudential supervision of the business of electronic money institutions. DL 42/2002 lays down the legal basis of the electronic money institutions.
Lei Orgânica do Banco de Portugal Organic Law of the Bank of Portugal	This Organic Law was approved by Law No 5/98 of 31 January 1998, and was amended by Decree Law No 118/2001 of 17 April 2001, Decree Law No 50/2004 of 10 March 2004 and Decree Law No 39/2007 of 20 February 2007.

CONCLUSIONS

In the given report the conformity assessment of the National Implementing Measures (hereinafter in the report referred to as “NIMs”) of Portugal with the provisions of Directive 2007/64/EC is analysed.

The conformity assessment of the following articles of Directive 2007/64/EC is not present in the given report:

Title V – Implementing Measures and Payments Committee (Articles 84 and 85);

Title VI – Final Provisions (Articles 85, 87, 89, 90, 91, 92, 93, 94, 95 and 96).

Therefore, the conclusions and observations made in this Report do not refer to the above-mentioned articles of the Directive.

1. The NIMs and the legal framework for payment services in Portugal

As mentioned above, Annex I to DL 317/2009 (the legal framework which governs the taking up of the business of payment institutions and the provision of payment services) is the main instrument of analysis in this assessment.

Annex I to DL 317/2009 is divided in five Titles.

Title I sets out the general and introductory provisions regarding the taking up of the business of payment institutions and the provision of payment services.

Essential aspects of the EU system were transposed in Titles II and III, in broad synchronisation with the systematic organisation adopted by the Directive.

Title II lays down the provisions which concern the payment service providers, the taking up of the business, and the conditions of access and of the exercise of the business of payment institutions. These correspond to the new type of payment service providers introduced by the Directive. Annex I to DL 317/2009 also lays down the rules concerning the authorisation and registration process, the provisions regarding their supervision and the rules which reflect the EU passport.

Title III regulates, in the one hand, the pre-contractual information duties, and on the other hand, the rules regarding the contractual rights and obligations of the users and the payment service providers.

Annex I to DL 317/2009 regulates, amongst other subjects, the activity of the payment service providers which have as principal business the provision of payment services to the users of those services. The payment transactions made in cash are excluded from the scope of Annex I to DL 317/2009, because there is already a single market for payments in cash. The payment transactions made with paper cheques also are excluded from the scope of Annex I to DL 317/2009 because those transactions, due to their nature, cannot be treated as efficiently as the other payment means. This does not preclude the fact that any transfer of funds are subject to the provisions of Regulation (EC) No 1781/2006, of the European Parliament and the Council, of 15 November, on information on the payer accompanying transfers of funds.

Annex I to DL 317/2009 identifies the categories of entities which can legitimately provide payment services. Alongside the credit institutions, including electronic money institutions, and alongside the entity which is the concessionaire of the universal postal service, a new category of payment service provider formed by the payment institutions was introduced.

The conditions of granting and of the maintenance of the authorisation for the exercise of payment institutions business include the prudential requirements proportional to the financial and operational risks assumed during the business.

The granting of users deposits is expressly sealed to the payment institutions. These ones merely are authorised to use the funds received from the users for payment service provision.

Regarding the granting of credit, the payment institutions can only grant credit, namely through the credit line set out or through the issue of credit cards, where this is strictly related to the payment services. The payment services are therefore obliged to adopt measures that grant the segregation between the funds of the clients and the respective funds, as well as make the internal control mechanisms available in order to comply with obligations in relation to money laundering and terrorism.

Annex I to DL 317/2009 provides for the submission of payment institutions to the accounting rules applicable to the credit institutions. It also requires the preparation of an auditor's report for the accounting information.

Title III of Annex I to DL 317/2009 compiles of a set of rules designed to grant transparency of the information conditions and requirements which govern payment services. These ones are applicable to a large range of entities.

Also, Annex I to DL 317/2009 states that the information to be given to the users shall be proportional to the respective needs and disclosed in a uniform format. Moreover, Annex I to DL 317/2009 expressly states the right of the consumer to receive the relevant information at no cost, before being bound by any contract for payment service provisions.

Title IV lays down the provisions concerning the out-of-court settlement of disputes and complaints procedure.

Title V lays down the provisions concerning administrative offences.

Moreover, additional NIMs were mentioned in order to perform this assessment properly. In fact, it was necessary to refer to RGICSF at several opportunities and few times to DL 42/2002 and to the Organic Law of the Bank of Portugal.

2. Main Conclusion: Cases of Non-Conformity/Partial Conformity

Annex I to DL 317/2009 is generally conformed to the Directive. In fact, a major part of Annex I to DL 317/2009 is a literal transposition of the Directive.

Some difficulties were found during the assessment.

Some of them are related to the difference in structure of the Portuguese act in comparison with the Directive. The most paradigmatic example regarding this problem is Article 25 of the Directive. In fact, the equivalent of the content of the entire Article 25 of the Directive is spread through several Chapters and Sections of the Portuguese act. Some provisions are set out in the context of the payment institutions supervision, some others in the context of right of establishment and freedom to provide services, without prejudice to the provisions which differ pursuant to the fact of Portugal being considered as a host Member State or as a home Member State.

Some other difficulties are related to the implicit transposition of some Directive provisions. The most paradigmatic example regarding this is Article 20, which sets out rules regarding the competent authorities and their characteristics. In this case, most of the Directive provisions were not directly transposed into the national legislation because of their general scope and their supposition that there might be more than one competent authority. However, this does not jeopardise the proper transposition of the Directive provisions into the Portuguese legislation.

Finally, some other difficulties are linked to the fact that some of the transpositions of the Directive provisions were excessively literal. Therefore, in several cases, such as for instance Article 3(o) of the Directive, some cross-references are erroneous because they illustrate directly the ones set out in the Directive, and therefore do not correspond to the Portuguese provisions.

Considering Article 86 of the Directive which sets out a full harmonisation provision for the application of the Directive, the Portuguese legislation generally does not go beyond or contradict the scope of the Directive (a part from the case of the transposition of Article 54(4) of the Directive). Since Article 86(1) of the Directive explicitly states that Member States shall not introduce provisions other than those laid down in the Directive and also because the implementation of Article 54(4) of the Directive into the Portuguese legislation went beyond the scope of the Directive, the Portuguese legislation was considered as partially conformed to Article 86(1) of the Directive. It was deemed necessary to give examples of additional provisions present in the Portuguese legislation to support the analysis of Article 86(1).

2.1. Explanatory note on the assessment

Conformity applies to cases whereby the national provisions follow all requirements of the corresponding Directive provision. Some requirements of the Directive provision may not be explicitly transposed. National provisions can however be considered as conformed as far as the silence does not affect the proper implementation of all requirements and that the missing ones can be inferred.

Partial conformity applies to cases whereby the national provisions do not follow all the requirements of the Directive provision, or are silent about requirements which are considered minor but necessary.

In cases of partial conformity, the interpretation of the national provision does not hamper the proper implementation of the Directive provision as a whole, and, missing requirements cannot be inferred.

Non conformity applies to cases whereby the Directive provision is not transposed or the national provisions do not follow either, all requirements of the Directive provision, or, the main ones. In cases of non conformity, the interpretation of the national provisions hamper the proper implementation of the Directive provision as a whole, and missing requirements cannot be inferred either. Also considered are additional requirements and exemptions which hamper the proper implementation of the Directive provision.

The cases where there are no headings relate to options laid down by the Directive provision that Member States do not seem to choose to apply, or, to obligations resting upon the European Commission.

2.2. Scope

The scope of application of the Directive did not give rise to any particular difficulties than those already mentioned.

Taking into consideration that the Directive is a full harmonisation Directive, it might be relevant to mention that the first part (Titles I and II) and the last part (Title IV, V and VI) of Annex I to DL 317/2009 contain additional provisions in comparison to the Directive.

2.3. Terminology

The use of the wording “provision of services by third parties” in Annex I to DL 317/2009 differs from the use of the wording “outsourcing” as mentioned in the Directive. Also, DL 317/2009 prefer the use of the term “discriminação”, instead of “repartição”, used in the Portuguese version of the Directive, when referring to the breakdown of payment transactions. Moreover, the Portuguese act refers to pre-contractual information instead of referring to prior information, as it is mentioned in the Directive. In these cases the meanings do not seem to differ.

Throughout Annex I of DL 317/2009 the use of the words “institution” or “company” seem to frequently replace the word “undertaking” used in the Directive. Therefore, the words “institution” and “company” which are by their nature more general can be misleading and not represent the exact equivalent of the word “undertaking”.

Also, the word “termination”, as used for instance in Article 45 of the Directive, is translated as has “resolução” in the Portuguese version of the Directive. However, Annex I to DL 317/2009 differs from the Portuguese version of the Directive and uses instead the word “denúncia”. « Resolução » and « denúncia » are two different types of termination of contracts. The “denúncia” only happens for contracts of long term operation which do not have a time limit (conventionally or legally fixed) for their duration and which have been agreed to be in force for an indefinite period. The “resolução” is the termination of the contract with retroactive effects by a unilateral and binding declaration of one of the parties. The “resolução” of the contract is done by only one of the contractors. However, it is not freely done by that party. It is a right that can only be performed when it has a legal or contractual basis. Therefore, the articles of Annex I to DL 317/2009 which transpose the provisions of the Directive concerning the termination of contracts are generally considered as partially conformed to the Directive because of the difference of legal meaning between “resolução” and “denúncia”. This difference of terminology can also be due to a problematic translation of the Directive.

2.4. Provisions that raise issues of non-conformity:

No cases of non conformity were found in this report.

2.5. Provisions that raise issues of partial conformity:

The Portuguese legislation was considered as partially conform regarding the following provisions of the Directive: Article 4, pt. (30) on definitions; Article 5, 1st para., pt (c) on applications for authorisation; Article 8(1), Method C, 1st subpara. and 2nd subpara., pt (a), 1st subpara. on calculation of own funds; Article 11 on the communication of the decision; Article 21(1), 1st subpara. and 2nd subpara., intr. wording on supervision; Article 53(3) on derogation for low value payment instruments and electronic money; Article 54(2) on consent and withdrawal of consent; Article 61(2) and (3) on the payer's liability for unauthorised payment transactions; Article 68(1)(c) on scope; Article 78 on no liability and Article 86(1) and (2) on full harmonisation.

2.6. Provisions that could not be identified:

No provisions were located regarding several articles of the Directive: Article 45(5) on the termination of framework contracts, Article 81(2) on penalties and Article 86(2) on full harmonisation.

Article 45(5) of the Directive does not require implementation into national legislation provided no provision contradicts the requirement. Regarding Articles 81(2) and 86(2) of the Directive, they both require that the Member States notify the European Commission about certain rules applied and the adoption of the options set out in the Directive. Therefore, it was necessary to support the analysis of Articles 81(2) and 86(2) of the Directive with the working document of the European Commission.

2.7. Options that Portugal has chosen to transpose into its national legislation:

Annex I to DL 317/2009 has chosen to apply the options laid down by: Article 9(2) setting out the calculation of safeguarding requirements when funds can be used for future payment transactions and for non-payment services; Article 9(3) setting out the application of safeguarding requirements to non hybrid payment institutions; Article 22(3) setting out the option to take into account the professional secrecy rules of the Capital Requirements Directive; Article 30(2) setting out the application of information requirements to micro enterprises in the same way as to consumers; Article 33 setting out a burden of proof on the payment service provider for information requirements; Article 45(6) setting out more favourable provisions on termination conditions for framework contracts; Article 47(3) setting out a provision of information to the payer on paper once a month free of charge; Article 48(3) setting out a provision of information to the payee on paper once a month free of charge; Article 51(3) setting out the application of Title IV to micro-enterprises in the same way as to consumers; an, Article 52(3) setting out an interdiction or limitation of surcharging practices; Article 61(3) setting out a reduction of payer's liability for unauthorised use of payment instrument taking into account the nature of personalised security features of the payment instrument; Article 72 setting out shorter maximum execution times for purely national payment transactions.

2.8. Options that Portugal has not chosen to transpose into its national legislation:

Regarding the optional provisions set out in the Directive, the Portuguese legislation has chosen not to apply the following: Article 2(3) setting out the waiver for institutions under Article 2 of the Capital Requirements Directive; Article 7(3) setting out the non application of the Directive on going capital requirements when a payment institution is included in the consolidated supervision of the parent credit institution; Article 9(4) setting out the application of safeguarding requirements only to funds that individually exceed EUR 600; Article 26 setting out the waiver of authorisation/supervision requirements for small payment institutions; Article 27 as a consequence of Article 26; Article 34(2) setting out a reduction or doubling of the amounts for national payment transactions; Article 51(2) setting out the non application of out-of-court procedures to enterprises; Article 53(2) setting out the reduction or doubling of the amounts for national payment transactions; Article 53(3) setting out an option not to apply the liability provisions for unauthorised transactions when the payer's

payment service provider does not have the ability to freeze the payment account or block the payment instrument limited to accounts or instruments of a certain value; Article 88(3) setting out a transitional provision for legal persons that have commenced their activities before 25 December 2007; Article 88(4) setting out transitional provision for natural or legal persons that would be eligible for the waiver under Article 26 of the Directive. As a consequence, some of the provisions which depend on the mentioned articles are also not reflected in Annex I to DL 317/2009.

Regarding the option of Article 88(3) of the Directive, the working documents of the European Commission state that it was adopted by Portugal. However, according to the analysis performed by the author, no provision reflecting the mentioned option was found.

3. List of the acronyms used in the report

- DL: Decree Law
- NIM: National Implementing Measures
- RGICSF: *Regime Geral das Instituições de Crédito e Sociedades Financeiras* (Legal framework on Credit Institutions and Finance Companies)
- EU: European Union
- EC: European Commission

4. Notes

The Correlation Table and the translations provided by the EC were sometimes completed or modified by the author in order to properly illustrate the analysis of this assessment.

Moreover, it was considered necessary to quote solely the essential cross-referred provisions in order to properly support the assessment. Therefore, not all the cross-referred provisions are quoted in the column containing the NIMs. Furthermore, the cross-references are merely analysed when deemed necessary for the assessment of the main provision.

The references to the articles throughout the report are listed in order of relevance. Moreover, the titles of the quoted NIMS are solely referred to when deemed necessary.

Directive 2007/64/EC		National Implementing Measures		Observations
Article No.	EN	Act, Article No.	EN	Conformity Assessment
Art. 1(1), intr. wording	TITLE I SUBJECT MATTER, SCOPE AND DEFINITIONS Article 1 Subject matter 1. This Directive lays down the rules in accordance with which Member States shall distinguish the following six categories of payment service provider:	Introductory wording of Art. 7(1) of Annex I to DL 317/2009	Introductory wording of Art. 7(1) Payment service providers The exclusivity principle 1 – The payment services referred to in Article 4 may be provided solely by the following entities:	CONFORM The content in the introductory wording of Article 1(1) of the Directive is properly reflected in the introductory wording of Article 7(1) of Annex I to DL 317/2009. The manner in which Annex I to DL 317/2009 is presenting the entities is slightly different from the presentation of the Directive. In fact, the Directive lists a number of payment services providers which shall be distinguished while Annex I to DL 317/2009 lists the only entities which may provide the payment services referred to in Article 4 (the equivalent of the Annex of the Directive).
Art. 1(1)(a)	(a) credit institutions within the meaning of Article 4(1)(a) of Directive 2006/48/EC;	Art. 7(1)(a) and (f) and (2) of Annex I to DL 317/2009 and Art. 2 of the RGICSF	Art. 7(1)(a) and (f) and (2)(Annex I to DL 317/2009) a) credit institutions, including electronic money institutions, having their registered office in Portugal; f) credit institutions, including electronic money institutions, and payment institutions having their registered office in another Member State of the European Community, in accordance with this Decree Law. 2 – The entities mentioned in point (f) of the previous paragraph may solely provide payment services which are authorised in	CONFORM There is no explicit definition of “credit institution” in Annex I to DL 317/2009. However, Article 2 of the RGICSF reflects the definition of “credit institution” as mentioned in Article 4(1)(a) of Directive 2006/48/EC. Article 7 of Annex I to DL 317/2009 contains some additional provisions in comparison with Article 1 of the Directive. In fact, Article 7(2) mentions that the entities referred to in Article 7(1)(f) may solely provide payment services which are authorised in their country of origin.

Directive 2007/64/EC		National Implementing Measures		Observations
			their country of origin. Art. 2 (RGICSF) Credit institutions 1 - "Credit institutions" means the undertakings whose business is to receive deposits or other repayable funds from the public, in order to grant credits for its own account. 2 - "Credit institutions" also means the undertakings that issue payment means in the form of electronic money.	
Art. 1(1)(b)	(b) electronic money institutions within the meaning of Article 1(3)(a) of Directive 2000/46/EC;	Art. 7(1)(a) and (f) and (2) of Annex I to DL 317/2009 and Art. 2 of DL 42/2002	Art. 7(1)(a) and (f) and (2) (Annex I to DL 317/2009) a) credit institutions, including electronic money institutions, having their registered office in Portugal; f) credit institutions, including electronic money institutions, and payment institutions having their registered office in another Member State of the European Community, in accordance with this Decree Law. 2 – The entities mentioned in point (f) of the previous paragraph may solely provide payment services which are authorised in their country of origin. Art. 2(1) (DL 42/2002) Notion and scope of activity 1 - 'electronic money institution' shall mean credit institutions which issue means	CONFORM Article 2(1) of DL 42/2002 conforms to the definition laid down in Article 1(3)(a) of Directive 2000/46/EC. Article 7 of Annex I to DL 317/2009 contains some additional provisions in comparison with Article 1 of the Directive. In fact, Article 7(2) mentions that the entities referred to in Article 7(1)(f) may solely provide payment services which are authorised in their country of origin.

Directive 2007/64/EC		National Implementing Measures		Observations
			of payment in the form of electronic money.	
Art. 1(1)(c)	(c) post office giro institutions which are entitled under national law to provide payment services;	Art. 7(1)(c) of Annex I to DL 317/2009	Art. 7(1)(c) c) the concessionaire of the universal postal service;	CONFORM The “concessionaire of the universal postal service” may be considered as a post office giro institution which is entitled under the national law to provide payment services. Therefore, Article 7(1)(c) of Annex I to DL 317/2009 transposes Article 1(1)(c) of the Directive.
Art. 1(1)(d)	(d) payment institutions within the meaning of this Directive;	Art. 7(1)(b) of Annex I to DL 317/2009	Art. 7(1)(b) b) payment institutions having their registered office in Portugal; Art. 7(1)(f) f) credit institutions, including electronic money institutions, and payment institutions having their registered office in another Member State of the European Community, in accordance with this Decree Law.	CONFORM Although Annex I to DL 317/2009 specifies that the payment services may be provided by payment institutions having their registered office in Portugal, that type of entity is conformed to Article 1(1)(d) of the Directive. The Directive refers to payment institutions “within the meaning of this Directive”, therefore, it refers to a legal person that has been granted authorisation in accordance with Article 10 to provide and execute payment services throughout the Community (Article 4(4) of the Directive). Article 7(1)(f) of Annex I to DL 317/2009 is referred to in order to show that the scope of Article 4(4) of the Directive is reflected in several provisions of Article 7 of Annex I to DL 317/2009. Moreover, as mentioned below, the definition of payment institution in Annex I to DL 317/2009 corresponds to the definition set out in the Directive. Therefore, Article 7(1)(b) of Annex I to DL 317/2009 is conformed to Article 1(d) of the Directive.
Art. 1(1)(e)	(e) the European Central Bank and national central banks when not acting in their capacity as monetary authority or	Art. 7(1)(e) of Annex I to	Art. 7(1)(e) e) the Bank of Portugal, when not	CONFORM

Directive 2007/64/EC		National Implementing Measures		Observations
	other public authorities;	DL 317/2009	exercising public authority powers;	Article 7(1)(e) of Annex I to DL 317/2009 does not refer to the European Central Bank (hereinafter referred to as ECB). However, according to Article 37 of that act (which will be referred to latter in the report) the Bank of Portugal cooperates with the ECB. Article 7(1)(e) of Annex I to DL 317/2009 uses a more general expression such as “public authority powers” instead of “monetary authority or other public authorities”. However, the monetary authorities and other public authorities can be included in the scope of “public authority powers”. Therefore, this provision of Annex I to DL 317/2009 is conformed to the Directive.
Art. 1(1)(f)	(f) Member States or their regional or local authorities when not acting in their capacity as public authorities.	Art. 7(1)(d) of Annex I to DL 317/2009	Art. 7(1)(d) d) the State, the autonomous regions and the direct and indirect services and bodies of the State’s administration, when acting without public authority powers;	CONFORM Article 7(1)(d) of Annex I to DL 317/2009 follows the requirements of Article 1(1)(f) of the Directive.
Art. 1(2)	2.This Directive also lays down rules concerning transparency of conditions and information requirements for payment services, and the respective rights and obligations of payment service users and payment service providers in relation to the provision of payment services as a regular occupation or business activity.	Art. 1 of Annex I to DL 317/2009	Art. 1 Subject matter This Law governs the taking up of the business of payment institutions and the provision of payment services.	CONFORM Article 1 of Annex I to DL 317/2009 is less precise than Article 1(2) regarding the subject matter. However, Annex I to DL 317/2009 is conformed to Article 1(2) of the Directive since it expressly dedicates two chapters to transparency of conditions and information requirements for payment services and to the rights and obligations regarding the provision and use of payment services (Chapter I and II of Title III). Therefore, Annex I to DL 317/2009 follows the requirements set out in Article 1(2) of the Directive.
Art. 2(1)	Article 2 Scope	Art. 3(1) and (2) of Annex I to	Art. 3(1) and (2) Scope	CONFORM

Directive 2007/64/EC		National Implementing Measures		Observations
	1. This Directive shall apply to payment services provided within the Community. However, with the exception of Article 73, Titles III and IV shall apply only where both the payer's payment service provider and the payee's payment service provider are, or the sole payment service provider in the payment transaction is, located in the Community.	DL 317/2009	1 – This Law shall apply to payment services provided within Portugal by service providers having their registered office in Portugal and their agents, as well as by agents and branches of service providers having their registered office in another Member State. 2 – Title III, with the exception of Article 84, shall apply only where both payment service providers, or the sole provider, are located in Portugal or where one of the providers is located in Portugal and the other in another Member State of the Community.	Article 3(1) and (2) of Annex I to DL 317/2009 are more specific than the Directive since they state that the payment services are provided by service providers having their registered office in Portugal and their agents, as well as by agents and branches of service providers having their registered office in another Member State. Although Article 3(1) and (2) of Annex I to DL 317/2009 are more specific than the Directive, they do not jeopardise the content and spirit of Article 2(1) of the Directive. In fact, payment services provided within Portugal by service providers having their registered office in Portugal and their agents, as well as by agents and branches of service providers having their registered office in another Member State are included in the scope of payment services provided within the Community. Article 84, which is cross-referred to in Article 3(2) of Annex I to DL 317/2009, corresponds to Article 73, which is cross-referred to in Article 2(1) of the Directive. Therefore, the content in Article 2(1) of the Directive is properly reflected in the Portuguese act.
Art. 2(2)	2. Titles III and IV shall apply to payment services made in euro or the currency of a Member State outside the euro area.	Art. 3(3) of Annex I to DL 317/2009	Art. 3(3) 3 - Title III shall apply to payment services made in euro or the currency of a Member State outside the euro area.	CONFORM Article 3(3) of Annex I to DL 317/2009 is conformed to Article 2(2) of the Directive since it expressly dedicates two chapters (Chapter I and II of Title III) to the transparency of conditions and information requirements for payment services (the equivalent of Title III of the Directive) and to the rights and obligations regarding the provision and use of payment services (the equivalent of Title IV of the Directive). Article 3(3) of Annex I to DL 317/2009 also states that the above mentioned subjects (the transparency of conditions and information requirements for payment services and the rights and obligations regarding the provision and use of payment services) shall apply to payment services made in euro or the currency of a Member State outside the euro area. Therefore,

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				Article 3(3) of Annex I to DL 317/2009 reflects the content in Article 2(2) of the Directive.
Art. 2(3)	3. Member States may waive the application of all or part of the provisions of this Directive to the institutions referred to in Article 2 of Directive 2006/48/EC, with the exception of those referred to in the first and second indent of that article.	N/A	N/A	Article 2(3) of the Directive sets out an option. Owing to this option, Portugal did not choose to apply the Directive provision.
Art. 3, intr. wording	Article 3 Negative scope This Directive shall apply to none of the following:	Introductory wording of Art. 5 of Annex I to DL 317/2009	Introductory wording of Art. 5 Exemptions This Law shall apply to none of the following transactions:	CONFORM The introductory wording of Article 5 of Annex I to DL 317/2009 reflects the content in the introductory wording of Article 3 of the Directive.
Art. 3(a)	(a) payment transactions made exclusively in cash directly from the payer to the payee, without any intermediary intervention;	Art. 5(a) of Annex I to DL 317/2009	Art. 5(a) a) payment transactions made exclusively in cash directly from the payer to the payee, without any intermediary intervention;	CONFORM Article 5(a) of Annex I to DL 317/2009 literally transposes Article 3(a) of the Directive.
Art. 3(b)	(b) payment transactions from the payer to the payee through a commercial agent authorised to negotiate or conclude the sale or purchase of goods or services on behalf of the payer or the payee;	Art. 5(b) of Annex I to DL 317/2009	Art. 5(b) b) payment transactions from the payer to the payee through a commercial agent authorised to negotiate or conclude the sale or purchase of goods or services on behalf of the payer or the payee;	CONFORM Article 5(b) of Annex I to DL 317/2009 literally transposes Article 3(b) of the Directive.
Art. 3(c)	(c) professional physical transport of banknotes and coins, including their collection, processing and delivery;	Art. 5(c) of Annex I to DL 317/2009	Art. 5(c) c) professional physical transport of banknotes and coins, including their collection, processing and delivery and the recirculation of banknotes and coins;	CONFORM Annex I to DL 317/2009 does not apply to professional physical transport of banknotes and coins, including their collection, processing and delivery, as provided for in the Directive.

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				However, Article 5(c) of Annex I to DL 317/2009 additionally states that it should also not apply to the recirculation of banknotes and coins. The reference to this additional provision does not jeopardise the conformity of Article 5(c) since the recirculation is still considered as a type of transport of banknotes and coins.
Art. 3(d)	(d) payment transactions consisting of the non-professional cash collection and delivery within the framework of a nonprofit or charitable activity;	Art. 5(d) of Annex I to DL 317/2009	Art. 5(d) d) payment transactions consisting of the non-professional cash collection and delivery within the framework of a non-profit or charitable activity;	CONFORM Article 5(d) of Annex I to DL 317/2009 literally transposes Article 3(d) of the Directive.
Art. 3(e)	(e) services where cash is provided by the payee to the payer as part of a payment transaction following an explicit request by the payment service user just before the execution of the payment transaction through a payment for the purchase of goods or services;	Art. 5(e) of Annex I to DL 317/2009	Art. 5(e) e) services where cash is provided by the payee to the payer as part of a payment transaction following an explicit request by the payment service user just before the execution of the payment transaction through a payment for the purchase of goods or services;	CONFORM Article 5(e) of Annex I to DL 317/2009 literally transposes Article 3(e) of the Directive.
Art. 3(f)	(f) money exchange business, that is to say, cash-to-cash operations, where the funds are not held on a payment account;	Art. 5(f) of Annex I to DL 317/2009	Art. 5(f) f) money exchange business, that is to say, cash-to-cash operations, where the funds are not held on a payment account;	CONFORM Article 5(f) of Annex I to DL 317/2009 literally transposes Article 3(f) of the Directive.
Art. 3(g)	(g) payment transactions based on any of the following documents drawn on the payment service provider with a view to placing funds at the disposal of the payee:	Art. 5(g) of Annex I to DL 317/2009	Art. 5(g) g) payment transactions based on any of the following documents drawn on the payment service provider with a view to placing funds at the disposal of the payee:	CONFORM Article 5(g) of Annex I to DL 317/2009 literally transposes Article 3(g) of the Directive.
Art. 3(g)(i)	(i) paper cheques in accordance with the Geneva Convention of 19 March 1931	Art. 5(g)(i) of Annex I	Art. 5(g)(i) i) paper cheques in accordance with the	CONFORM

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	providing a uniform law for cheques;	to DL 317/2009	Geneva Convention of 19 March 1931 providing a uniform law for cheque;	Article 5(g)(i) of Annex I to DL 317/2009 literally transposes Article 3(g)(i) of the Directive.
Art. 3(g)(ii)	(ii) paper cheques similar to those referred to in point (i) and governed by the laws of Member States which are not party to the Geneva Convention of 19 March 1931 providing a uniform law for cheques;	Art. 5(g)(ii) of Annex I to DL 317/2009	Art. 5(g)(ii) ii) paper cheques similar to those referred to in point (i) and governed by the laws of Member States which are not party to the Geneva Convention of 19 March 1931 providing a uniform law for cheques;	CONFORM Article 5(g)(ii) of Annex I to DL 317/2009 literally transposes Article 3(g)(ii) of the Directive.
Art. 3(g)(iii)	(iii) paper-based drafts in accordance with the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;	Art. 5(g)(iii) of Annex I to DL 317/2009	Art. 5(g)(iii) iii) paper-based drafts in accordance with the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;	CONFORM Article 5(g)(iii) of Annex I to DL 317/2009 literally transposes Article 3(g)(iii) of the Directive.
Art. 3(g)(iv)	(iv) paper-based drafts similar to those referred to in point (iii) and governed by the laws of Member States which are not party to the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;	Art. 5(g)(iv) of Annex I to DL 317/2009	Art. 5(g)(iv) iv) paper-based drafts similar to those referred to in point (iii) and governed by the laws of Member States which are not party to the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;	CONFORM Article 5(g)(iv) of Annex I to DL 317/2009 literally transposes Article 3(g)(iv) of the Directive.
Art. 3(g)(v)	(v) paper-based vouchers;	Art. 5(g)(v) of Annex I to DL 317/2009	Art. 5(g)(v) v) paper-based vouchers;	CONFORM Article 5(g)(v) of Annex I to DL 317/2009 literally transposes Article 3(g)(v) of the Directive.
Art. 3(g)(vi)	(vi) paper-based traveller's cheques; or	Art. 5(g)(vi) of Annex I to DL	Art. 5(g)(vi) vi) paper-based traveller's cheques;	CONFORM Article 5(g)(vi) of Annex I to DL 317/2009 literally transposes

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		317/2009		Article 3(g)(vi) of the Directive.
Art. 3(g)(vii)	(vii) paper-based postal money orders as defined by the Universal Postal Union;	Art. 5(g)(vii) of Annex I to DL 317/2009	Art. 5(g)(vii) vii) paper-based postal money orders as defined by the Universal Postal Union;	CONFORM Article 5(g)(vii) of Annex I to DL 317/2009 reflects the content in Article 3(g)(vii) of the Directive. Although the Directive states that it should not apply to paper-based traveller's cheques or paper-based postal money orders, Portugal decided to exclude from the scope of application of Annex I to DL 317/2009 paper-based traveller's cheques and paper-based postal money orders. However, that does not jeopardise the conformity of Annex I to DL 317/2009.
Art. 3(h)	(h) payment transactions carried out within a payment or securities settlement system between settlement agents, central counterparties, clearing houses and/or central banks and other participants of the system, and payment service providers, without prejudice to Article 28;	Art. 5(h) of Annex I to DL 317/2009	Art. 5(h) h) payment transactions carried out within a payment or securities settlement system between settlement agents, central counterparties, clearing houses or central banks and other participants of the system, and payment service providers, without prejudice to the provisions of Article 39;	CONFORM Article 5(h) of Annex I to DL 317/2009 reflects the content in Article 3(h) of the Directive. Article 39, which is cross-referred to in Article 5(h) of Annex I to DL 317/2009 corresponds to Article 28, which is cross-referred to in Article 3(h) of the Directive.
Art. 3(i)	(i) payment transactions related to securities asset servicing, including dividends, income or other distributions, or redemption or sale, carried out by persons referred to in point (h) or by investment firms, credit institutions, collective investment undertakings or asset management companies providing investment services and any other entities allowed to have the custody of financial instruments;	Art. 5(i) of Annex I to DL 317/2009	Art. 5(i) i) payment transactions related to securities asset servicing, including dividends, income or other distributions, or redemption or sale, carried out by persons referred to in point (h) or by investment firms, credit institutions, collective investment undertakings or asset management companies providing investment services and any other entities allowed to have the custody of financial instruments;	CONFORM Article 5(i) of Annex I to DL 317/2009 literally transposes Article 3(i) of the Directive.

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Art. 3(j)	(j) services provided by technical service providers, which support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and privacy protection services, data and entity authentication, information technology (IT) and communication network provision, provision and maintenance of terminals and devices used for payment services;	Art. 5(j) of Annex I to DL 317/2009	Art. 5(j) j) services provided by technical service providers, which support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and privacy protection services, data and entity authentication, information technology (IT) and communication network provision, provision and maintenance of terminals and devices used for payment services;	CONFORM Article 5(j) of Annex I to DL 317/2009 literally transposes Article 3(j) of the Directive.
Art. 3(k)	(k) services based on instruments that can be used to acquire goods or services only in the premises used by the issuer or under a commercial agreement with the issuer either within a limited network of service providers or for a limited range of goods or services;	Art. 5(l) of Annex I to DL 317/2009	Art. 5(l) l) services based on instruments that can be used to acquire goods or services only in the premises used by the issuer or under a commercial agreement with the issuer either within a limited network of service providers or for a limited range of goods or services;	CONFORM Article 5(l) of Annex I to DL 317/2009 literally transposes Article 3(k) of the Directive.
Art. 3(l)	(l) payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services;	Art. 5(m) of Annex I to DL 317/2009	Art. 5(m) m) payment transactions executed by means of any telecommunication, digital or IT device, where the goods or services purchased are delivered to and are to be used through a telecommunication, digital or IT device, provided that the telecommunication, digital or IT operator does not act only as an intermediary between the payment service user and the supplier of the goods and services;	CONFORM Article 5(m) of Annex I to DL 317/2009 literally transposes Article 3(l) of the Directive.

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Art. 3(m)	(m) payment transactions carried out between payment service providers, their agents or branches for their own account;	Art. 5(n) of Annex I to DL 317/2009	Art. 5(n) n) payment transactions carried out between payment service providers, their agents or branches for their own account;	CONFORM Article 5(n) of Annex I to DL 317/2009 literally transposes Article 3(m) of the Directive.
Art. 3(n)	(n) payment transactions between a parent undertaking and its subsidiary or between subsidiaries of the same parent undertaking, without any intermediary intervention by a payment service provider other than an undertaking belonging to the same group; or	Art. 5(o) of Annex I to DL 317/2009	Art. 5(o) o) payment transactions between a parent undertaking and its subsidiary or between subsidiaries of the same parent undertaking, without any intermediary intervention by a payment service provider other than an undertaking belonging to the same group; and	CONFORM Article 5(o) of Annex I to DL 317/2009 literally transposes Article 3(n) of the Directive.
Art. 3(o)	(o) services by providers to withdraw cash by means of automated teller machines acting on behalf of one or more card issuers, which are not a party to the framework contract with the customer withdrawing money from a payment account, on condition that these providers do not conduct other payment services as listed in the Annex.	Art. 5(p) of Annex I to DL 317/2009	Art. 5(p) p) services by providers to withdraw cash by means of automated teller machines acting on behalf of one or more card issuers, which are not a party to the framework contract with the customer withdrawing money from a payment account, on condition that these providers do not conduct other payment services as listed in Annex I to this Decree Law.	CONFORM Article 5(p) of Annex I to DL 317/2009 reflects the content in Article 3(o) of the Directive. However, Article 5(p) of Annex I to DL 317/2009 contains an erroneous cross-reference. This one should mention Article 4 of Annex I to DL 317/2009 and not Annex I. In fact, Annex I is in itself the legal framework which governs the taking up of the business of payment institutions and the provision of payment services. Since Article 4 lays down provisions on payment services, and transposes expressly the content in the Annex of the Directive, therefore, Article 5(p) should be cross-referring to Article 4 and not to Annex I. As mentioned in the Conclusions, this is due to the fact that some of the transpositions of the Directive provisions into Annex I to DL 317/2009 were excessively literal.
Art. 4, pt (1)	Article 4 Definitions	Art. 2(a) of Annex I to DL	Art. 2(a) Definitions	CONFORM

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	For the purposes of this Directive, the following definitions shall apply: 1. 'home Member State' means either of the following: (i) the Member State in which the registered office of the payment service provider is situated; or (ii) if the payment service provider has, under its national law, no registered office, the Member State in which its head office is situated;	317/2009	For the purposes of this Law, the following definitions shall apply: a) "home Member State" means either of the following: i) the Member State in which the registered office of the payment service provider is situated; or ii) if the payment service provider has, under its national law, no registered office, the Member State in which its head office is situated;	Article 2(a) of Annex I to DL 317/2009 literally transposes Article 4(1) of the Directive.
Art. 4, pt (2)	2. 'host Member State' means the Member State other than the home Member State in which a payment service provider has an agent or a branch or provides payment services;	Art. 2(b) of Annex I to DL 317/2009	Art. 2(b) b) "host Member State" means the Member State, other than the home Member State, in which a payment service provider has an agent or a branch, or provides payment services;	CONFORM Article 2(b) of Annex I to DL 317/2009 literally transposes Article 4(2) of the Directive.
Art. 4, pt (3)	3. 'payment service' means any business activity listed in the Annex;	Art. 2(c) of Annex I to DL 317/2009	Art. 2(c) c) "payment service" means any activity listed in Article 4;	CONFORM Article 2(c) of Annex I to DL 317/2009 reflects the content in Article 4(3) of the Directive. As mentioned before, Article 4, which is cross-referred to in Article 2(c) of Annex I to DL 317/2009 corresponds to the Annex, which is cross-referred to in Article 4(3) of the Directive.
Art. 4, pt (4)	4. 'payment institution' means a legal person that has been granted authorisation in accordance with Article 10 to provide and execute payment services throughout the Community;	Art. 2(d) of Annex I to DL 317/2009	Art. 2(d) d) "payment institution" means a legal person that has been granted authorisation in accordance with Article 10 to provide and execute payment services throughout	CONFORM Article 2(d) of Annex I to DL 317/2009 literally transposes Article 4(4) of the Directive.

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			the Community;	
Art. 4, pt (5)	5. 'payment transaction' means an act, initiated by the payer or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee;	Art. 2(e) of Annex I to DL 317/2009	Art. 2(e) e) "payment transaction" means an act, initiated by the payer or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee;	CONFORM Article 2(e) of Annex I to DL 317/2009 literally transposes Article 4(5) of the Directive.
Art. 4, pt (6)	6. 'payment system' means a funds transfer system with formal and standardised arrangements and common rules for the processing, clearing and/or settlement of payment transactions;	Art. 2(f) of Annex I to DL 317/2009	Art. 2(f) f) "payment system" means a funds transfer system with formal and standardised arrangements and common rules for the processing, clearing and settlement of payment transactions;	CONFORM Article 2(f) of Annex I to DL 317/2009 literally transposes Article 4(6) of the Directive. Portugal has chosen to include in the scope of Article 4(6) of Annex I to DL 317/2009 the clearing and settlement of payment transactions.
Art. 4, pt (7)	7. 'payer' means a natural or legal person who holds a payment account and allows a payment order from that payment account, or, where there is no payment account, a natural or legal person who gives a payment order;	Art. 2(g) of Annex I to DL 317/2009	Art. 2(g) g) "payer" means a natural or legal person who holds a payment account and allows a payment order from that payment account, or, where there is no payment account, a natural or legal person who gives a payment order;	CONFORM Article 2(g) of Annex I to DL 317/2009 literally transposes Article 4(7) of the Directive.
Art. 4, pt (8)	8. 'payee' means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction;	Art. 2(h) of Annex I to DL 317/2009	Art. 2(h) h) "payee" means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction;	CONFORM Article 2(h) of Annex I to DL 317/2009 literally transposes Article 4(8) of the Directive.
Art. 4, pt (9)	9. 'payment service provider' means bodies referred to in Article 1(1) and legal and natural persons benefiting from the	Art. 2(i) of Annex I to DL	Art. 2(i) i) "payment service provider" means the entities listed in Article 7;	CONFORM Article 7, which is cross-referred to in Article 2(i) of Annex I to

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	waiver under Article 26;	317/2009		DL 317/2009 corresponds to Article 1(1) which is cross-referred to in Article 4(9) of the Directive. Moreover, Article 2(i) of Annex I to DL 317/2009 uses a more comprehensive term (<i>entities</i>) in comparison with the Directive (<i>bodies</i>). However, that different terminology does not jeopardise the conformity of Article 2(i) of Annex I to DL 317/2009. Also, the Portuguese version of the Directive translated “bodies” as the equivalent of “undertakings”. Despite of these differences of terminology, both Article 2(i) of Annex I to DL 317/2009 and Article 4(9) of the Directive refer to the six categories of payment services providers listed in Article 1(1) of the Directive and in the corresponding Portuguese provisions. The last part of Article 4(9) of the Directive is not reflected in Article 2(i) of Annex I to DL 317/2009 since Portugal has chosen not to apply the waiver under Article 26 of the Directive.
Art. 4, pt (10)	10. ‘payment service user’ means a natural or legal person making use of a payment service in the capacity of either payer or payee, or both;	Art. 2(j) of Annex I to DL 317/2009	Art. 2(j) j) "payment service user" means a natural or legal person making use of a payment service in the capacity of payer, payee, or both;	CONFORM Article 2(j) of Annex I to DL 317/2009 literally transposes Article 4(10) of the Directive.
Art. 4, pt (11)	11. ‘consumer’ means a natural person who, in payment service contracts covered by this Directive, is acting for purposes other than his trade, business or profession;	Art. 2(l) of Annex I to DL 317/2009	Art. 2(l) l) "consumer" means a natural person who, in payment service contracts covered by this Law, is acting for purposes other than his trade, business or profession;	CONFORM Article 2(l) of Annex I to DL 317/2009 literally transposes Article 4(11) of the Directive.
Art. 4, pt (12)	12. ‘framework contract’ means a payment service contract which governs the future execution of individual and successive payment transactions and which may contain the obligation and conditions	Art. 2(m) of Annex I to DL 317/2009	Art. 2(m) m) "framework contract" means a payment service contract which governs the future execution of individual and successive payment transactions and which may	CONFORM Article 2(m) of Annex I to DL 317/2009 literally transposes Article 4(12) of the Directive.

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	for setting up a payment account;		contain the obligation and conditions for setting up a payment account;	
Art. 4, pt (13)	13. 'money remittance' means a payment service where funds are received from a payer, without any payment accounts being created in the name of the payer or the payee, for the sole purpose of transferring a corresponding amount to a 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;	Art. 2(n) of Annex I to DL 317/2009	Art. 2(n) n) "money remittance" means a payment service where funds are received from a payer, without any payment accounts being created in the name of the payer or the payee, for the sole purpose of transferring a corresponding amount to a payee or to another payment service provider acting on behalf of the payee, and where such funds are received on behalf of and made available to the payee;	CONFORM Article 2(n) of Annex I to DL 317/2009 literally transposes Article 4(13) of the Directive. Portugal has chosen to refer to a payment service provider acting on behalf of the payee and where such funds are received on behalf of and made available to the payee.
Art. 4, pt (14)	14. 'payment account' means an account held in the name of one or more payment service users which is used for the execution of payment transactions;	Art. 2(o) of Annex I to DL 317/2009	Art. 2(o) o) "payment account" means an account held in the name of one or more payment service users which is used for the execution of payment transactions;	CONFORM Article 2(o) of Annex I to DL 317/2009 literally transposes Article 4(14) of the Directive.
Art. 4, pt (15)	15. 'funds' means banknotes and coins, scriptural money and electronic money as defined in Article 1(3)(b) of Directive 2000/46/EC;	Art. 2(p) of Annex I to DL 317/2009	Art. 2(p) p) "funds" means banknotes and coins, scriptural money and electronic money as defined in Article 1(3)(b) of Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000;	CONFORM Article 2(p) of Annex I to DL 317/2009 literally transposes Article 4(15) of the Directive.
Art. 4, pt (16)	16. 'payment order' means any instruction by a payer or payee to his payment service provider requesting the execution of a payment transaction;	Art. 2(q) of Annex I to DL 317/2009	Art. 2(q) q) "payment order" means any instruction by a payer or payee to his payment service provider requesting the execution of a payment transaction;	CONFORM Article 2(q) of Annex I to DL 317/2009 literally transposes Article 4(16) of the Directive.
Art. 4, pt	17. 'value date' means a reference time used by a payment service provider	Art. 2(r) of Annex I	Art. 2(r)	CONFORM

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(17)	for the calculation of interest on the funds debited from or credited to a payment account;	to DL 317/2009	r) "value date" means a reference time used by a payment service provider for the calculation of interest on the funds debited from or credited to a payment account;	Article 2(r) of Annex I to DL 317/2009 literally transposes Article 4(17) of the Directive.
Art. 4, pt (18)	18. 'reference exchange rate' means the exchange rate which is used as the basis to calculate any currency exchange and which is made available by the payment service provider or comes from a publicly available source;	Art. 2(s) of Annex I to DL 317/2009	Art. 2(s) s) "reference exchange rate" means the exchange rate which is used as the basis to calculate any currency exchange and which is made available by the payment service provider or comes from a publicly available source;	CONFORM Article 2(s) of Annex I to DL 317/2009 literally transposes Article 4(18) of the Directive.
Art. 4, pt (19)	19. 'authentication' means a procedure which allows the payment service provider to verify the use of a specific payment instrument, including its personalised security features;	Art. 2(t) of Annex I to DL 317/2009	Art. 2(t) t) "authentication" means a procedure which allows the payment service provider to verify the use of a specific payment instrument, including its personalised security features;	CONFORM Article 2(t) of Annex I to DL 317/2009 literally transposes Article 4(19) of the Directive.
Art. 4, pt (20)	20. 'reference interest rate' means the interest rate which is used as the basis for calculating any interest to be applied and which comes from a publicly available source which can be verified by both parties to a payment service contract;	Art. 2(u) of Annex I to DL 317/2009	Art. 2(u) u) "reference interest rate" means the interest rate which is used as the basis for calculating any interest to be applied, which comes from a publicly available source and which can be verified by both parties to a payment service contract;	CONFORM Article 2(u) of Annex I to DL 317/2009 literally transposes Article 4(20) of the Directive.
Art. 4, pt (21)	21. 'unique identifier' means a combination of letters, numbers or symbols specified to the payment service user by the payment service provider and to be provided by the payment service user to identify unambiguously the other payment service user and/or his payment account for a payment transaction;	Art. 2(v) of Annex I to DL 317/2009	Art. 2(v) v) "unique identifier" means a combination of letters, numbers or symbols specified to the payment service user by the payment service provider and to be provided by the payment service user to identify unambiguously the other payment service user and his payment account for a	CONFORM Article 2(v) of Annex I to DL 317/2009 literally transposes Article 4(21) of the Directive. Portugal has chosen to include in the scope of Article 4(21) of Annex I to DL 317/2009 the payment service user and his

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			payment transaction;	payment account for a payment transaction.
Art. 4, pt (22)	22. 'agent' means a natural or legal person which acts on behalf of a payment institution in providing payment services;	Art. 2(x) of Annex I to DL 317/2009	Art. 2(x) x) "agent" means a natural or legal person which acts on behalf of a payment institution in providing payment services;	CONFORM Article 2(x) of Annex I to DL 317/2009 literally transposes Article 4(22) of the Directive.
Art. 4, pt (23)	23. 'payment instrument' means any personalised device(s) and/ or set of procedures agreed between the payment service user and the payment service provider and used by the payment service user in order to initiate a payment order;	Art. 2(z) of Annex I to DL 317/2009	Art. 2(z) z) "payment instrument" means any personalised device(s) or set of procedures agreed between the payment service user and the payment service provider and which is used by the payment service user in order to initiate a payment order;	CONFORM Article 2(z) of Annex I to DL 317/2009 reflects the content in Article 4(23) of the Directive. Portugal has chosen to include in the scope of Article 2(z) of Annex I to DL 317/2009 the personalised device(s) or the set of procedures.
Art. 4, pt (24)	24. 'means of distance communication' refers to any means which, without the simultaneous physical presence of the payment service provider and the payment service user, may be used for the conclusion of a payment services contract;	Art. 2(aa) of Annex I to DL 317/2009	Art. 2(aa) aa) "means of distance communication" refers to any means which, without the simultaneous physical presence of the payment service provider and the payment service user, may be used for the conclusion of a payment services contract;	CONFORM Article 2(aa) of Annex I to DL 317/2009 literally transposes Article 4(24) of the Directive.
Art. 4, pt (25)	25. 'durable medium' means any instrument which enables the payment service user to store information addressed personally to him in a way accessible for future reference for a period of time adequate to the purposes of the information and which allows the unchanged reproduction of the information stored;	Art. 2(ab) of Annex I to DL 317/2009	Art. 2(ab) ab) "durable medium" means any instrument which enables the payment service user to store information addressed personally to him in a way accessible for future reference, for a period of time adequate to the purposes of the information and which allows the unchanged reproduction of the information stored;	CONFORM Article 2(ab) of Annex I to DL 317/2009 literally transposes Article 4(25) of the Directive.

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Art. 4, pt (26)	26. 'micro-enterprise' means an enterprise, which at the time of conclusion of the payment service contract, is an enterprise as defined in Article 1 and Article 2(1) and (3) of the Annex to Recommendation 2003/361/EC;	Art. 2(ac) of Annex I to DL 317/2009	Art. 2(ac) ac) "micro-enterprise" means an enterprise, which at the time of conclusion of the payment service contract, is an enterprise as defined in Article 1 and Article 2(1) and (3) of the Annex to Commission Recommendation 2003/361/EC of 6 May;	CONFORM Article 2(ac) of Annex I to DL 317/2009 literally transposes Article 4(26) of the Directive.
Art. 4, pt (27)	27. 'business day' means a day on which the relevant payment service provider of the payer or the payment service provider of the payee involved in the execution of a payment transaction is open for business as required for the execution of a payment transaction;	Art. 2(ad) of Annex I to DL 317/2009	Art. 2(ad) ad) "business day" means a day on which the relevant payment service provider of the payer or the payment service provider of the payee involved in the execution of a payment transaction is open for business as required for the execution of a payment transaction;	CONFORM Article 2(ad) of Annex I to DL 317/2009 literally transposes Article 4(27) of the Directive.
Art. 4, pt (28)	28. 'direct debit' means a payment service for debiting a payer's payment account, where a payment transaction is initiated by the payee on the basis of the payer's consent given to the payee, to the payee's payment service provider or to the payer's own payment service provider;	Art. 2(ae) of Annex I to DL 317/2009	Art. 2(ae) ae) "direct debit" means a payment service for debiting a payer's payment account, where a payment transaction is initiated by the payee on the basis of the payer's consent given to the payee, to the payee's payment service provider or to the payer's own payment service provider;	CONFORM Article 2(ae) of Annex I to DL 317/2009 literally transposes Article 4(28) of the Directive.
Art. 4, pt (29)	29. 'branch' means a place of business other than the head office which is a part of a payment institution, which has no legal personality and which carries out directly some or all of the transactions inherent in the business of a payment institution; all the places of business set up in the same Member State by a payment institution with a head office in another Member State shall be regarded as a single	Art. 2(af) of Annex I to DL 317/2009	Art. 2(af) af) "branch" means an establishment other than the head office which is a part of a payment institution, which has no legal personality and which carries out directly some or all of the transactions inherent in the business of a payment institution; all the establishments set up in the country by an institution with a registered office in	CONFORM Whereas Article 2(af) of Annex I to DL 317/2009 refers to "establishment", Article 4(29) of the Directive refers to "place of business". Moreover, whereas the Directive refers to the places of business set up in the same Member States, Annex I to DL 317/2009 refers to all the establishments set up in the country.

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	branch;		another Member State are to be regarded as a single branch;	Although Article 2(af) of Annex I to DL 317/2009 uses less specific terminology in comparison with Article 4(29) of the Directive, the conformity of Article 2(af) is not jeopardised by that.
Art. 4, pt (30)	30. ‘group’ means a group of undertakings, which consists of a parent undertaking, its subsidiaries and the entities in which the parent undertaking or its subsidiaries have a holding as well as undertakings linked to each other by a relationship referred to in Article 12(1) of Directive 83/349/EEC.	Art. 2(ag) of Annex I to DL 317/2009	Art. 2(ag) ag) "group" means companies associated with each other in accordance with the classification of such a relationship set out in the Code of Commercial Companies, irrespective of whether their registered offices are located in Portugal or abroad;	PARTIALLY CONFORM Article 2(ag) of Annex I to DL 317/2009 defines a group as an association of companies without referring to the concepts of “parent undertaking” or “subsidiaries”. Article 2(ag) of Annex I to DL 317/2009 refers to the concept of undertakings in group relationship as defined in the Portuguese Code of Commercial Companies and therefore does not explicitly defines the concept of “group”. Furthermore, the said Code of Commercial Companies does not contain a specific definition of a “group” relationship. The group relationship as provided for in Chapter III of the Portuguese Code of Commercial Companies follows the relationship referred to in Article 12(1) of Directive 83/349/EEC (“ ...undertaking and one or more other ... are managed on a unified basis pursuant to a contract concluded with that undertaking or provisions in the memorandum or articles of association of those undertakings...). In addition, Article 2(ag) of Annex I to DL 317/2009 defines “group” irrespective of whether the associated companies have their registered offices located in Portugal or abroad. However, this idea is implied in the definition set out in the Directive and therefore, Article 2(ag) does not go beyond the scope of the Directive. Although the scope of group relationship as treated in the Portuguese Code of Commercial Companies can be considered as generally transposing the definition set out in Article 4(30) of the Directive, Article 2(ag) of Annex I to DL 317/2009 is not as concrete as it should be according to the Directive. Therefore, Article 2(ag) of Annex I to DL 317/2009 is partially conformed

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				to Article 4(30) of the Directive.
Art. 5, 1 st para., intr. wording	TITLE II PAYMENT SERVICE PROVIDERS CHAPTER 1 <i>Payment institutions</i> Section 1 General rules Article 5 Applications for authorisation For authorisation as a payment institution, an application shall be submitted to the competent authorities of the home Member State, together with the following:	Art. 10(1) and introductory wording of Art. 11(1) of Annex I to DL 317/2009	Art. 10(1) Authorisation and general requirements 1 – The establishment of payment institutions, with a view to the provision of one or more payment services, is subject to authorisation to be granted on a case-by-case basis by the Bank of Portugal. Introductory wording Art. 11(1) Examination of the application 1 – An application for authorisation shall be examined with the following:	CONFORM Upon the analysis performed, Article 10(1) and the introductory wording of Article 11(1) of Annex I to DL 317/2009 reflect the content in the Directive provision.
Art. 5, 1 st para., pt (a)	(a) a programme of operations, setting out in particular the type of payment services envisaged;	Art. 11(1)(a) and (b) of Annex I to DL 317/2009	Art. 11(1)(a) and (b) a) a draft memorandum of association or amendment to the memorandum of association, in which express reference is made to the payment services, from among those listed in Article 4, which the payment institution intends to provide; b) a programme of operations, the geographic location, organisational structure and human, technical and material resources which will be used, including, where appropriate, reference to the agents and branches of the institution and to third parties to which operational functions have been outsourced, and the forecast accounts for each of the first three years of activity;	CONFORM The content in Article 5(a) of the Directive is reflected throughout point (a) and (b) of Article 11(1) of Annex I of DL 317/2009. In fact, Article 11(1)(a) of Annex I to DL 317/2009 refers to a draft memorandum where an explicit reference is made to the payment services which the payment institution intends to provide. Therefore, the requirement of setting out in particular the type of payment services envisaged is present in Article 11(1)(a). However, the concept of “programme of operations” <i>stricto sensu</i> is not mentioned in Article 11(1)(a) which refers instead to a “draft memorandum of association”. The programme of operations merely appears in Article 11(1)(b). Nevertheless, the draft memorandum can be considered as included in the programme of operations. Therefore, although the provision set out in Article 5(a) of the Directive is not reflected with the same structure in Article 11(1)(a) and (b) of Annex I to DL 317/2009 the conformity of

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				Article 11(1)(a) and (b) is not jeopardised by that.
Art. 5, 1 st para., pt (b)	(b) a business plan including a forecast budget calculation for the first three financial years which demonstrates that the applicant is able to employ the appropriate and proportionate systems, resources and procedures to operate soundly;	Art. 11(1)(b) of Annex I to DL 317/2009	Art. 11(1)(b) b) a program of operations, the geographic location, organisational structure and human, technical and material resources which will be used, including, where appropriate, reference to the agents and branches of the institution and to third parties to which operational functions have been outsourced, and the forecast accounts for each of the first three years of activity;	CONFORM Article 11(1)(b) of Annex I to DL 317/2009 does not explicitly refer to a “business plan”. However, the Directive requirements can be inferred from the description of the “program of operations” set out in Article 11(1)(b). Moreover, the last part of Article 5(b) of the Directive is not explicitly reflected in Annex I to DL 317/2009. However, the description in Article 11(b) on the program containing, <i>inter alia</i>, geographic location and organisational structure, can be considered as a plan which demonstrates that the applicant is able to employ the appropriate systems, resources and procedures to operate soundly. The program of operations set out in Article 11(b) of Annex I to DL 317/2009 shall include the forecast accounts for each of the first three years of activity. Therefore, the forecast budget calculation for the first three financial years as mentioned in Article 5(b) of the Directive is transposed into Article 11(1)(b) of Annex I to DL 317/2009. Although there is not an explicit transposition of Article 5(b) of the Directive, upon the analysis performed, Annex I to DL 317/2009 follows the same criteria as the Directive when determining what a business plan should include.
Art. 5, 1 st para., pt (c)	(c) evidence that the payment institution holds initial capital provided for in Article 6;	Art. 11(1)(c) of Annex I to DL 317/2009	Art. 11(1)(c) c) a statement of the commitment that, in the act of establishment and as a condition of establishment, evidence shall be provided that the minimum amount of capital required under Article 29 has been deposited in a credit institution;	PARTIALLY CONFORM Article 11(1)(c) of Annex I to DL 317/2009 is more specific and stringent in comparison with Article 5(c) of the Directive. Article 6, which is cross-referred to in Article 5(c) of the Directive, sets out the initial capital that shall be held by the payment institutions at the time of authorisation. However, Article 29 of Annex I to DL 317/2009, which is cross-referred to

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				in Article 11(1)(c) of the same act, mentions a minimum capital that the payment institutions shall hold at all times. Nevertheless, the concept of initial capital set out in the Directive is present in Article 11(1)(c) of Annex I to DL 317/2009 since this one requires the evidence in the context of the establishment of a company. Article 11(1)(c) of Annex I to DL 317/2009 differs from the Directive provision also because it requires that there should be an evidence showing that the minimum amount of capital has been deposited in a credit institution. In order to avoid misleading legal interpretations that could be caused by the difference of terminology in Article 11(1)(c) of Annex I to DL 317/2009, this one is considered as partially conform to the Directive.
Art. 5, 1 st para., pt (d)	(d) for the payment institutions referred to in Article 9(1), a description of the measures taken for safeguarding payment service users' funds in accordance with Article 9;	Art. 11(1)(e) of Annex I to DL 317/2009	Art. 11(1)(e) e) a description of the procedures to ensure the protection of payment service users' funds in accordance with Article 32;	CONFORM Article 11(1)(e) of Annex I to DL 317/2009 does not mention the type of payment institutions to which it is addressing. However, the same provision refers that the description of the measures should be made in accordance with Article 32 (the equivalent of Article 9 of the Directive). Therefore, the type of payment institutions can be inferred from the cross-reference to Article 32 made in Article 11(1)(e) of Annex I to DL 317/2009. Consequently, upon the analysis performed, Article 11(1)(e) of Annex I to DL 317/2009 follows the same criteria as Article 5(d) of the Directive.
Art. 5, 1 st para., pt (e)	(e) a description of the applicant's governance arrangements and internal control mechanisms, including administrative, risk management and accounting procedures, which demonstrates that these governance arrangements, control mechanisms and	Art. 11(1)(f) of Annex I to DL 317/2009	Art. 11(1)(f) f) evidence of the existence of robust governance arrangements, including a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective procedures to	CONFORM Article 11(1)(f) of Annex I to DL 317/2009 refers to the governance arrangements and internal control mechanisms of the applicant in a more detailed form in comparison with Article 5(e) of the Directive. However, the details regarding the

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	procedures are proportionate, appropriate, sound and adequate;		identify, manage, monitor and report the risks to which it is or might be exposed, and adequate internal control mechanisms, including sound administrative and accounting procedures, which arrangements, procedures and mechanisms shall be comprehensive and proportionate to the nature, level and complexity of the activities of the payment institution;	governance arrangements and internal control mechanisms of Article 11(1)(f) do not go beyond the scope of the Directive and do not contradict it. Whereas Article 5(e) of the Directive refers to a description, Article 11(1)(f) of Annex I to DL 317/2009 refers merely to evidence that shall be produced. Upon the analysis performed, although the terminology and the description provided for in Article 11(1)(f) of Annex I to DL 317/2009 do not correspond exactly to the ones set out in Article 5(e) of the Directive, Annex I to DL 317/2009 follows the same criteria as the Directive regarding the description of governance arrangements and internal control mechanisms.
Art. 5, 1 st para., pt (f)	(f) a description of the internal control mechanisms which the applicant has established in order to comply with obligations in relation to money laundering and terrorist financing under Directive 2005/60/EC and Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds;	Art. 11(1)(g) of Annex I to DL 317/2009	Art. 11(1)(g) g) evidence of the existence of internal control mechanisms in order to comply with obligations in relation to money laundering and terrorist financing, including the provisions on information on the payer accompanying transfers of funds;	CONFORM Whereas Article 5(f) of the Directive refers to a description, Article 11(1)(f) of Annex I to DL 317/2009 refers to evidence. However, upon the analysis performed, Annex I to DL 317/2009 seems to follow the same criteria as the Directive regarding the existence of mechanisms which control money laundering and terrorist financing.
Art. 5, 1 st para., pt (g)	(g) a description of the applicant's structural organisation, including, where applicable, a description of the intended use of agents and branches and a description of outsourcing arrangements, and of its participation in a national or international payment system;	Art. 11(1)(h) of Annex I to DL 317/2009	Art. 11(1)(h) h) a description of the applicant's structural organisation, including, where applicable, a description of the intended use of agents and branches and a description of the arrangements for the provision of services by third parties, and of its participation in a national or international payment system;	CONFORM Article 11(1)(h) of Annex I to DL 317/2009 reflects the content in Article 5(g) of the Directive. The term “outsourcing” referred to in Article 5(g) of the Directive is translated in Article 11(1)(h) of Annex I to DL 317/2009 and throughout the entire act as the “provision of services by third parties”. Although the translation in the Portuguese version of the Directive refers to an equivalent of “outsourcing” (“externalização”), the concept of “outsourcing” can be considered as fully reflected in the expression “provision

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				of services by third parties”.
Art. 5, 1 st para., pt (h)	(h) the identity of persons holding in the applicant, directly or indirectly, qualifying holdings within the meaning of Article 4(11) of Directive 2006/48/EC, the size of their holdings and evidence of their suitability taking into account the need to ensure the sound and prudent management of a payment institution;	Art. 11(1)(d) and 11(3) of Annex I to DL 317/2009, Art. 13(7), and Art. 17(2) to (4) of the RGICSF	Art. 11(1)(d) and (3) (Annex I to DL 317/2009) d) the identity, and supporting evidence thereof, of persons holding in the applicant, directly or indirectly, qualifying holdings within the meaning of Article 13(7) of the RGICSF, the size of their holdings and evidence of their suitability, taking into account the need to ensure the sound and prudent management of a payment institution; 3 – The provisions of Article 17(2) and (4) of the RGICSF, concerning the information to be submitted by legal persons holding qualifying holdings in the institution to be established, shall apply, <i>mutatis mutandis</i>. Art. 13(7) (RGICSF) Definitions Qualifying holding: direct or indirect holding which represents a percentage not inferior to 10% of the capital or of the voting rights of the undertaking or that, for any other reason, makes it possible to exercise a significant influence over the management of the undertaking. For the purposes of this description, Articles 13-A and 13-B shall apply to the calculation of the voting. Art. 17(2) to(4) (RGICSF)	CONFORM Article 13(7) of the RGICSF, which is cross-referred to in Article 11(1)(d) of Annex I to DL 317/2009, corresponds to Article 4(11) of Directive 2006/48/EC. Article 11(1)(d) of Annex I to DL 317/2009 reflects the content in Article 5(h) of the Directive but it refers not only to the identity but also to supporting evidence thereof of the concerned persons. This shall however be considered as implied in the Directive provision and therefore does not contradict the scope of the Directive. Moreover, Article 11(1)(d) is followed by an additional provision concerning the information to be submitted by legal persons holding qualifying holdings in the institution to be established (Article 11(3)). Article 11(3) of Annex I to DL 317/2009 while cross-referring to Article 17(2) to (4) of the RGICSF, sets out additional requirements in comparison with the Directive, regarding the information to be submitted by legal persons holding qualifying holdings. However, the additional information to be submitted can be considered as a common requirement which would not jeopardise or go beyond the scope of the Directive. Therefore, upon the analysis performed, Article 11(1)(d) and 11(3) of Annex I to DL 317/2009 seem to follow the same criteria as the Directive.

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			Examination of the application 2. The following information regarding the founders shareholders which are legal persons having qualifying holdings in the undertaking to be established shall be also provided: a) memorandum of association or articles of association and relation between the members of the administration body; b) financial balance and accounts of the last 3 years; c) relation between the members of the holder (being a legal person) which own qualifying holdings; d) relation between the companies in which capital the holder (being a legal person) has qualifying holdings as well as an illustrative exhibition of the structure of the group to which it belongs. 3. The presentation of the elements referred to in the previous paragraph shall be exempted when the Bank of Portugal is already aware of them. 4- The Bank of Portugal can request to the applicants additional information and carry out the investigations it deems necessary.	
Art. 5, 1 st para., pt (i)	(i) the identity of directors and persons responsible for the management of the payment institution and, where relevant, persons responsible for the management of the payment services activities of the payment institution, as well as evidence that they are of good	Art. 11(1)(i) of Annex I to DL 317/2009	Art. 11(1)(i) i) evidence of the identity of directors and persons responsible for the management of the payment institution and, where relevant, persons responsible for the management of the payment services activities of the payment institution, as	CONFORM Article 11(1)(i) of Annex I to DL 317/2009 reflects the content in Article 5(i) of the Directive. As mentioned above, Annex I to DL 317/2009 tends to refer to the evidence of the identity of certain persons, rather than

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	repute and possess appropriate knowledge and experience to perform payment services as determined by the home Member State of the payment institution;		well as evidence that they are of good repute and possess appropriate knowledge and experience to perform payment services as determined by the home Member State of the payment institution;	referring merely to the identity of the persons. As mentioned before, this does not jeopardise the conformity of Annex I to DL 317/2009.
Art. 5, 1 st para., pt (j)	(j) where applicable, the identity of statutory auditors and audit firms as defined in Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts;	Art. 11(1)(j) of Annex I to DL 317/2009	Art. 11(1)(j) j) where applicable, the identity of statutory auditors and audit firms as defined in Directive 2006/43/EC of the European Parliament and of the Council of 17 May;	CONFORM Article 11(1)(j) of Annex I to DL 317/2009 reflects the content in Article 5(j) of the Directive.
Art. 5, 1 st para., pt (k)	(k) the applicant's legal status and articles of association;	Art. 11(1)(a), 11(3) of Annex I to DL 317/2009 and Art. 17(1)(a) and (2) to (4) of the RGICSF	Art. 11(1)(a) (Annex I to DL 317/2009) a) draft memorandum of association or amendment to the memorandum of association, in which express reference is made to the payment services, from among those listed in Article 4, which the payment institution intends to provide; 3 – The provisions of Article 17(2) and (4) of the RGICSF, concerning the information to be submitted by legal persons holding qualifying holdings in the institution to be established, shall apply, <i>mutatis mutandis</i> . Art. 17(1)(a) and (2) to(4) (RGICSF) Examination of the application 1 - The application for authorisation shall be examined with the following elements: a) characterisation of the type of the undertaking to be established and the draft memorandum of association;	CONFORM Article 11(1)(a) of Annex I to DL 317/2009 does not reflect explicitly Article 5(k) of the Directive. However, the idea of the presentation of the applicant's legal status and articles of association can be inferred from the concept of “memorandum of association” present in Article 11(1)(a).Article 11(3) of Annex I to DL 317/2009 is also mentioned in order to illustrate that the applicant's legal status and articles of association are also implicitly required by that act. In fact, although it is not explicitly mentioned in Annex I to DL 317/2009; there is a cross-reference to RGICSF (Article 17(2) to (4)) which states that some information regarding the founders shareholders who are legal persons having qualifying holdings in the undertaking to be established shall be also provided. Amongst others, that information includes the memorandum of association or articles of association, the relationships between the members of the administration body, as well as an illustrative exhibition of the structure of the group to which it belongs.

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			2 - The following information regarding the founders shareholders which are legal persons having qualifying holdings in the undertaking to be established shall be also provided: a) memorandum of association or articles of association and relation between the members of the administration body; b) financial balance and accounts of the last 3 years; c) relation between the members of the holder (being a legal person) which own qualifying holdings; d) relation between the companies with a capital in which the holder (being a legal person) has qualifying holdings, as well as an illustrative exhibition of the structure of the group to which it belongs; 3 - The presentation of the elements referred to in the previous paragraph shall be exempted when the Bank of Portugal is already aware of them. 4 - The Bank of Portugal can request to the applicants additional information and carry out the investigations it deems necessary.	
Art. 5, 1 st para., pt (l)	(l) the address of the applicant's head office.	Art. 11(1)(l) of Annex I to DL 317/2009	Art. 11(1)(l) l) the address of the payment institution's head office.	CONFORM Article 11(1)(l) of Annex I to DL 317/2009 reflects the content in Article 5(l) of the Directive.
Art. 5, 2 nd para.	For the purposes of points (d), (e) and (g), the applicant shall provide a description of its audit arrangements and the	Art. 11(2) of Annex I to DL	Art. 11(2) 2 - For the purposes of points (e), (f) and	CONFORM

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	organisational arrangements it has set up with a view to taking all reasonable steps to protect the interests of its users and to ensure continuity and reliability in the performance of payment services.	317/2009	(h) of the preceding paragraph, the applicant shall provide a description of its audit arrangements and the organisational arrangements it has set up with a view to taking all reasonable steps to protect the interests of its users and to ensure continuity and reliability in the performance of payment services.	Article 11(2) of Annex I to DL 317/2009 transposes literally the last subparagraph of Article 5 of the Directive.
Art. 6, intr. wording	Article 6 Initial capital Member States shall require payment institutions to hold, at the time of authorisation, initial capital, comprised of the items defined in Article 57(a) and (b) of Directive 2006/48/EC as follows:	Art. 29(1) and (2) of Annex I to DL 317/2009	Art. 29(1) and (2) Minimum capital 1 – Payment institutions with a registered office in Portugal shall at all times hold capital of no less than: (...) 2 – The minimum capital which is referred to in the preceding paragraph and comprised of the items defined in Article 57(a) and (b) of Directive 2006/48/EC of the European Parliament and of the Council of 14 June.	CONFORM Whereas Article 6 of the Directive refers to “initial capital”, Article 29 of Annex I to DL 317/2009 refers to “minimum capital”. Moreover, Article 6 sets out the initial capital that shall be held by the payment institutions at the time of authorisation. However, Article 29 of Annex I to DL 317/2009 refers to the minimum capital that the payment institutions shall hold at all times. Nevertheless, the subsequent points and the legal effect of Article 29(1) and (2) of Annex I to DL 317/2009 correspond to the requirements set out in Article 6 of the Directive.
Art. 6(a)	(a) where the payment institution provides only the payment service listed in point 6 of the Annex, its capital shall at no time be less than EUR 20 000;	Art. 29(1)(a) of Annex I to DL 317/2009	Art. 29(1)(a) 1 – Payment institutions with a registered office in Portugal shall at all times hold capital of no less than: a) EUR 20 000, for institutions which provide only the payment service listed in Article 4(f); Art. 4(f)	CONFORM Article 4(f) which is cross-referred to in Article 29(1)(a) of Annex I to DL 317/2009 corresponds to point 6 of the Annex which is cross-referred to in Article 6(a) of the Directive. Therefore, Article 29(1)(a) reflects the content in Article 6(a) of the Directive.

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			Payment services The following activities constitute payment services: f) money remittance;	
Art. 6(b)	(b) where the payment institution provides the payment service listed in point 7 of the Annex, its capital shall at no time be less than EUR 50 000; and	Art. 29(1)(b) of Annex I to DL 317/2009	Art. 29(1)(b) b) EUR 50 000, for institutions which provide the payment service listed in Article 4(g); Art. 4(g) g) Execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator, acting only as an intermediary between the payment service user and the supplier of the goods and services.	CONFORM Article 4(g), which is cross-referred to in Article 29(1)(b) of Annex I to DL 317/2009 corresponds to point 7 of the Annex which is cross-referred to in the Directive. Therefore, Article 29(1)(b) reflects the content in Article 6(b) of the Directive.
Art. 6(c)	(c) where the payment institution provides any of the payment services listed in points 1 to 5 of the Annex, its capital shall at no time be less than EUR 125 000.	Art. 29(1)(c) of Annex I to DL 317/2009	Art. 29(1)(c) c) EUR 125 000, for institutions which provide any of the payment service listed in Article 4(a) to (e). Art. 4(a) to (e) a) Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account; b) Services enabling cash withdrawals	CONFORM Article 4(a) to (e), which are cross-referred to in Article 29(1)(c) of Annex I to DL 317/2009 correspond to points 1 to 5 of the Annex which are cross-referred to in Article 6(c) of the Directive. Therefore, Article 29(1)(c) reflects the content in Article 6(c) of the Directive.

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			from a payment account as well as all the operations required for operating a payment account; c) Execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider: i) execution of direct debits, including one-off direct debits, ii) execution of payment transactions through a payment card or a similar device, iii) execution of credit transfers, including standing orders; d) Execution of payment transactions where the funds are covered by a credit line for a payment service user: i) execution of direct debits, including one-off direct debits, ii) execution of payment transactions through a payment card or a similar device, iii) execution of credit transfers, including standing orders. e) Issuing and/or acquiring of payment instruments.	
Art. 7(1)	Article 7 Own funds 1. The payment institution's own funds, as defined in Articles 57 to 61, 63, 64 and 66 of Directive 2006/48/EC, may not fall	Art. 30(1), (2) and (3) of Annex I to DL 317/2009	Art. 30(1), (2) and (3) Own funds 1 - The payment institution's own funds may not fall below the value of the minimum capital required under the	CONFORM Articles 29 (“the preceding Article”) and 31 (“the following Article”) which are cross-referred to in Article 30 of Annex I to

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	below the amount required under Articles 6 or 8 of this Directive, whichever the higher.		preceding article or the applicable amount under the following article, whichever the higher. 2 – The rules on the composition of payment institutions' own funds shall be determined by the Bank of Portugal.	DL 317/2009 correspond to Articles 6 and 8 which are cross-referred to in Article 7(1) of the Directive. Article 30 of Annex I to DL 317/2009 contains two additional provisions in comparison with Article 7(1) of the Directive. In fact Article 30 also states that the rules on the composition of payment institutions own funds are determined by the Bank of Portugal. The same Article provides also for a solution where own funds fall below the limit set out in Article 30(1). Upon the analysis performed, Article 30(1),(2) and (3) of Annex I to DL 317/2009 follow the same criteria as the Directive, containing also some additional requirements which do not contradict the meaning of Article 7(1) of the Directive and do not go beyond the scope of this one
Art. 7(2)	2. Member States shall take the necessary measures to prevent the multiple use of elements eligible for own funds where the payment institution belongs to the same group as another payment institution, credit institution, investment firm, asset management company or insurance undertaking. This paragraph shall also apply where a payment institution has a hybrid character and carries out activities other than providing payment services listed in the Annex.	Art. 30(4) and (5) of Annex I to DL 317/2009	Art. 30(4) and (5) 4 - Where the payment institution belongs to the same group as another payment institution, credit institution, financial company or insurance undertaking, the multiple use of elements eligible for own funds shall be prohibited. 5 - The multiple use of elements eligible for own funds shall also be prohibited in connection with payment institutions which engage in activities other than the provision of the payment services listed in Article 4.	CONFORM Article 30(4) of Annex I to DL 317/2009 refers to a financial company, which is a rather comprehensive term, while the Directive refers to an investment firm and asset management company. However, the scope of these includes the concept of financial company. Moreover, there is no reference to the hybrid character of the payment institution in Article 30(5) of Annex I to DL 317/2009. However, the character is inferred from the exercise of other activities exercised by the payment institution. Furthermore, Article 30 of Annex I to DL 317/2009 additionally states in its paragraph (6), in comparison to Article 7(1) and (2) of the Directive, that when a payment institution carries out activities other than providing payment services listed in Article 4, which are also submitted to the own funds requirements, the payment institution shall additionally respect those requirements. This additional provision does not contradict the scope of the Directive. The cross-reference made in Article 30(5) to Article 4

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				corresponds to the cross-reference made in the Directive. Therefore, Article 30(4) and (5) reflect the content in Article 7(2) of the Directive.
Art. 7(3)	3. If the conditions laid down in Article 69 of Directive 2006/ 48/EC are met, Member States or their competent authorities may choose not to apply Article 8 of this Directive to payment institutions which are included in the consolidated supervision of the parent credit institution pursuant to Directive 2006/48/EC.	N/A	N/A	Article 7(3) of the Directive sets out an option. Owing to this option, Portugal did not choose to apply the Directive provision.
Art. 8(1), intr. wording	Article 8 Calculation of own funds 1. Notwithstanding the initial capital requirements set out in Article 6, Member States shall require payment institutions to hold, at all times, own funds calculated in accordance with one of the following three methods, as determined by the competent authorities in accordance with national legislation:	Art. 31(1),(2) and (4) of Annex I to DL 317/2009	Art. 31(1),(2) and (4) Own funds requirements 1 - The payment institution's own funds shall, at all times, be at least the amount resulting from the application of one of the three methods described in Annex II to the Decree Law approving this Law. 2 – For the purposes of the preceding paragraph, it is for the Bank of Portugal to define the method to be applied for each payment institution. 4 – Notwithstanding the provisions of the preceding paragraphs and Articles 29 and 30, the Bank of Portugal may adopt the procedures provided for in Article 6 in order to ensure that payment institutions allocate to the operation of their activity of providing payment services a sufficient level of own funds, in particular where the activities referred to in Article 8(2) prejudice or may prejudice the financial soundness of the payment institution.	CONFORM Article 31(1) of Annex I to DL 317/2009 specifies that the payment institution's own funds shall be at least the amount resulting from the application of one of the following three methods whereas the Directive does not mention any quantitative characteristic of the own funds. However, that does not seem to jeopardise the proper transposition of the Directive provision. Moreover, the introductory wording of Article 8(1) of the Directive does not seem to be clearly stated in Article 31 of Annex I to DL 317/2009. However, the initial capital requirements seem to be implied in the context of the actions to be taken by the Bank of Portugal, in Article 31(4), when this Article refers to the provisions of Article 29 and 30. Article 31(4) of Annex I to DL 317/2009 refers to the procedures to be adopted by the Bank of Portugal in order to ensure that payment institutions allocate a sufficient level of own funds to the operation of their activity of providing payment services. This additional provision does not contradict the meaning of Article 8(1) of the Directive and does not go beyond its scope.

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				Upon the analysis performed, Article 31(1),(2) and (4) of Annex I to DL 317/2009 follow the same criteria as the Directive provision.
Art. 8(1), Method A	Method A The payment institution's own funds shall amount to at least 10 % of its fixed overheads of the preceding year. The competent authorities may adjust that requirement in the event of a material change in a payment institution's business since the preceding year. Where a payment institution has not completed a full year's business at the date of the calculation, the requirement shall be that its own funds amount to at least 10 % of the corresponding fixed overheads as projected in its business plan, unless an adjustment to that plan is required by the competent authorities.	Point I(1) to (4) of Annex II to DL 317/2009	Annex II (to which Article 1(2) refers) Point I(1) to (4) The calculation of own funds requirements referred to in Article 31 of the legal rules set out in Annex I shall be carried out in accordance with one of the methods described in this Annex. I – Fixed overheads method: 1 – Payment institutions shall hold own funds amounting to at least 10 % of the value of their fixed overheads of the preceding year. 2 – The Bank of Portugal may adjust that requirement in the event of a material change in a payment institution's business since the preceding year. 3 - Where a payment institution has not completed a full year's business (at the date of the calculation), and from the date on which that commenced, the own funds requirement shall be 10 % of the value of the fixed overheads for the first year as projected in its business plan. 4 – The Bank of Portugal may require an adjustment to that plan, in particular in cases where a significant divergence from the projections has been observed.	CONFORM Although the structure of the provisions in Annex II to DL 317/2009 differs from the one of the Directive, the Method A is reflected in the Portuguese act. There is an erroneous reference in the heading of Annex II. In fact, this one should be referring to Article 2(2) instead of referring to Article 1(2) of DL 317/2009.

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Art. 8(1), Method B, intr. wording	Method B The payment institution's own funds shall amount to at least the sum of the following elements multiplied by the scaling factor k defined in paragraph 2, where payment volume (PV) represents one twelfth of the total amount of payment transactions executed by the payment institution in the preceding year:	Point II (1) and (2) of Annex II to DL 317/2009	Point II(1) and (2) II – Payment volume method: 1 - Payment institutions shall hold own funds amounting to at least the sum of the following elements multiplied by the scaling factor k defined below: (...) 2 – The ‘payment volume’ shall amount to a twelfth of the total amount of the payment transactions carried out by the payment institution in the previous year. Where a payment institution has not completed a full year's business (at the date of the calculation), and from the date on which that commenced, the payment volume shall be based on the value of the payment volume for the first year as projected in its business plan. The Bank of Portugal may require an adjustment to that plan, in particular in cases where a significant divergence from the projections has been observed.	CONFORM The Method B is reflected in Annex II to DL 317/2009 and is named as “Payment volume method”. Point II(2) contains some additional requirements in comparison with Method B of the Directive. Those additional requirements correspond, <i>mutatis mutandis</i> , to the requirements present in Method A of the Directive (referring the situation where a payment institution has not completed a full year’s business and to the adjustment to the plan required by the competent authority). Those additional requirements do not contradict the scope of the Directive.
Art. 8(1), Method B, pts (a)-(e)	(a) 4,0 % of the slice of PV up to EUR 5 million, plus (b) 2,5 % of the slice of PV above EUR 5 million up to EUR 10 million, plus (c) 1 % of the slice of PV above EUR 10 million up to EUR 100 million, Plus	Point II(1)(i) to (v) of Annex II to DL 317/2009	Point II(1)(i) to (v) i) 4 % of the slice of payment volume up to EUR 5 million, plus ii) 2.5 % of the slice of payment volume above EUR 5 million up to EUR 10 million, plus iii) 1 % of the slice of payment volume above EUR 10 million up to EUR 100 million, plus iv) 0.5 % of the slice of payment volume	CONFORM Point II(1)(i) to (v) of Annex II to DL 317/2009 reflect the content in points (a) to (e) of Method B of Article 8(1) of the Directive. The structure of Annex II to DL 317/2009 differs from the one in Article 8 of the Directive. In fact, although Article 8 only refers once to the scaling factor k, Annex II has chosen to repeat it in the context of each Method (B and C).

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	(d) 0,5 % of the slice of PV above EUR 100 million up to EUR 250 million, plus (e) 0,25 % of the slice of PV above EUR 250 million.		above EUR 100 million up to EUR 250 million; plus v) 0.25 % of the slice of payment volume above EUR 250 million. The scaling factor k shall be: a) 0.5 where the payment institution provides only the payment service listed in Article 4(f) of the legal rules set out in Annex I; b) 0.8 where the payment institution provides the payment service listed in Article 4(g) of the legal rules set out in Annex I; c) 1 where the payment institution provides any of the payment services listed in Article 4(a) to (e) of the legal rules set out in Annex I.	
Art. 8(1), Method C, 1 st subpara.	Method C The payment institution's own funds shall amount to at least the relevant indicator defined in point (a), multiplied by the multiplication factor defined in point (b) and by the scaling factor k defined in paragraph 2.	Introductory wording of Point III(1) of Annex II to DL 317/2009	Introductory sentence of Point III(1) III – Relevant indicator method: 1 - Payment institutions shall hold own funds amounting to at least the sum of the following elements multiplied by the scaling factor k defined below:	PARTIALLY CONFORM The introductory sentence of Point III(1) is not as clear as the Directive provision. In fact, the introductory sentence of Point III(1) merely refers to the sum of some elements multiplied by the scaling factor k. Therefore, Point III(1) does not specify that the mentioned elements constitute in fact the multiplication factor. Moreover, the introductory wording of Point III(1) does not mention the relevant indicator. Therefore, the description of the calculation of the amount of the own funds, in the way it is mentioned in the introductory wording of Point III(1), can be misleading. Annex II to DL 317/2009 named the equivalent of “Method C” as the “Relevant indicator method”.

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Art. 8(1), Method C, 2 nd subpara., pt (a), 1 st subpara.	(a) The relevant indicator is the sum of the following: — interest income, — interest expenses, — commissions and fees received, and — other operating income.	Point III(2) of Annex II to DL 317/2009	Point III(2) 2 - The relevant indicator is the sum of the following elements: Interest income; Interest charges; Commissions received; and Other operating profits.	PARTIALLY CONFORM Point III(2) of Annex II to DL 317/2009 reflects the content in the indents of point (a) of Method C of Article 8(1) of the Directive. However, there is no reference to the fees in Point III(2) of Annex II to DL 317/2009. Therefore, Point III(2) of Annex II to DL 317/2009 is considered as partially conformed to the indents of point (a) of Method C of Article 8(1) of the Directive.
Art. 8(1), Method C, 2 nd subpara., pt (a), 2 nd subpara.	Each element shall be included in the sum with its positive or negative sign. Income from extraordinary or irregular items may not be used in the calculation of the relevant indicator. Expenditure on the outsourcing of services rendered by third parties may reduce the relevant indicator if the expenditure is incurred from an undertaking subject to supervision under this Directive. The relevant indicator is calculated on the basis of the twelve-monthly observation at the end of the previous financial year. The relevant indicator shall be calculated over the previous financial year. Nevertheless own funds calculated according to Method C shall not fall below 80 % of the average of the previous three financial years for the relevant indicator. When audited figures are not available, business estimates may be used.	Point III(2) and (3) of Annex II to DL 317/2009	Point III(2) and (3) The defined elements are based on the accounting categories of the profit and loss account of the payment institutions. Each element shall be included in the sum with its positive or negative sign. Income from extraordinary or irregular items shall not be taken into account in the calculation of the relevant indicator. Commissions paid for services rendered by third parties (outsourcing) may reduce the relevant indicator if they are incurred from an institution subject to supervision by the Bank of Portugal under the legal rules set out in Annex I. The relevant indicator is calculated on the basis of the twelve-monthly observation at the end of the previous financial year. When audited figures are not available, business estimates may be used. 3 – Without prejudice to the provisions of paragraph 1, the own funds of payment institutions subject to the relevant indicator	CONFORM Point III(2) and (3) reflect properly the content in the Directive provision. Point III(2) additionally denotes that the defined elements are based on the accounting categories of the profit and loss account of the payment institutions. However, that additional statement does not contradict or go beyond the scope of the Directive. Furthermore, in Point III(2) of Annex II to DL 317/2009 and throughout Annex I of the same act the use of the word “institution” frequently replaces the word “undertaking” used in the Directive. Therefore, the word “institution” which is by its nature more general can be misleading and not represent the exact equivalent of the word “undertaking”. However, the content in the Directive provision is generally reflected in Point III(2) and (3) of Annex I to DL 317/2009.

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			method may not fall below 80 % of the average of the previous three financial years for the relevant indicator.	
Art. 8(1), Method C, 2 nd subpara., pt (b)	(b) The multiplication factor shall be: (i) 10 % of the slice of the relevant indicator up to EUR 2,5 million; (ii) 8 % of the slice of the relevant indicator from EUR 2,5 million up to EUR 5 million; (iii) 6 % of the slice of the relevant indicator from EUR 5 million up to EUR 25 million; (iv) 3 % of the slice of the relevant indicator from EUR 25 million up to 50 million; (v) 1,5 % above EUR 50 million.	Point III(1) of Annex II to DL 317/2009	Point III(1) 1 - Payment institutions shall hold own funds amounting to at least the sum of the following elements multiplied by the scaling factor k defined below: i) 10 % of the slice of the relevant indicator up to EUR 2,5 million; ii) 8 % of the slice of the relevant indicator from EUR 2,5 million up to EUR 5 million; iii) 6 % of the slice of the relevant indicator from EUR 5 million up to EUR 25 million; iv) 3 % of the slice of the relevant indicator from EUR 25 million up to EUR 50 million; v) 1,5 % above EUR 50 million.	CONFORM The structure of Annex II to DL 317/2009 differs from the one in Article 8 of the Directive. Moreover, Point III(1) does not specify that the elements from points (i) to (v) constitute in fact the multiplication factor. In fact, Point III(1) never explicitly refers to the wording “multiplication factor”. However, the transposition of the Directive provision does not seem to be jeopardised by that omission.
Art. 8(2) intr. wording & pt(a)	2. The scaling factor k to be used in Methods B and C shall be: (a) 0,5 where the payment institution provides only the payment service listed in point 6 of the Annex;	Points II(1)(a) and III(1)(a) of Annex II to DL 317/2009	Points II(1)(a) and III(1)(a) The scaling factor k shall be: a) 0.5 where the payment institution provides only the payment service listed in Article 4(f) of the legal rules set out in Annex I;	CONFORM Points II(1)(a) and III(1)(a) of Annex II to DL 317/2009 reflect the content in Article 8(2)(a) of the Directive. The structure of Annex II to DL 317/2009 differs from the one in Article 8 of the Directive. In fact, although Article 8 only refers once to the scaling factor k, Annex II has chosen to repeat it in the context of each Method (B and C). Article 4(f) of Annex I which is cross-referred to in Points II(1)(a) and III(1)(a) of Annex II to DL 317/2009 correspond to Point 6 of the Annex, which is cross-referred to in of Article

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				8(2)(a) of the Directive.
Art. 8(2)(b)	(b) 0,8 where the payment institution provides the payment service listed in point 7 of the Annex;	Points II(1)(b) and III(1)(b) of Annex II to DL 317/2009	Points II(1)(b) e III(1)(b) b) 0.8 where the payment institution provides the payment service listed in Article 4(g) of the legal rules set out in Annex I;	CONFORM Points II(1)(b) and III(1)(b) of Annex II to DL 317/2009 transpose literally Article 8(2)(b) of the Directive. The structure of Annex II to DL 317/2009 differs from the one in Article 8 of the Directive. In fact, although Article 8 only refers once to the scaling factor k, Annex II has chosen to repeat it in the context of each Method (B and C). Article 4(g) of Annex I which is cross-referred to in Points II(1)(b) and III(1)(b) of Annex II to DL 317/2009 correspond to Point 7 of the Annex, which is cross-referred to in of Article 8(2)(b) of the Directive.
Art. 8(2)(c)	(c) 1 where the payment institution provides any of the payment services listed in points 1 to 5 of the Annex.	Points II(1)(c) and III(1)(c) of Annex II to DL 317/2009	Points II(1)(c) e III(1)(c) c) 1 where the payment institution provides any of the payment services listed in Article 4(a) to (e) of the legal rules set out in Annex I.	CONFORM Points II(1)(c) and III(1)(c) of Annex II to DL 317/2009 transpose literally Article 8(2)(c) of the Directive. The structure of Annex II to DL 317/2009 differs from the one in Article 8 of the Directive. In fact, although Article 8 only refers once to the scaling factor k, Annex II has chosen to repeat it in the context of each Method (B and C). Article 4(a) to (e) of Annex I which are cross-referred to in Points II(1)(c) and III(1)(c) of Annex II to DL 317/2009 correspond to Points 1 to 5 of the Annex, which are cross-referred to in of Article 8(2)(c) of the Directive.
Art. 8(3)	3. The competent authorities may, based on an evaluation of the risk-management processes, risk loss data base and internal control mechanisms of the payment institution, require the payment institution to hold an amount of own funds which is	Art. 31(3) of Annex I to DL 317/2009	Art. 31(3) Own funds requirements 3 - Based on an evaluation of the risk-management processes, risk loss data base and internal control mechanisms, the Bank	CONFORM Article 31(3) of Annex II to DL 317/2009 reflects the content in Article 8(3) of the Directive.

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	up to 20 % higher than the amount which would result from the application of the method chosen in accordance with paragraph 1, or permit the payment institution to hold an amount of own funds which is up to 20 % lower than the amount which would result from the application of the method chosen in accordance with paragraph 1.		of Portugal may require or permit, respectively, the payment institution to hold an amount of own funds which is up to 20 % higher or lower than the amount which would result from the application of the method set out in accordance with the preceding paragraph.	The structure of Article 31(3) of Annex I to DL 317/2009 differs from the one used in Article 8(3) of the Directive. In fact, Article 31(3) does not divide into two parts the requirement of an amount of own funds up to 20% higher and the permission of an amount of own funds up to 20% lower than the amount which would result from the application of the method.
Art. 9(1), intr. wording	Article 9 Safeguarding requirements 1. The Member States or competent authorities shall require a payment institution which provides any of the payment services listed in the Annex and, at the same time, is engaged in other business activities referred to in Article 16(1)(c) to safeguard funds which have been received from the payment service users or through another payment service provider for the execution of payment transactions, as follows: either:	Introductory wording of Art. 32(1) of Annex I to DL 317/2009	Introductory wording of Art. 32(1) Fund protection requirements 1 – The payment institutions must ensure protection of the funds which have been received from the payment service users or through another payment service provider for the execution of payment transactions in accordance with the following procedures:	CONFORM Article 32 of Annex I to DL 317/2009 does not specify that the payment institution should be one who provides any of the payment services listed in the Annex (the equivalent of Article 4 of Annex I to DL 317/2009) and is engaged at the same time in other business activities. Article 16(1)(c), which is cross-referred to in Article 9(1) of the Directive, corresponds to Article 8(2)(c) of Annex I to DL 317/2009 which also mentions business activities other than the provision of payment services. However, Article 8(2)(c) is not mentioned in Article 32 anywhere. In this context, Article 9(3) of the Directive must be referred to since it mentions that the Member States or competent authorities may require that payment institutions which are not engaged in other business activities referred to in Article 16(1)(c) shall also comply with the safeguarding requirements under paragraph 1 of this Article. As a consequence, it can be concluded that the Portuguese legislation decided to apply the option set out in Article 9(3), which would explain the lack of reference to business activities as defined under Article 16(1)(c) (business activities other than the provision of payment services). Therefore, the introductory wording of Article 32(1) of Annex I to DL 317/2009, which must be analysed through Article 9(1) in

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				combination with Article 9(3) of the Directive, follows the same criteria as the Directive provisions.
Art. 9(1)(a)	(a) they shall not be commingled at any time with the funds of any natural or legal person other than payment service users on whose behalf the funds are held and, where they are still held by the payment institution and not yet delivered to the payee or transferred to another payment service provider by the end of the business day following the day when the funds have been received, they shall be deposited in a separate account in a credit institution or invested in secure, liquid low-risk assets as defined by the competent authorities of the home Member State; and	Art. 32(1)(a)(i),(ii) and (6) of Annex I to DL 317/2009	Art. 32(1)(a)(i),(ii) and (6) a) Ensuring that the funds: i) shall not be commingled at any time with the funds of any natural or legal person other than payment service users on whose behalf the funds are held; and ii) shall be deposited in a separate account in a credit institution or invested in secure, liquid low-risk assets, where they are still held by the payment institution and not yet delivered to the payee or transferred to another payment service provider by the end of the business day following the day when the funds have been received; and 6 – The Bank of Portugal shall determine, by opinion, any additional technical rules and procedures necessary for the application of this Article, in particular as regards the meaning of secure, liquid low-risk assets, for the purposes of the paragraph 2(a)(ii), and the essential conditions of the insurance policy or equivalent guarantee and the terms and procedures of their implementation, for the purposes of (2)(b).	CONFORM Art. 32(1)(a)(i),(ii) and (6) of Annex I to DL 317/2009 reflect the content in Article 9(1)(a) of the Directive. The structure of Article 32(1)(a)(i),(ii) and (6) differs from the one used by Article 9(1)(a) of the Directive. The definitions that shall be made by the competent Portuguese authority (the Bank of Portugal) are mentioned in a separate paragraph of Article 32 (paragraph (6)). According to this provision, the Bank of Portugal has to determine additional technical rules, in particular as regards the meaning of secure, liquid low-risk assets.
Art. 9(1)(b)	(b) they shall be insulated in accordance with national law in the interest of the payment service users against the claims of other creditors of the payment institution, in particular in the event of insolvency; or	Art. 32(1)(a)(iii) and (2) of Annex I to DL 317/2009	Art. 32(1)(a)(iii) and (2) iii) They shall be insulated in accordance with paragraph 3 in the interest of the payment service users against the claims of other creditors, in particular in the event of insolvency of the payment institution;	CONFORM Art. 32(1)(a)(iii) transposes literally Article 9(1)(b) of the Directive. Paragraph (2) of Article 32 is mentioned since it is related to

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			2 - For the purposes of point iii) of subparagraph a) of the preceding paragraph, in the event of the insolvency of the payment institution, the amounts transferred by payment service users may not be incorporated into the assets in insolvency, and the holders shall have the right to demand the segregation or reimbursement of those amounts.	point (1)(a)(iii) of the same article. In fact, paragraph (2) sets out a procedure in the case of insolvency of the payment institution.
Art. 9(1)(c)	(c) they shall be covered by an insurance policy or some other comparable guarantee from an insurance company or a credit institution, which does not belong to the same group as the payment institution itself, for an amount equivalent to that which would have been segregated in the absence of the insurance policy or other comparable guarantee, payable in the event that the payment institution is unable to meet its financial obligations.	Art. 32(1)(b) and (6) of Annex I to DL 317/2009	Art. 32(1)(b) and (6) b) ensuring that the funds shall be covered by an insurance policy or some other comparable guarantee from an insurance company or a credit institution, which does not belong to the same group as the payment institution itself, for an amount at least equivalent to that which would be segregated in the absence of the insurance policy or other comparable guarantee, payable in the event that the payment institution is unable to meet its financial obligations. 6 - The Bank of Portugal shall determine, by opinion, any additional technical rules and procedures necessary for the application of this Article, in particular as regards the meaning of secure, liquid low-risk assets, for the purposes of the paragraph 2(a)(ii), and the essential conditions of the insurance policy or equivalent guarantee and the terms and procedures of their implementation, for the purposes of paragraph (2)(b).	CONFORM Art. 32(1)(b) and (6) of Annex I to DL 317/2009 reflect the content in Article 9(1)(c) of the Directive. Article 32(1)(b) of Annex I to DL 317/2009 mentions that the funds shall be covered by an amount at least equivalent to that which would be segregated in the absence of the insurance policy. Although this statement differs from the Directive provision, it does not contradict the scope of Article 9(1)(c) of the Directive. Paragraph (6) of Article 32 is mentioned as a consequence of its link with point (b) of paragraph (1). In fact, it states that the Bank of Portugal shall determine the meaning of the essential conditions of the insurance policy or equivalent guarantee and the terms and procedures of their implementation, for the purposes of paragraph (2)(b).
Art. 9(2)	2. Where a payment institution is required to safeguard funds under paragraph 1 and a	Art. 32(3),(4)	Art. 32(3),(4) and (5)	CONFORM

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	portion of those funds is to be used for future payment transactions with the remaining amount to be used for non-payment services, that portion of the funds to be used for future payment transactions shall also be subject to the requirements under paragraph 1. Where that portion is variable or unknown in advance, Member States may allow payment institutions to apply this paragraph on the basis of a representative portion assumed to be used for payment services provided such a representative portion can be reasonably estimated on the basis of historical data to the satisfaction of the competent authorities.	and (5) of Annex I to DL 317/2009	3 - Where a payment institution receives funds a portion of which is to be used in future payment transactions with the remaining amount to be used for non-payment services, that portion of the funds to be used in future payment transactions shall also be subject to the requirements under paragraph 1. 4 - Where the portion referred to in the preceding paragraph is variable, or unknown in advance, the payment institution must ensure compliance with the fund protection requirements on the basis of a representative portion which the payment institution assumes to be used for payment services provided such a representative portion can be reasonably estimated on the basis of historical data. 5 – The Bank of Portugal shall ensure the suitability of the estimates made and procedures implemented by the payment institution in compliance with this Article, and may make any alterations or adjustments which it considers necessary.	The content of paragraph (2) of the Directive is reflected through three paragraphs in Article 32 of Annex I to DL 317/2009. The last part of Article 9(2) of the Directive (“to the satisfaction of the competent authorities”), which is optional, is transposed through paragraph (5) of Article 32 of Annex I to DL 317/2009, which states that the Bank of Portugal shall ensure the suitability of the estimates made and procedures implemented by the payment institution in compliance with Article 32.
Art. 9(3)	3. The Member States or competent authorities may require that payment institutions which are not engaged in other business activities referred to in Article 16(1)(c) shall also comply with the safeguarding requirements under paragraph 1 of this Article.	Introductory wording of Art. 32(1) of Annex I to DL 317/2009	Introductory wording of Art. 32(1) 1 - The payment institutions must ensure protection of the funds which have been received from the payment service users or through another payment service provider for the execution of payment transactions in accordance with the following procedures:	CONFORM As mentioned above, Article 32 of Annex I to DL 317/2009 does not specify that the payment institution should be engaged at the same time in other business activities. Article 16(1)(c), which is cross-referred to in Article 9(3) of the Directive, corresponds to Article 8(2)(c) of Annex I to DL 317/2009 which also mentions business activities other than the provision of payment services. However, Article 8(2)(c) is not mentioned in Article 32 anywhere.

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				As mentioned above, the Portuguese legislation decided to apply the option set out in Article 9(3), which would explain the lack of reference to Article 8(2)(c).
Art. 9(4)	4. The Member States or competent authorities may also limit such safeguarding requirements to funds of those payment service users whose funds individually exceed a threshold of EUR 600.	N/A	N/A	Article 9(4) of the Directive sets out an option. Owing to this option, Portugal has chosen not to apply the Directive provision.
Art. 10(1)	Article 10 Granting of authorisation 1. Member States shall require undertakings other than those referred to in Article 1(1)(a) to (c), (e) and (f) and other than legal or natural persons benefiting from a waiver under Article 26, who intend to provide payment services, to obtain authorisation as a payment institution before commencing the provision of payment services. An authorisation shall only be granted to a legal person established in a Member State.	Art. 10(1) of Annex I to DL 317/2009	Art. 10(1) Authorisation and general requirements 1 – The establishment of payment institutions, with a view to the provision of one or more payment services, is subject to authorisation to be granted on a case-by-case basis by the Bank of Portugal.	CONFORM Article 10(1) of Annex I to DL 317/2009 merely requires an authorisation for the establishment of payment institutions. Therefore, in that provision there is no exclusion of any kind of undertakings and also to legal or natural persons benefiting from a waiver under Article 26 (which is normal in the sense that Portugal did not adopt the option set out in Article 26 of the Directive). Regarding the lack of reference to the type of undertakings which can apply for an authorisation, it can be bridged through the Chapter in which Article 10(1) of Annex I to DL 317/2009 is included. In fact, this one is named “Authorisation and registration of payment institutions”. Therefore, as Article 10(1) is set out merely in the context of payment institutions, the other entities referred to in Article 1(1) of the Directive (Article 7(1) of Annex I to DL 317/2009) are implicitly excluded. Article 10(1) of Annex I to DL 317/2009 does not specify that the authorisation is to be conceded before commencing the provision of payment services. However, this condition is implied in all the provisions of Annex I to DL 317/2009 related to the authorisation. The last part of Article 10(1) of the Directive can also be inferred from the whole Portuguese act, which addresses firstly Portuguese payment institutions with their registered offices in

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				Portugal.
Art. 10(2)	2. An authorisation shall be granted if the information and evidence accompanying the application complies with all the requirements under Article 5 and if the competent authorities' overall assessment, having scrutinised the application, is favourable. Before an authorisation is granted, the competent authorities may, where relevant, consult the national central bank or other relevant public authorities.	Art. 10(3), Art. 11(1) and Art. 14 of Annex I to DL 317/2009	Art. 10(1) Authorisation and general requirements 1 – The establishment of payment institutions, with a view to the provision of one or more payment services, is subject to authorisation to be granted on a case-by-case basis by the Bank of Portugal. Art. 11(1) Examination of the application 1 – An application for authorisation shall be examined with the following: (...) Art. 14 Decision 1 – The decision on the application for authorisation shall be notified to the persons concerned within three months of receipt of the application or, where appropriate, of receipt of the additional information requested from the applicants, but never more than 12 months after the date on which the application was first submitted. 2 - Article 20 of the RGICSF shall apply to refusals of authorisation. 3 - Reasons shall be given whenever an authorisation is refused.	CONFORM The first sentence of Article 10(2) of the Directive can be inferred from Articles 10(1) and 11 of Annex I to DL 317/2009. Article 11, like Article 5 of the Directive, lists a set of conditions which will enable the examination of the application for an authorisation. The competent authority responsible for the examination of the application and for its decision is the Bank of Portugal. Therefore, Annex I to DL 317/2009 does not refer to a consultation to other relevant public authorities in this context.
Art. 10(3)	3. A payment institution which under the national law of its home Member State is	Art. 10(2)(c) of	Art. 10(2)(c) 2 – Payment institutions having their	CONFORM

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	required to have a registered office, shall have its head office in the same Member State as its registered office.	Annex I to DL 317/2009	registered office in Portugal shall satisfy the following conditions: c) have its principal and effective registered office located in Portugal;	Article 10(2)(c) follows the same criteria as the provision of the Directive since it requires that the payment institution shall have its principal and effective registered office located in Portugal.
Art. 10(4)	4. The competent authorities shall grant an authorisation only if, taking into account the need to ensure the sound and prudent management of a payment institution, the payment institution has robust governance arrangements for its payment services business, which include a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective procedures to identify, manage, monitor and report the risks to which it is or might be exposed, and adequate internal control mechanisms, including sound administrative and accounting procedures; those arrangements, procedures and mechanisms shall be comprehensive and proportionate to the nature, scale and complexity of the payment services provided by the payment institution.	Art. 10(2)(d), (e), (f) and (g) of Annex I to DL 317/2009	Art. 10(2)(d) (e), (f) and (g) d) have robust governance arrangements, which include a clear organisational structure with well-defined, transparent and consistent lines of responsibility; e) organise effective procedures to identify, manage, monitor and report the risks to which it is or might be exposed; f) have adequate internal control mechanisms, including sound administrative and accounting procedures; g) have internal control mechanisms in order to comply with obligations in relation to money laundering and terrorist financing, including the provisions on information on the payer accompanying transfers of funds.	CONFORM The first part of Article 10(4) of the Directive is properly reflected in Article 10(2) of Annex I to DL 317/2009. However, Article 10(2) of Annex I to DL 317/2009 does not refer to the final part of Article 10(4) of the Directive. Article 10 of Annex I to DL 317/2009 does not require explicitly that the mentioned arrangements, procedures and mechanisms shall be comprehensive and proportionate to the nature, scale and complexity of the payment services provided by the payment institution. Nevertheless, Article 10 of Annex I to DL 317/2009 can be read together with Article 11 of the same act. In fact, Article 11 sets out the elements that must be taken into account for the examination of an authorisation request. One of those elements, laid down in Article 11(1)(f), is the evidence of the existence of robust governance arrangements, including a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective procedures to identify, manage, monitor and report the risks to which it is or might be exposed, and adequate internal control mechanisms, including sound administrative and accounting procedures, which arrangements, procedures and mechanisms shall be comprehensive and proportionate to the nature, level and complexity of the activities of the payment institution. Therefore, Article 10(4) of the Directive is reflected in a disseminated form, through Article 10 and 11 of Annex I to DL 317/2009.

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				Moreover, Article 10(2) of Annex I to DL 317/2009 lists additional requirements in comparison to the ones set out by the Directive. In fact, Article 10(2)(a) and (b) of Annex I to DL 317/2009 require that the payment institution is set up as a public or a private limited company and has the minimum capital corresponding to the payment services to provide.
Art. 10(5)	5. Where a payment institution provides any of the payment services listed in the Annex and, at the same time, is engaged in other business activities, the competent authorities may require the establishment of a separate entity for the payment services business, where the non-payment services activities of the payment institution impair or are likely to impair either the financial soundness of the payment institution or the ability of the competent authorities to monitor the payment institution's compliance with all obligations laid down by this Directive.	Art. 13 and Art. 34(2) of Annex I to DL 317/2009	Art. 13 Separation of activities The Bank of Portugal may require, as a condition for the granting of authorisation, the establishment of a commercial company which has the sole objective of providing the payment services listed in Article 4, where the non-payment services activities carried on or to be carried on by the applicant impair or are likely to impair: a) the financial soundness of the payment institution; or b) the appropriate exercise by the Bank of Portugal of its supervisory functions. Art. 34(2) Supervision procedures 2 – Where one of the circumstances provided for in Article 13 is verified, the Bank of Portugal can still determine, at anytime, that the payment institution subject to its supervision shall constitute a commercial company which has as exclusive object the provision of payment services listed in Article 4, within the period which will be fixed for that purpose.	CONFORM Point (b) of Article 13 of Annex I to DL 317/2009 refers to the appropriate exercise by the Bank of Portugal of its supervisory functions. This can however be considered as the equivalent of the last part of Article 10(5) of the Directive which mentions the ability of the competent authorities to monitor the payment institution's compliances with all obligations laid down by the Directive. Article 34(2) of Annex I to DL 317/2009 states that where one of the circumstances provided for in Article 13 is verified, the Bank of Portugal can still determine, at anytime, that the payment institution subject to its supervision shall constitute a commercial company which has as exclusive object the provision of payment services listed in Article 4 (the equivalent of the Annex to the Directive). Upon the analysis performed, although Article 13 of Annex I to DL 317/2009 differs from Article 10(5) of the Directive in its terminology and structure, it follows the same criteria as the Directive.

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Art. 10(6)	6. The competent authorities shall refuse to grant an authorisation if, taking into account the need to ensure the sound and prudent management of a payment institution, they are not satisfied as to the suitability of the shareholders or members that have qualifying holdings.	Art. 14(2) of Annex I to DL 317/2009 and Art. 20(1)(d) and 103(1) of the RGICSF	Art. 14(2) (Annex I to DL 317/2009) Decision 2 – Article 20 of the RGICSF shall apply to refusals of authorisation. Art. 20(1)(d) (RGICSF) Refusal of authorisation 1. The authorisation shall be refused where: d) the Bank of Portugal do not consider demonstrated that the shareholders meet the conditions which ensure a sound and prudent management of the credit institution, under the terms provided for in Article 103(1) and (2); Art. 103(1), (2)(a) and (b) (RGICSF) Assessment 1. The Bank of Portugal can be in opposition to the project, if it does not consider demonstrated that the proposed purchaser meet the conditions which ensure a sound and prudent management of the credit institutions or if the information provided by the proposed purchaser are incomplete. 2. For the purposes of the preceding paragraph, in order to assess the conditions which ensure the sound and prudent management of the credit institution, the Bank of Portugal shall take into account the suitability of the proposed purchaser, its eventual influence in the credit institution and the financial soundness of	CONFORM According to Article 6(5) of Annex I to DL 317/2009, the RGICSF is applicable, <i>mutatis mutandis</i>, to the decisions of the Bank of Portugal. Furthermore, it is necessary to refer to the RGICSF in order to assess Article 10(6) of the Directive since Article 20 of that legal framework is cross-referred to in Article 14(2) of Annex I to DL 317/2009. Although both Articles 20 and 103 of the RGICSF contain additional requirements regarding the refusal of authorisation and regarding the sound and prudent management of the credit institutions, point (1)(d) of Article 20 and points (1) and (2)(a) and (b) of Article 103 are sufficient to analyse Article 10(6) of the Directive. The mentioned additional provisions do not contradict or go beyond the scope of the Directive. Upon the analysis performed, the RGICSF and Annex I to DL 317/2009 transpose properly Article 10(6) of the Directive.

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			the project, depending on all the following criteria: a) the suitability of the proposed purchaser, taking particularly into consideration Article 30, if it is a natural person; b) the suitability and professional skill of the members of the administration body of the credit institution, to be appointed as a result of his future acquisition, under the terms provided for in Articles 30 and 31;	
Art. 10(7)	7. Where close links as defined in Article 4(46) of Directive 2006/48/EC exist between the payment institution and other natural or legal persons, the competent authorities shall grant an authorisation only if those links do not prevent the effective exercise of their supervisory functions.	Art. 14(2) of Annex I to DL 317/2009 and Art. 20(1)(f) and 13(12) of the RGICSF	Art. 14(2) (Annex I to DL 317/2009) 2 – Article 20 of the RGICSF shall apply to refusals of authorisation. Art. 20(1)(f) (RGICSF) f) the appropriate supervision of the institution to be established is perturbed by close links between the institution and other persons; Art. 13(12) (RGICSF) Definitions Close link: link between two or more natural or legal persons: a) Linked through: a1) participation in the form of ownership, direct or indirect, of not less than 20 % of the capital or the voting rights of an undertaking; or	CONFORM It is necessary to refer to the RGICSF in order to assess Article 10(7) of the Directive since Article 20 of that legal framework is cross-referred to in Article 14(2) of Annex I to DL 317/2009. Article 20(1)(f) is more general referring to “person” and does not distinguish “natural or legal persons”. Article 13(12) of the RGICSF defines close links as the link between two or more natural or legal persons. Moreover, Article 13(12) of RGICSF corresponds to the definition of close links set out in Article 46(4) of Directive 2006/48/EC. Therefore, upon the analysis performed, although the terminology and the structure of the RGICSF and Annex I to DL 317/2009 differ from Article 10(7) of the Directive, it can be considered that they have properly transposed the Directive provision.

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			a2) linked by control; or b) linked by the fact that both or all are linked to a third person by a control relationship;	
Art. 10(8)	8. The competent authorities shall grant an authorisation only if the laws, regulations or administrative provisions of a third country governing one or more natural or legal persons with which the payment institution has close links, or difficulties involved in the enforcement of those laws, regulations or administrative provisions, do not prevent the effective exercise of their supervisory functions.	Art. 14(2) of Annex I to DL 317/2009 and Art. 20(1)(g) of the RGICSF	Art. 14 2 – Article 20 of the RGICSF shall apply to refusals of authorisation. Art. 20(1)(g) (RGICSF) g) the appropriate supervision of the institution to be established is perturbed by the laws or regulations of a third country governing one of the persons with whom the institution has close links or perturbed by difficulties caused by the appliance of those provisions.	CONFORM It is necessary to refer to the RGICSF in order to assess Article 10(8) of the Directive since Article 20 of that legal framework is cross-referred to in Article 14(2) of Annex I to DL 317/2009. Article 20(1)(g) is more general referring to “person” and does not distinguish “natural or legal persons”. Article 13(12) of the RGICSF defines close links as the link between two or more natural or legal persons. Article 20(1)(g) does not refer to the administrative provisions of a third country but merely to the law and regulations. Upon the analysis performed, although the terminology and the structure of the RGICSF and Annex I to DL 317/2009 differ from that of Article 10(8) of the Directive, it can be considered that they transpose properly the Directive provision.
Art. 10(9)	9. An authorisation shall be valid in all Member States and shall allow the payment institution concerned to provide payment services throughout the Community, either under the freedom to provide services or the freedom of establishment, provided that such services are covered by the authorisation.	Art. 23(1) and 26(1) of Annex I to DL 317/2009	Art. 23(1) General requirements 1 – A payment institution having its registered office in Portugal which wishes to provide payment services for the first time in another Member State, in particular by establishing a branch or by engaging an agent, must provide the Bank of Portugal with prior notification of that fact, specifying the following information: (...) Art. 26(1) Activity in Portugal of payment	CONFORM Article 23(1) of Annex I to DL 317/2009 concerns situations where a payment institution has its registered Office in Portugal but wishes to provide payment services in another Member State. Article 26(1) concerns cases where the payment institutions authorised in other Member States may provide payment services in Portugal. There is not an express mention to the freedom to provide services or the freedom of establishment in Article 23(1). However, Articles 23 and 26 are both set out in Chapter III which are named “Right of establishment and freedom to

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			institutions which have their head office in other Member States 1 - Payment institutions authorised in another Member State of the European Union which do not benefit from the waiver set out in Article 26 of Directive 2007/64/EC of the European Parliament and of the Council may provide payment services in Portugal, either by establishing branches or engaging agents or under the freedom to provide services, provided that such services are covered by the authorisation.	provide services”. Moreover, Article 26 of Annex I to DL 317/2009 restricts the provision to payment institutions which do not benefit from the waiver set out in Article 26 of the Directive. Upon the analysis performed, although the terminology and the structure of Articles 23(1) and 26(1) of Annex I to DL 317/2009 differ from Article 10(9) of the Directive, this provision is properly transposed into the Portuguese act.
Art. 11	Article 11 Communication of the decision Within three months of receipt of an application or, should the application be incomplete, of all the information required for the decision, the competent authorities shall inform the applicant whether the authorisation has been granted or refused. Reasons shall be given whenever an authorisation is refused.	Art. 14 of Annex I to DL 317/2009	Art. 14 Decision 1 – The decision on the application for authorisation shall be notified to the persons concerned within three months of receipt of the application or, where appropriate, of receipt of the additional information requested from the applicants, but never more than 12 months after the date on which the application was first submitted. 2 - Article 20 of the RGICSF shall apply to refusals of authorisation. 3 - Reasons shall be given whenever an authorisation is refused.	PARTIALLY CONFORM The Portuguese NIM transposed properly the limits set out in the Directive provision: within 3 months of the receipt of the application and, where appropriate, within 3 months of the receipt of the additional information requested. However, Article 14 of Annex I to DL 317/2009 additionally states that in any case the limit should never be more than 12 months after the date on which the application was first submitted. Therefore, the Portuguese NIM sets out an additional provision which changes the scope of Article 11 of the Directive. Therefore, Article 14 of Annex I to DL 317/2009 is partially conformed to the Directive provision.
Art. 12(1), intr. wording	Article 12 Withdrawal of authorisation 1. The competent authorities may withdraw an authorisation issued to a payment institution only where the	Art. 16(2) and (3) of Annex I to DL 317/2009	Art. 16 Lapse and withdrawal of authorisation 1 — Article 21 of RGICSF is applicable to the lapse of authorisation of the payment institutions. The suspension of activity for	CONFORM Article 16 of Annex I to DL 317/2009, which regulates the lapse and withdrawal of the authorisation, cross-refers to Articles 22 and 23 of the RGICSF. Therefore, some of the following points

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	institution:		more than 6 months also constitutes a reason for the lapse. 2 – The provisions of Articles 22 and 23 of the RGICSF shall apply, <i>mutatis mutandis</i>, to the withdrawal of authorisation of payment institutions, and the fact that an institution constitutes a threat to the stability of the payment system by continuing its payment services business shall also be regarded as a reason for the withdrawal of authorisation. 3 – Similarly, a serious infringement of the duties laid down in Law No 25/2008 of 5 June shall constitute a reason for the withdrawal of authorisation.	of the Directive are assessed solely with provisions of the RGICSF. Moreover the Portuguese legislation has chosen to apply the lapse of authorisation, in particular in cases where the activity is suspended for more than 6 months (Article 16(1)). Upon the analysis performed, Article 12 of the Directive is properly transposed into the Portuguese legislation. The reference to Law No 25/2008 will be analysed below.
Art. 12(1)(a)	(a) does not make use of the authorisation within 12 months, expressly renounces the authorisation or has ceased to engage in business for more than six months, if the Member State concerned has made no provision for the authorisation to lapse in such cases;	Art. 22(1)(d) and Art. 21(1) of the RGICSF	Art. 22(1)(d) Withdrawal of authorisation 1 - The authorisation of a credit institution may be withdrawn on the following grounds, as well as on others envisaged by law: d) if the institution ceased its activity or reduce it to an insignificant level for more than 12 months; Art. 21(1) Lapse of authorisation 1-The authorisation lapses if the applicants expressly renounce to it or if the institution do not initiate its activity within 12 months.	CONFORM <i>A priori</i>, Article 22(1)(d) of the RGICSF is less stringent than the Directive provision. In fact, Article 22(1)(d) states that one of the reasons of withdrawal of the authorisation is that the institution ceases the activity or reduces it for more than 12 months, and not 6 months, as provided for in the Directive. However, the above mentioned Article 16(1) of Annex I to DL 317/2009 states that the suspension of activity for more than 6 months also constitutes a reason for the lapse. Therefore, since Annex I to DL 317/2009 seems to prevail over the RGICSF, it is concluded that Article 12(1)(a) is properly transposed into the Portuguese legislation. Therefore, the Portuguese legislation has chosen to apply the lapse in the three following situations: in the cases where applicants expressly renounce to it, if the institution do not initiate its activity within 12 months (Article 21(1) of the RGICSF) and if there is a suspension of activity for more than 6 months (Article 16(1) of Annex I to DL 317/2009). Those three

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				situations correspond to the ones set out in Article 12(1)(a) of the Directive. Therefore, only the cases laid down in the Directive provision are applied. There is no explicit reference to the fact of not making use of the authorisation within 12 months in the provisions of the RGICSF. However, the terms provided for in Article 21(1), which refer to the institution which don't initiate its activity within 12 months, seem to be in line with the provision of the Directive.
Art. 12(1)(b)	(b) has obtained the authorisation through false statements or any other irregular means;	Art. 22(1)(a) of the RGICSF	Art. 22(1)(a) a) If it was obtained through false statements or other illicit means, without prejudice to the applicable criminal penalties;	CONFORM Article 12(1)(b) of the Directive is properly reflected in Article 22(1)(a) of the RGICSF.
Art. 12(1)(c)	(c) no longer fulfils the conditions for granting the authorisation;	Art. 22(1)(b) of the RGICSF	Art. 22(1)(b) b) If the requirements laid down in Article 14 are not met anymore;	CONFORM Article 12(1)(c) of the Directive is properly reflected in Article 22(1)(b) of the RGICSF. Article 14, which is cross-referred to in Article 22(1)(b) of the RGICSF, sets out a list of conditions that should be met by credit institutions to be established, and they also apply <i>mutatis mutandis</i> to payment institutions.
Art. 12(1)(d)	(d) would constitute a threat to the stability of the payment system by continuing its payment services business; or	Art. 16(2) of Annex I to DL 317/2009	Art. 16(2) Lapse and withdrawal of authorisation 2 – The provisions of Articles 22 and 23 of the RGICSF shall apply, <i>mutatis mutandis</i> , to the withdrawal of authorisation of payment institutions, and the fact that an institution constitutes a threat to the stability of the payment system by continuing its payment services business shall also be regarded as a reason for the	CONFORM Article 12(1)(d) of the Directive is properly reflected in Article 16(2) of Annex I to DL 317/2009.

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			withdrawal of authorisation.	
Art. 12(1)(e)	(e) falls within one of the other cases where national law provides for withdrawal of an authorisation.	Art. 16(3) of Annex I to DL 317/2009 and Art. 22(1)(e),(f),(g) and (h) of the RGICSF	Art. 16(3) (Annex I to DL 317/2009) 3 – Similarly, a serious infringement of the duties laid down in Law No 25/2008 of 5 June shall constitute a reason for the withdrawal of authorisation. Art. 22(1)(e),(f),(g) and (h) (RGICSF) Withdrawal of authorisation 1 - The authorisation of a credit institution may be withdrawn on the following grounds, as well as on others envisaged by law: e) Where there are serious irregularities in the administration, the accounting organisation or in the internal supervision of the institution; f) If the institution is not able to honour its commitments, in particular regarding the safety of the funds which were entrusted to that institution; g) The institution fails to meet the obligations arising out of its participation in the Deposit Guarantee Fund or in the Investor Compensation Scheme; h) If the institution infringes the laws and the regulations which govern its activity or fail to comply with the provisions of the Bank of Portugal, in a way that jeopardises the interests of the depositors and others creditors or the normal conditions of the functioning of the money, financial and	CONFORM Additional situations that can lead to the withdrawal of an authorisation are laid down in Article 22(1) of the RGICSF and in Article 16(3) of Annex I to DL 317/2009 which refers to the serious infringement of provisions laid down in Law No 25/2008. This act, which was also amended by DL 317/2009, sets out preventive and repressive measures against money laundering of benefits with illicit origin and against the terrorist financing and transposes Directive 2005/60/EC and 2006/70/EC. The mentioned additional provisions do not contradict or go beyond the scope of the Directive since Article 12(1)(e) of the Directive is rather comprehensive when referring to one of the other cases where national law provides for withdrawal of an authorisation”.

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			exchange market.	
Art. 12(2)	2. Reasons shall be given for any withdrawal of an authorisation and those concerned shall be informed accordingly.	Art. 23(2) of the RGICSF	Art. 23(2) Power and form of withdrawal 2 - Reasons shall be given for the decision of withdrawal, this one should be notified to the credit institution and the European Commission and the supervision authorities of the Member States of the European Community where the institution has a branch or provide services shall be informed accordingly.	CONFORM Article 23(2) of the RGICSF reflects the content in the Directive provision. Article 23(2) of the RGICSF additionally states that the decision of withdrawal should be notified to the EC and the supervision authorities of the Member-States of the European Community where the institution has a branch or provide services shall be informed accordingly. These entities can be considered as included in the scope of those concerned.
Art. 12(3)	3. The withdrawal of an authorisation shall be made public.	Art. 23(3) of the RGICSF	Art. 23(3) 3 – The Bank of Portugal shall give to the decision of withdrawal the appropriate publicity and shall take the necessary measures to close immediately all the establishments of the institution. This closure shall be maintained until the commencement of the functions of the liquidators.	CONFORM Article 23(3) of the RGICSF reflects the content in the Directive provision. Article 23(3) of the RGICSF additionally states that the Bank of Portugal shall take the necessary measures to close immediately all the establishments of the institution. This closure shall be maintained until the commencement of the functions of the liquidators. As RGICSF is to be adapted <i>mutatis mutandis</i> to the withdrawal of authorisation of payment institutions, Article 23(3) of RGICSF does not contradict or go beyond the scope of the Directive.
Art. 13, 1 st para.	Article 13 Registration Member States shall establish a public register of authorised payment institutions, their agents and branches, as well as of natural and legal persons, their agents and branches, benefiting from a waiver under Article 26, and of the institutions referred	Art. 20 of Annex I to DL 317/2009	Art. 20 Registration requirement 1 – Payment institutions may not commence their activities until they are entered in a special register at the Bank of Portugal. 2 – The register shall cover all institutions authorised to provide payment services	CONFORM Article 20 of Annex I to DL 317/2009 does not explicitly refer to the register of natural and legal persons, their agents and branches and to the other type of institutions mentioned in Article 13 of the Directive (the ones benefiting from a waiver under Article 26 and the ones mentioned in Article 2(3)).

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	to in Article 2(3) that are entitled under national law to provide payment services. They shall be entered in the register of the home Member State.		and their agents and branches.	Article 20 addresses the obligation to register all the payment institutions provided for in that act and is indirectly referring to all the institutions provided for in Article 7 of Annex I to DL 317/2009 (the equivalent of Article 1 of the Directive). Furthermore, Article 7(3) refers to the fact that the use of the expression “payment institution” is exclusively reserved to these entities (the ones listed in Article 7). Therefore, if Article 20(1) reads “payment institutions”, then it is referring to all the institutions listed in Article 7 of Annex I to DL 317/2009. Therefore, Article 20 reflects properly the content in the Directive provision.
Art. 13, 2 nd para.	This register shall identify the payment services for which the payment institution is authorised or for which the natural or legal person has been registered. Authorised payment institutions shall be listed in the register separately from natural and legal persons that have been registered in accordance with Article 26. The register shall be publicly available for consultation, accessible online, and updated on a regular basis.	Art. 21 of Annex I to DL 317/2009	Art. 21 Information subject to registration and refusal of registration 1 – The provisions of Articles 65 to 72 of the RGICSF shall apply, <i>mutatis mutandis</i> , to the registration of payment institutions having their registered office in Portugal and of their agents and branches. 2 – The registration of payment institutions shall also include information relating to the payment services which the institution is authorised to provide. 3 – The following information shall be publicly accessible and updated on a regular basis on the Internet site of the Bank of Portugal: a) the identification of the authorised payment institutions and their agents and branches; and b) the payment services included in the authorisation concerned.	CONFORM Article 21 of Annex I to DL 317/2009 does not refer to the natural or legal person and their separate list in the register from the authorised payment institutions. However, those persons are merely mentioned in the context of the optional provision in Article 26 of the Directive, which Portugal did not choose to apply. Therefore, Article 21 of Annex I to DL 317/2009 reflects properly the Directive provision.

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Art. 14	Article 14 Maintenance of authorisation Where any change affects the accuracy of information and evidence provided in accordance with Article 5, the payment institution shall without undue delay inform the competent authorities of its home Member State accordingly.	Art. 10(3), Art. 15 and Art; 17 of Annex I to DL 317/2009	Art. 10(3) Authorisation and general requirements 3 - Any extension of the range of payment services, from among those listed in Article 4, which established payment institutions intend to provide shall also be subject to authorisation by the Bank of Portugal. Art. 15 Changes to articles of association 1 – The prior authorisation of the Bank of Portugal shall be required for any changes to memoranda of association with respect to the following: a) the trade or business name; b) the objects; c) the location of the registered office, unless the move is within the same municipality or to an adjacent municipality; d) the company's capital, in the case of a reduction; e) the creation of categories of shares or changes to the existing categories; f) the structure of management or supervision; g) limiting the powers of the management or supervisory bodies; h) winding-up. 2 - Other changes shall be subject to immediate notification to the Bank of	CONFORM Articles 10(3) and 15 of Annex I to DL 317/2009 reflect properly the content in Article 14 of the Directive through several provisions. In fact, Article 10(3) of Annex I to DL 317/2009 refers to the fact that the extension of the range of payment services shall be subject to the approval of the Bank of Portugal. Moreover, Article 15 of Annex I to DL 317/2009 lists certain aspects of the memoranda of association which, if changed, require the prior authorisation of the Bank of Portugal. The same article states that other changes (which are not listed in this provision) shall be subject to immediate notification to the Bank of Portugal. Therefore, it seems that the prior communication to the Bank of Portugal extends to every type of change effected in the payment institution. Furthermore, it is opportune to mention Article 17 of Annex I to DL 317/2009 which regulates the merger, demerger and voluntary winding-up of payment institutions. Article 17 cross-refers to provisions of the RGICSF which state that those events are subject to a prior authorisation of the Bank of Portugal.

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			Portugal. Art. 17 Merger, demerger and voluntary winding-up The provisions of Article 35 and Article 35(1) of the RGICSF shall apply, <i>mutatis mutandis</i>, to the merger, demerger and voluntary winding-up of payment institutions.	
Art. 15(1)	Article 15 Accounting and statutory audit 1. Directive 78/660/EEC and, where applicable, Directives 83/ 349/EEC and 86/635/EEC and Regulation (EC) 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards shall apply to payment institutions <i>mutatis mutandis</i>.	Art. 33(1) of Annex I to DL 317/2009	Art. 33(1) Accounting and statutory audit 1 – With the exception of the payment institutions which provide any of the payment services listed in Article 4 and, at the same time, engage in other activities under Article 8(2)(c), the accounting standards laid down in Opinion No 1/2005 of the Bank of Portugal for credit institutions and financial companies shall apply to payment institutions.	CONFORM The Opinion No 1/2005, which is cross-referred to in Article 33(1) of Annex I to DL 317/2009 corresponds to the international accounting standards mentioned in Article 15(1) of the Directive. In fact, that Opinion defines the scope of the international accounting standards, international financial standards as well as of the accounting standards applicable to the individual and consolidated accounts of the entities subject to the supervision of the Bank of Portugal. Moreover, Article 33(1) excludes from the scope of international accounting standards the payment institutions which provide any of the payment services listed in Article 4 of Annex I to DL 317/2009 and, at the same time, engage in other activities under Article 8(2)(c) (business activities other than the provision of payment services, in accordance with the laws applicable to that business).
Art. 15(2)	2. Unless exempted under Directive 78/660/EEC and, where applicable, Directives 83/349/EEC and 86/635/EEC, the annual accounts and consolidated accounts of payment institutions shall be audited by statutory auditors or audit firms within the meaning of Directive	Art. 33(3),(4) and (5) of Annex I to DL 317/2009	Art. 33(3) to (5) 3 – The accounting information referred to in the preceding paragraph shall be subject to an auditor's report to be prepared by a statutory auditor or an audit firm. 4 – The provisions of Article 121 of the	CONFORM It can be inferred from Article 33(3) to (5) of this act that the annual accounts and consolidated accounts of payment institutions shall be audited by statutory auditors or audit firms. Therefore, the content in Article 15(2) is reflected in Article

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	2006/43/EC.		RGICSF shall apply to the statutory auditors or audit firm engaged by a payment institution and to external auditors who are required by law to provide auditing services to a payment institution. 5 – The Bank of Portugal can require that an independent entity carries out special audits, appointed by the Bank of Portugal, at the expense of the payment institution being audited.	33(3) to (5) of Annex I to DL 317/2009. Article 121 of the RGICSF (“Statutory auditors and external auditors”) which is cross-referred to in Article 33(4) of Annex I to DL 317/2009, regulates the information, obtained by the statutory auditors, that must be provided to the Bank of Portugal. Article 33(5) of Annex I to DL 317/2009 contains an additional provision in comparison to the Directive, stating that the Bank of Portugal can require that an independent entity carries out special audits.
Art. 15(3)	3. For supervisory purposes, Member States shall require that payment institutions provide separate accounting information for payment services listed in the Annex and activities referred to in Article 16(1), which shall be subject to an auditor's report. That report shall be prepared, where applicable, by the statutory auditors or an audit firm.	Art. 33(2) and (3) of Annex I to DL 317/2009	Art. 33(2) and (3) 2 - For supervisory purposes, payment institutions shall provide to the Bank of Portugal, in a manner to be determined by order, separate accounting information for payment services listed in Article 4 and activities referred to in Article 8(2). 3 – The accounting information referred to in the preceding paragraph shall be subject to an auditor's report to be prepared by a statutory auditor or an audit firm.	CONFORM Articles 4 and 8(2), which are cross-referred to in Article 33(2) of Annex I to DL 317/2009 correspond respectively to the Annex and to Article 16(1), which are cross-referred to in Article 15(3) of the Directive. Therefore, Article 15(3) is reflected properly in Article 33(2) and (3) of Annex I to DL 317/2009.
Art. 15(4)	4. The obligations established in Article 53 of Directive 2006/48/EC shall apply <i>mutatis mutandis</i> to the statutory auditors or audit firms of payment institutions in respect of payment services activities.	Art. 33(4) of Annex I to DL 317/2009	Art. 33(4) 4 – The provisions of Article 121 of the RGICSF shall apply to the statutory auditors or audit firm engaged by a payment institution and to external auditors who are required by law to provide auditing services to a payment institution.	CONFORM Article 33(4) of Annex I to DL 317/2009 submits to the statutory auditors or audit firm and external auditors, <i>mutatis mutandis</i>, the provisions of Article 121 of the RGICSF. Article 121 of the RGICSF provides that the information resulting from the tasks carried out by statutory auditors shall be communicated promptly to the Bank of Portugal. This corresponds to Article 53 of 2006/48/EC, which is cross-referred to in Article 15(4) of the Directive.

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				Therefore, Article 33(4) of Annex I to DL 317/2009 reflects properly the content in Article 15(4) of the Directive.
Art. 16(1), intr. wording	Article 16 Activities 1. Apart from the provision of payment services listed in the Annex payment institutions shall be entitled to engage in the following activities:	Art. 8(1) and introductory wording of Art. 8(2) and Art. 2(c) of Annex I to DL 317/2009	Art. 8(1) and introductory wording of Art. 8(2) Payment institutions 1 – Payment institutions are payment service providers subject to this Law which have the purpose of providing one or more payment services. 2 – Payment institutions may also engage in the following activities: Art. 2(c) Definitions For the purposes of this Law, the following definitions shall apply: c) "payment service" means any activity listed in Article 4;	CONFORM Article 8 of Annex I to DL 317/2009 lists the activities excluded from the payment services mentioned in Article 4 (the equivalent of the Annex of the Directive). However, Article 4 is not directly referred to in Article 8. Therefore, it seemed necessary to quote Article 2(c) of Annex I to DL 317/2009 in order to analyse Article 16 of the Directive. Article 2(c) states that “payment service” means any activity listed in Article 4. Therefore, this demonstrates that Article 8 is listing the activities which are excluded from the ones mentioned in Article 4 (the equivalent of the Annex of the Directive). Article 8(2) lists an additional activity in comparison to the ones set out in Article 16 of the Directive. In fact, Article 8(2) refers to activities included in the legal framework of currency exchange offices, according to the provisions applicable to these institutions.
Art. 16(1)(a)	(a) the provision of operational and closely related ancillary services such as ensuring the execution of payment transactions, foreign exchange services, safekeeping activities, and the storage and processing of data;	Art. 8(2)(a) of Annex I to DL 317/2009	Art. 8(2)(a) a) operational services and ancillary services closely related to payment services, in particular ensuring the execution of payment transactions, foreign exchange services, and services for the safekeeping, storage and processing of data;	CONFORM Art. 8(2)(a) of Annex I to DL 317/2009 literally transpose Article 16(1)(a) of the Directive.
Art. 16(1)(b)	(b) the operation of payment systems, without prejudice to Article 28;	Art. 8(2)(b) of Annex I to DL	Art. 8(2)(b) b) the operation of payment systems, without prejudice to Article 39;	CONFORM Article 39, which is cross-referred to in Article 8(2)(b) of Annex

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		317/2009		I to DL 317/2009 corresponds to Article 28, which is cross-referred to in Article 16(1)(b) of the Directive. In fact, both Article 39 and 28 set out provisions regarding the access to payment systems. Therefore, a literal approach was adopted in this case in order to follow the requirements of the Directive.
Art. 16(1)(c)	(c) business activities other than the provision of payment services, having regard to applicable Community and national law.	Art. 8(2)(c) of Annex I to DL 317/2009	Art. 8(2)(c) c) business activities other than the provision of payment services, in accordance with the laws applicable to that business;	CONFORM Art. 8(2)(c) of Annex I to DL 317/2009 reflects the content in Article 16(1)(c) of the Directive.
Art. 16(2)	2. When payment institutions engage in the provision of one or more of the payment services listed in the Annex, they may hold only payment accounts used exclusively for payment transactions. Any funds received by payment institutions from payment service users with a view to the provision of payment services shall not constitute a deposit or other repayable funds within the meaning of Article 5 of Directive 2006/48/EC, or electronic money within the meaning of Article 1(3) of Directive 2000/46/EC.	Art. 8(3) and (4) of Annex I to DL 317/2009 and Article 2 of the RGICSF	Art. 8(3) and (4) (Annex I to DL 317/2009) 3 - Funds received by payment institutions from payment service users may be used solely for executing payment services and shall not constitute a deposit or other repayable funds within the meaning of Article 2(1) of the RGICSF. 4 - Payment accounts held with payment institutions may be used solely for the provision of payment services. Art. 2 (RGICSF) Credit institutions 1 - The credit institutions are undertakings having an activity which consists in taking from the public deposits or other repayable funds, in order to apply them on their own for providing credit. 2 - Credit institutions are also undertakings which aim to issue payment means in the	CONFORM Article 8(3) of Annex I to DL 317/2009 does not directly exclude from its scope the electronic money. In fact, it merely seems to exclude the constitution of a deposit or other repayable funds. The exclusion of electronic money can solely be inferred from Article 2(2) of the RGICSF. However, Article 8(3) of Annex I to DL 317/2009 is merely referring to Article 2(1) of the RGICSF. Article 8(4) does not specify that it applies to institutions engaged in the provision of one or more of the payment services listed in Article 4 (the equivalent of the Annex to the Directive). However, as mentioned above, the payment institution in Article 8 of Annex I to DL 317/2009 implies by itself the execution of payment services listed in the equivalent of Article 4. Moreover, Article 2(1) of RGICSF seems to correspond to the meaning of Article 5 of Directive 2006/48/EC. Overall, even if there is no explicit exclusion of the electronic money from the Portuguese mentioned provisions, Article 16(2) of the Directive provides for an alternative between a deposit or other repayable funds within the meaning of Article 5 of

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			form of electronic money.	Directive 2006/48/EC, or electronic money within the meaning of Article 1(3) of Directive 2000/46/EC. Therefore, Article 16(2) is transposed properly in the Portuguese legislation.
Art. 16(3), intr. wording	3. Payment institutions may grant credit related to payment services referred to in points 4, 5 or 7 of the Annex only if the following conditions are met:	Introductory wording of Art. 9(1) of Annex I to DL 317/2009	Introductory wording of Art. 9(1) Granting of credit 1 - Payment institutions may grant credit solely where it is related to the payment services listed in Article 4(4), (5) and (7) and provided that the following conditions are satisfied:	CONFORM Article 9(1) of Annex I to DL 317/2009 reflects the content in Article 16(3) of the Directive. However, the introductory wording of Article 9(1) of Annex I to DL 317/2009 contains an erroneous cross-reference. In fact, there are no points 4, 5 or 7 in Article 4 of that act. Therefore the introductory wording of Article 9(1) should be referring to points (d),(e) and (g) of Article 4 (the equivalent of points 4, 5 and 7 of the Annex to the Directive). Nevertheless, the content in the cross-referred provisions of Article 4 of Annex I to DL 317/2009 correspond with the ones of the Directive. Moreover, Article 9(3) of Annex I to DL 317/2009 contains an additional provision, in comparison with the Directive, requiring that the payment institutions which grant credit shall communicate to the Central Credit Registers the information elements related to the transactions made by them. However, this does not go beyond the scope of the Directive.
Art.16(3)(a)	(a) the credit shall be ancillary and granted exclusively in connection with the execution of a payment transaction;	Art. 9(1)(a) of Annex I to DL 317/2009	Art. 9(1)(a) a) the credit shall be ancillary and granted exclusively in connection with the execution of a payment transaction;	CONFORM Article 9(1)(a) of Annex I to DL 317/2009 literally transposes Article 16(3)(a) of the Directive.
Art. 16(3)(b)	(b) notwithstanding national rules on providing credit by credit cards, the credit granted in connection with a payment and executed in accordance with Article 10(9) and Article 25 shall be repaid within a short period which shall in no case exceed	Art. 9(1)(b) of Annex I to DL 317/2009	Art. 9(1)(b) b) the credit granted in connection with the exercise of the right of establishment and the freedom to provide services under Articles 23 and 24 shall be repaid within a period which shall in no case exceed 12	CONFORM The reference in Article 9(1)(b) of Annex I to DL 317/2009 to the exercise of the right of establishment and the freedom to provide services corresponds with the contents of the cross-references to Articles 10(9) and 25, made in Article 16(3)(d) of

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	twelve months;		months, notwithstanding the statutory provisions on providing credit by credit cards;	the Directive. Therefore, Article 9(1)(b) of Annex I to DL 317/2009 reflects the content in Article 16(3)(b) of the Directive.
Art. 16(3)(c)	(c) such credit shall not be granted from the funds received or held for the purpose of executing a payment transaction; and	Art. 9(1)(c) of Annex I to DL 317/2009	Art. 9(1)(c) c) such credit may not be granted from the funds received or held for the purpose of executing a payment transaction;	CONFORM Article 9(1)(c) of Annex I to DL 317/2009 literally transposes Article 16(3)(c) of the Directive.
Art. 16(3)(d)	(d) the own funds of the payment institution shall at all times and to the satisfaction of the supervisory authorities be appropriate in view of the overall amount of credit granted.	Art. 9(1)(d) of Annex I to DL 317/2009	Art. 9(1)(d) d) The payment institution shall at all times have own funds which are appropriate in view of the volume of credit granted, in accordance with the decisions of the Bank of Portugal.	CONFORM Article 9(1)(d) of Annex I to DL 317/2009 reflects the content in Article 16(3)(d) of the Directive. Article 9(1)(d) of Annex I to DL 317/2009 refers to the volume of the credit granted rather than the overall amount of the credit granted, as mentioned in the Directive. Moreover, Article 9(1)(d) of Annex I to DL 317/2009 requires the compliance of this provision with the decisions of the Bank of Portugal.
Art. 16(4)	4. Payment institutions shall not conduct the business of taking deposits or other repayable funds within the meaning of Article 5 of Directive 2006/48/EC.	Art. 8(3) of Annex I to DL 317/2009	Art. 8(3) Payment institutions 3 - Funds received by payment institutions from payment service users may be used solely for executing payment services and shall not constitute a deposit or other repayable funds within the meaning of Article 2(1) of the RGICSF. Art. 2 (RGICSF) Credit institutions 1 - The credit institutions are undertakings	CONFORM The content in Article 16(4) of the Directive is reflected in Article 8(3) of Annex I to DL 317/2009. Article 5 of Directive 2006/48/EC, which is cross-referred to in Article 16(4) of the Directive, states that Member States shall prohibit persons or undertakings that are not credit institutions from carrying on the business of taking deposits or other repayable funds from the public. Article 2(1) of the RGICSF, which is cross-referred to in Article 8(3) of Annex I to DL 317/2009 seems to reflect Article 5 of Directive 2006/48/EC. From the definition set out in Article 2(1)

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			having an activity which consists in taking from the public deposits or other repayable funds, in order to apply them on their own for providing credit.	of the RGICSF, the business of taking deposits or other repayable funds can be considered as exclusive for credit institutions, and therefore being excluded from the scope of the payment institutions.
Art. 16(5)	5. This Directive shall be without prejudice to national measures implementing Directive 87/102/EEC. This Directive shall also be without prejudice to other relevant Community or national legislation regarding conditions for granting credit to consumers not harmonised by this Directive that are in conformity with Community law.	Art. 9(2) of Annex I to DL 317/2009	Art. 9(2) Granting of credit 2 – The provisions of this Law shall be without prejudice to the statutory provisions applicable to consumer credit.	CONFORM Article 9(2) of Annex I to DL 317/2009 is a general provision stating that the mentioned act shall be without prejudice to the statutory provisions applicable to consumer credit. This corresponds to the cross-reference to Directive 87/102/EEC. Moreover, Article 40(5) of Annex I to DL 317/2009, which will be referred to below, states that other legislation concerning conditions for granting credit to consumers shall be applicable in so far as it contains provisions not laid down in Chapter I of Title III of Annex I to DL 317/2009. Article 40(5) provides therefore for the equivalent of the last part of Article 16(5) of the Directive but being more restrictive since it only applies in the context of transparency of conditions and information requirements for payment services (Chapter I of Title III). Consequently, whereas Article 16(5) of the Directive provides for the reserve of other legislation regarding conditions for granting credit to consumers in the context of all the Directive requirements, Article 40(5) provides for the same reserve but only regarding the transparency of conditions and information requirements for payment services (corresponding to Title III of the Directive).
Art. 17(1), intr. wording	Section 2 Other requirements Article 17 Use of agents, branches or entities to which activities are outsourced 1. When a payment institution intends to	Introductory wording of Art. 18(2) of Annex I to DL 317/2009	Introductory wording of Art. 18(2) Agents 2 - When they intend to provide payment services through agents, payment institutions having their registered office in Portugal shall first communicate the following information to the Bank of	CONFORM The content in the introductory wording of Article 17(1) of the Directive is reflected in the introductory wording of Article 18(2) of Annex I to DL 317/2009.

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	provide payment services through an agent it shall communicate the following information to the competent authorities in its home Member State:		Portugal:	
Art. 17(1)(a)	(a) the name and address of the agent;	Art. 18(2)(a) of Annex I to DL 317/2009	Art. 18(2)(a) a) the name and address of the agent;	CONFORM Article 18(2)(a) of Annex I to DL 317/2009 literally transposes Article 17(1)(a) of the Directive.
Art. 17(1)(b)	(b) a description of the internal control mechanisms that will be used by agents in order to comply with the obligations in relation to money laundering and terrorist financing under Directive 2005/60/EC; and	Art. 18(2)(b) of Annex I to DL 317/2009	Art. 18(2)(b) b) a description of the internal control mechanisms used by the agent in order to comply with Law No 25/2008 of 5 June;	CONFORM Article 18(2)(b) of Annex I to DL 317/2009 literally transposes Article 17(1)(b) of the Directive. The Law No 25/2008, which is cross-referred to in Article 18(2)(b) of Annex I to DL 317/2009, sets preventive and repressive measures against money laundering of benefits with illicit origin and against terrorist financing. Therefore it corresponds to the cross-reference made to Directive 2005/60/EC.
Art. 17(1)(c)	(c) the identity of directors and persons responsible for the management of the agent to be used in the provision of payment services and evidence that they are fit and proper persons.	Art. 18(2)(c) of Annex I to DL 317/2009	Art. 18(2)(c) c) the identity of persons responsible for the management of the agents and evidence that they are fit and proper persons.	CONFORM The content in Article 17(1)(c) of the Directive is reflected in Article 18(2)(c) of Annex I to DL 317/2009. Article 18(2)(c) of Annex I to DL 317/2009 does not explicitly refer to directors. However, these persons can be considered as included in the persons responsible for the management of the agent.
Art. 17(2)	2. When the competent authorities receive the information in accordance with paragraph 1 then they may list the agent in	Art. 18(3) of Annex I to DL	Art. 18(3) 3 – Once it has received the information listed in the preceding paragraph, the Bank	CONFORM The contents of Article 17(2) and (3) of the Directive are present

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	the register provided for in Article 13.	317/2009	of Portugal shall list the agent in the special register in accordance with Articles 20 and 21, unless it considers that the information is incorrect, in which case it may take action to verify the information.	in one paragraph (paragraph (3)) of Article 18 of Annex I to DL 317/2009. The content in Article 17(2) of the Directive is reflected in Article 18(3) of Annex I to DL 317/2009.
Art. 17(3)	3. Before listing the agent in the register, the competent authorities may, if they consider that the information provided to them is incorrect, take further action to verify the information.	Art. 18(3) of Annex I to DL 317/2009	Art. 18(3) 3 - Once it has received the information listed in the preceding paragraph, the Bank of Portugal shall list the agent in the special register in accordance with Articles 20 and 21, unless it considers that the information is incorrect, in which case it may take action to verify the information.	CONFORM The contents of Article 17(2) and (3) of the Directive are present in one paragraph (paragraph (3)) of Article 18 of Annex I to DL 317/2009. The content in Article 17(3) of the Directive is reflected in Article 18(3) of Annex I to DL 317/2009.
Art. 17(4)	4. If, after taking action to verify the information, the competent authorities are not satisfied that the information provided to them pursuant to paragraph 1 is correct, they shall refuse to list the agent in the register provided for in Article 13.	Art. 18(4) of Annex I to DL 317/2009	Art. 18(4) 4 – The Bank of Portugal shall refuse to list the agent in the register if, after taking the action referred to in the preceding paragraph, it considers that the accuracy of the information provided under paragraph 2 is not sufficiently established.	CONFORM Article 18(4) of Annex I to DL 317/2009 reflects properly the content in Article 17(4) of the Directive.
Art. 17(5)	5. If the payment institution wishes to provide payment services in another Member State by engaging an agent it shall follow the procedures set out in Article 25. In that case, before the agent may be registered under this Article, the competent authorities of the home Member State shall inform the competent authorities of the host Member State of their intention to register the agent and take their opinion into account.	Introductory wording of Art. 23(1) and Art. 24 of Annex I to DL 317/2009	Introductory wording of Art. 23(1) General requirements 1 – A payment institution having its registered office in Portugal which wishes to provide payment services for the first time in another Member State, in particular by establishing a branch or by engaging an agent, must provide the Bank of Portugal with prior notification of that fact, specifying the following information: Art. 24	CONFORM The introductory wording of Article 23(1) and Article 24 of Annex I to DL 317/2009 seem to reflect properly the content in Article 17(5) of the Directive. Article 23 of Annex I to DL 317/2009 is laid down in the context of the right of establishment and freedom to provide services. Therefore, it corresponds to the cross-reference to Article 25 made in Article 17(5) of the Directive.

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			Register If there is nothing to prevent the entry of the branch or agent on the register in accordance with the provisions of Article 21, the Bank of Portugal shall first inform the competent authorities of the host Member State of its intention to register the branch or agent and take into consideration the opinion of those bodies.	
Art. 17(6)	6. If the competent authorities of the host Member State have reasonable grounds to suspect that, in connection with the intended engagement of the agent or establishment of the branch, money laundering or terrorist financing within the meaning of Directive 2005/60/EC is taking place, has taken place or been attempted, or that the engagement of such agent or establishment of such branch could increase the risk of money laundering or terrorist financing, they shall so inform the competent authorities of the home Member State, which may refuse to register the agent or branch, or may withdraw the registration, if already made, of the agent or branch.	Art. 25 of Annex I to DL 317/2009	Art. 25 Refusal or cancellation of registration If the competent authorities of the host Member State communicate to the Bank of Portugal that they have reasonable grounds to suspect that, in connection with the intended engagement of the agent or establishment of the branch, money laundering or terrorist financing within the meaning of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 is taking place, has taken place or been attempted, or that the engagement of such agent or establishment of such branch could increase the risk of money laundering or terrorist financing, the Bank of Portugal may refuse to register the branch or agent, or may withdraw the registration, if already made, of the agent or branch. Art. 26(2) Activity in Portugal of payment institutions which have their head office in other Member States	CONFORM Article 25 of Annex I to DL 317/2009 contains a difference in drafting in comparison with Article 17(6) of the Directive which may be relevant. In fact, Article 25 states that if the competent authorities of the host Member States communicate to the Bank of Portugal that they have suspicions regarding the intentions of the agent or the branch, the Bank of Portugal may refuse to register the branch or agent. Therefore, in Article 25, the communication to the Bank of Portugal is not drafted as an obligation, as it is in the Directive. In fact, Article 17(6) refers that if the competent authorities of the Member States are suspicious they shall so inform the competent authorities of the home Member States (in this case, the Bank of Portugal). However, the structure of the provisions regarding the right of establishment and the freedom of services provisions set out in Annex I to DL 317/2009 differs from the structure of the corresponding provisions of the Directive. Therefore, Articles 25 and 26(2) contain similar provisions but the first one address to Portugal as the home Member State and the second one address to Portugal as a host Member State. Upon the analysis performed, it can be concluded that Article 17(6) of the Directive is properly reflected in Articles 25 and

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			2 – In case the Bank of Portugal has reasonable grounds to suspect that, in connection with the intended engagement of the agent or establishment of the branch in the Portuguese territory, money laundering or terrorist financing within the meaning of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 is taking place or has taken place, or that the engagement of such agent or establishment of such branch could increase the risk of money laundering or terrorist financing, the Bank of Portugal informs the competent authorities of the home Member State.	26(2) of Annex I to DL 317/2009.
Art. 17(7), 1 st and 2 nd subparas. & 3 rd subpara., intr. wording	7. Where a payment institution intends to outsource operational functions of payment services, it shall inform the competent authorities of its home Member State accordingly. Outsourcing of important operational functions may not be undertaken in such way as to impair materially the quality of the payment institution's internal control and the ability of the competent authorities to monitor the payment institution's compliance with all obligations laid down in this Directive. For the purposes of the second subparagraph, an operational function shall be regarded as important if a defect or failure in its performance would materially impair the continuing compliance of a payment institution with the requirements of its authorisation requested under this Title or its other obligations under this	Art. 19(1) to (3) and introductory wording of Art. 19(4) and Art. 2(ah) of Annex I to DL 317/2009	Art. 19(1) to (3) and introductory wording of Art. 19(4) Provision of services by third parties 1 – Payment institutions may outsource operational functions relating to payment services. 2 – The Bank of Portugal must be given advance notice of the intention to outsource operational functions relating to payment services. 3 – A payment institution which outsources the performance of the relevant operational functions must safeguard the quality of internal control and ensure that the Bank of Portugal is in a position to monitor compliance with all the applicable statutory provisions. 4-The outsource shall comply with the following conditions:	CONFORM Articles 19(1) to (4) and 2(ah) of Annex I to DL 317/2009 reflect the content in Article 17(7) of the Directive. Article 19 of Annex I to DL 317/2009 is not consistent in its use of the expression “operational function”. In fact, it also refers to “relevant operational function”, which is a concept specifically defined under Article 2(ah) of that act. However, although the terminology is not exactly the same, the concept of “relevant operational functions” corresponds to the definition laid down in the third subparagraph of Article 17(7) of the Directive.

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	Directive, or its financial performance, or the soundness or the continuity of its payment services. Member States shall ensure that when payment institutions outsource important operational functions, the payment institutions comply with the following conditions:		Art. 2(ah) Definitions ah) “relevant operational function”, means the function whose defect or failure which might seriously impair the compliance of a payment institution with the requirements of its authorisation requested under this legal framework, its financial performance, the soundness or the continuity of its payment services.	
Art. 17(7), 3 rd subpara., pt (a)	(a) the outsourcing shall not result in the delegation by senior management of its responsibility;	Art. 19(4)(a) of Annex I to DL 317/2009	Art. 19(4)(a) a) senior management responsibilities may not be outsourced;	CONFORM Article 19(4)(a) of Annex I to DL 317/2009 reflects properly the content in Article 17(7)(a) of the Directive.
Art. 17(7), 3 rd subpara., pt (b)	(b) the relationship and obligations of the payment institution towards its payment service users under this Directive shall not be altered;	Art. 19(4)(b) of Annex I to DL 317/2009	Art. 19(4)(b) b) the institution shall be liable for compliance with the provisions laid down in this Law; and	CONFORM There is no explicit reference to the content in Article 17(7)(b) of the Directive in Article 19 of Annex I to DL 317/2009. Article 19(4)(b) states that the institution shall be liable for the compliance with the provisions of Annex I to DL 317/2009. Therefore, the prohibition of the alteration of relationship and obligations of the payment institutions can be considered as included in the obligation to comply with the provisions of the Portuguese act.
Art. 17(7), 3 rd subpara., pt (c)	(c) the conditions with which the payment institution is to comply in order to be authorised and remain so in accordance with this Title shall not be undermined; and	Art. 19(4)(c) of Annex I to DL 317/2009	Art. 19(4)(c) c) the institution shall continue to be required to comply with the conditions of authorisation.	CONFORM Article 19(4)(c) of Annex I to DL 317/2009 reflects the content in Article 17(7)(c) of the Directive.
Art. 17(7), 3 rd	(d) none of the other conditions subject to which the payment institution's	Art. 19(4)(c) of	Art. 19(4)(c)	CONFORM

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subpara., pt (d)	authorisation was granted shall be removed or modified.	Annex I to DL 317/2009	c) the institution shall continue to be required to comply with the conditions of authorisation.	Article 19(4) does not seem to distinguish the conditions within which the payment institutions must comply with in order to be authorised and the other conditions subject to which the payment institution's authorisation was granted. Article 19(4)(c) states that the institution shall continue to be obliged to comply with the conditions of authorisation. Therefore, the prohibition to remove or modify the conditions can be considered as included in the continuous compliance with the conditions of authorisation.
Art. 17(8)	8. Payment institutions shall ensure that agents or branches acting on their behalf inform payment service users of this fact.	Art. 18(5) of Annex I to DL 317/2009	Art. 18(5) Agents 5 - Payment institutions shall ensure that agents acting on their behalf inform payment service users of this fact.	CONFORM Article 18(5) of Annex I to DL 317/2009 literally transposes Article 17(8) of the Directive.
Art. 18(1)	Article 18 Liability 1. Member States shall ensure that, where payment institutions rely on third parties for the performance of operational functions, those payment institutions take reasonable steps to ensure that the requirements of this Directive are complied with.	Art. 19(3) and (4)(b) of Annex I to DL 317/2009	Art. 19(3) and (4)(b) Provision of services by third parties 3 - A payment institution which outsources the performance of the relevant operational functions must safeguard the quality of internal control and ensure that the Bank of Portugal is in a position to monitor compliance with all the applicable statutory provisions. 4 - The outsource shall comply with the following conditions: b) the institution shall be liable for compliance with the provisions laid down in this Law; and	CONFORM Article 19(3) and (4)(b) of Annex I to DL 317/2009 reflects the content in Article 18(1) of the Directive.
Art. 18(2)	2. Member States shall require that payment institutions remain fully liable for any acts of their employees, or any agent,	Art. 18(1) and Art. 19(4)(b) of	Art. 18(1) Agents	CONFORM

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	branch or entity to which activities are outsourced.	Annex I to DL 317/2009	1 – Payment institutions may provide services through agents, assuming liability for all acts performed by them. Art. 19(4)(b) Provision of services by third parties b) the institution shall be liable for compliance with the provisions laid down in this Law; and	Articles 18(1) and 19(4)(b) of Annex I to DL 317/2009 reflect the content in Article 18(2) of the Directive.
Art. 19	Article 19 Record-keeping Member States shall require payment institutions to keep all appropriate records for the purpose of this Title for at least five years, without prejudice to Directive 2005/60/EC or other relevant Community or national legislation.	Art. 36 of Annex I to DL 317/2009	Art. 36 Record-keeping Without prejudice to other relevant statutory provisions, in particular in matters relating to money laundering and terrorist financing, payment institutions must keep a record of all payment transactions and other documentation relating to the provision of payment services for a period of at least five years.	CONFORM The reference in Article 36 of Annex I to DL 317/2009 to the matters relating to money laundering and terrorist financing corresponds to the cross-reference made to Directive 2005/60/CE. Therefore, Article 36 of Annex I to DL 317/2009 reflects properly the content in Article 19 of the Directive.
Art. 20(1)	Section 3 Competent authorities and supervision Article 20 Designation of competent authorities 1. Member States shall designate as the competent authorities responsible for the authorisation and prudential supervision of payment institutions which are to carry out the duties provided for under this Title either public authorities, or bodies recognised by national law or by public authorities expressly empowered for that purpose by national law, including national	Art. 6(1) and (3), Art. 9(3), Art. 34(1), Art. 37(3) and Art. 39(4) of Annex I to DL 317/2009 and Art. 27(2) of the Organic Law of the	Art. 6(1) and (3) (Annex I to DL 317/2009) Competent authority 1 – The Bank of Portugal shall be responsible for prudential and behavioural supervision under this Law and in particular for: a) granting authorisation for the establishment of payment institutions and withdrawing it where provided for by law; b) supervising compliance with the provisions of this Law; c) issuing any regulations necessary for the	CONFORM Articles 6(1) and (3), 34(1), 37(3) of Annex I to DL 317/2009 reflect the content in Article 20(1) of the Directive. Annex I to DL 317/2009 refers in two occasions to other entities, such as to the Central Credit Register (Article 9(3)), which is in any case managed by the Bank of Portugal and to the Competition Authority (Article 39(4)). This one is only mentioned in the provision related to access to payment systems. Therefore, Annex I to DL 317/2009 seems to demonstrate that the Bank of Portugal is the main competent authority responsible for payment institutions.

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	central banks. The competent authorities shall guarantee independence from economic bodies and avoid conflicts of interest. Without prejudice to the first subparagraph, payment institutions, credit institutions, electronic money institutions, or post office giro institutions shall not be designated as competent authorities. The Member States shall inform the Commission accordingly.	Bank of Portugal	application of its provisions; d) assessing complaints made by payment service users; e) establishing processes for administrative offences and imposing the relevant penalties. 3 – The Bank of Portugal shall exercise its powers of prudential supervision in connection with payment institutions having their registered office in Portugal, including their branches and agents established abroad. Art. 34(1) (Annex I to DL 317/2009) Supervision procedures 1 – The Bank of Portugal shall ensure compliance with the rules under this Title and shall exercise the powers laid down in Article 6 and adopt the special measures provided for in other provisions. Art. 37(3) (Annex I to DL 317/2009) Professional secrecy and cooperation 3 – As the competent supervisory authority for the purposes of this Law, the Bank of Portugal shall cooperate and exchange information with the supervisory authorities of the other Member States and, where appropriate, with the European Central Bank and the national central banks and other relevant competent authorities designated under Community or national legislation applicable to	Moreover, the independence of the Bank of Portugal from economic bodies and to the prevention of conflicts of interest might be in some way reflected in Article 27(2) of the Organic Law of the Bank of Portugal.

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			payment service providers. Art. 9(3) (Annex I to DL 317/2009) Granting of credit 3 – The payment institutions which grant credit under this Article shall communicate to the Central Credit Registers (<i>Central de Responsabilidades de Crédito</i>), managed by the Bank of Portugal, the information elements related to the transactions made by them, under the terms and for the purposes determined in the legislation regulating the centralisation of the credit liabilities. Art. 39(4) (Annex I to DL 317/2009) Rules on access to payment systems 4 – The Bank of Portugal shall, under the attributions conferred to it by the respective Organic Law, ensure the application of the provisions set out in this Article, without prejudice to the competences of the Competition Authority. Art. 27(2) (Organic Law of the Bank of Portugal) 2 – The Governor and the other members of the Board of Directors shall be independent in accordance with the Statute of the European System of Central Banks and of the Central Bank (ESCB/ECB) and shall not seek or take instructions from	

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			Community institutions, the State sovereign bodies or any other institutions.	
Art. 20(2)	2. Member States shall ensure that the competent authorities designated under paragraph 1 possess all the powers necessary for the performance of their duties.	Art. 6(1) of Annex I to DL 317/2009	Art. 6(1) Competent authority 1 – The Bank of Portugal shall be responsible for prudential and behavioural supervision under this Law and in particular for: a) granting authorisation for the establishment of payment institutions and withdrawing it where provided for by law; b) supervising compliance with the provisions of this Law; c) issuing any regulations necessary for the application of its provisions; d) assessing complaints made by payment service users; e) establishing processes for administrative offences and imposing the relevant penalties.	CONFORM Article 6(1) of Annex I to DL 317/2009 reflects the content in Article 20(2) of the Directive.
Art. 20(3)	3. Where there is more than one competent authority for matters covered by this Title on its territory, Member States shall ensure that those authorities cooperate closely so that they can discharge their respective duties effectively. The same applies in cases where the authorities competent for matters covered by this Title are not the competent authorities responsible for the supervision of credit institutions.	Art. 117-A of the RGICSF and Art. 37(3) and (4) of Annex I to DL 317/2009	Art. 117-A Payment institutions Payment institutions shall be subject to the supervision of the Bank of Portugal, under the laws and regulations which regulate the respective activity. Art. 37(3) and (4) (Annex I to DL 317/2009) Professional secrecy and cooperation 3 – As the competent supervisory authority	CONFORM Annex I to DL 317/2009 is generally conformed to the content in Article 20(3) of the Directive. As mentioned above, the main competent authority responsible for the supervision of the payment institutions is the Bank of Portugal. This can be reflected in general throughout Annex I to DL 317/2009 and the RGICSF and also in particular in Articles 117-A of the RGICSF and 37(3) of Annex I to DL 317/2009. As mentioned before, Article 39(4) of Annex I to DL 317/2009 also takes into consideration the powers of the Competition

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			for the purposes of this Law, the Bank of Portugal shall cooperate and exchange information with the supervisory authorities of the other Member States and, where appropriate, with the European Central Bank and the national central banks and other relevant competent authorities designated under Community or national legislation applicable to payment service providers. 4 – The Bank of Portugal shall also exchange information with the following entities: a) public authorities responsible for overseeing payment and settlement systems; b) other relevant authorities designated under Directive 95/46/EC of the European Parliament and of the Council of 24 October, Directive 2005/60/EC of the European Parliament and of the Council of 26 October and other national or Community legislation applicable to payment service providers, such as legislation applicable to the protection of individuals with regard to the processing of personal data as well as money laundering and terrorist financing. Art. 39(4) (Annex I to DL 317/2009) Rules on access to payment systems 4 – The Bank of Portugal shall, under the attributions conferred to it by the respective Organic Law, ensure the application of the provisions set out in this	Authority regarding the rules on access to the payment systems. The cooperation exercised by the Bank of Portugal is reflected through Article 37(3) and (4) of Annex I to DL 317/2009. Moreover, the Competition Authority can be inferred from the mentioned authorities with which the Bank of Portugal must cooperate and exchange information (Article 37(3) and (4)).

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			Article, without prejudice to the competences of the Competition Authority.	
Art. 20(4)	4. The tasks of the competent authorities designated under paragraph 1 shall be the responsibility of the competent authorities of the home Member State.	Art. 6(3) of Annex I to DL 317/2009	Art. 6(3) Competent authority 3 – The Bank of Portugal shall exercise its powers of prudential supervision in connection with payment institutions having their registered office in Portugal, including their branches and agents established abroad.	CONFORM Article 6(3) of Annex I to DL 317/2009 reflects the content in Article 20(4) of the Directive.
Art. 20(5)	5. Paragraph 1 shall not imply that the competent authorities are required to supervise business activities of the payment institutions other than the provision of payment services listed in the Annex and the activities listed in Article 16(1)(a).	Art. 13	Art. 13 Separation of activities The Bank of Portugal may require, as a condition for the granting of authorisation, the establishment of a commercial company which has the sole objective of providing the payment services listed in Article 4, where the non-payment services activities carried on or to be carried on by the applicant impair or are likely to impair: a) the financial soundness of the payment institution; or b) the appropriate exercise by the Bank of Portugal of its supervisory functions.	CONFORM From Article 13 of Annex I to DL 317/2009 it can be inferred that the Bank of Portugal also supervises business activities of the payment institutions other than the ones provided for in Article 8(2)(a) and in Article 4 (the equivalent of Article 16(1)(a) and the Annex to the Directive).
Art. 21(1), 1 st subpara. & 2 nd subpara., intr. wording	Article 21 Supervision 1. Member States shall ensure that the controls exercised by the competent authorities for checking continued compliance with this Title are proportionate, adequate and responsive to	Art. 6(1) of Annex I to DL 317/2009 and Art. 116-A(3) of the	Art. 6(1) (Annex I to DL 317/2009) Competent authority 1 – The Bank of Portugal shall be responsible for prudential and behavioural supervision under this Law and in particular for: a) granting authorisation for the	PARTIALLY CONFORM Article 6(1) of Annex I to DL 317/2009 lists the competences of the Bank of Portugal. However, it does not seem to qualify those competences as in Article 21(1) of the Directive. In fact, no provision regarding explicitly the proportionality,

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	the risks to which payment institutions are exposed. In order to check compliance with this Title, the competent authorities shall be entitled to take the following steps, in particular:	RGICSF	establishment of payment institutions and withdrawing it where provided for by law; b) supervising compliance with the provisions of this Law; c) issuing any regulations necessary for the application of its provisions; d) assessing complaints made by payment service users; e) establishing processes for administrative offences and imposing the relevant penalties. Art. 116-A(3) (RGICSF) 3- The Bank of Portugal determines, in harmony with the principle of proportionality, the frequency and the intensity of the analysis and the evaluation referred to in paragraph (1). It also takes into consideration the dimension, the systemic importance, the nature, the level and the complexity of the activities of those credit institutions.	adequacy and responsiveness of the controls exercised by the competent authority was found in Annex I to DL 317/2009. However, Article 34(3) of Annex I to DL 317/2009 refers that the activity of supervision of payment institutions is alternatively submitted to the RGICSF rules, <i>mutatis mutandis</i>. Article 116-A(3) of the RGICSF seems to imply that the Bank of Portugal should follow the principle of proportionality while analysing the risks to which credit institutions are or might be exposed to. Nevertheless, Article 116-A(3) merely refers to the principle of proportionality, and therefore does not mention the adequacy and responsiveness of the controls. Furthermore, the introductory part of DL 317/2009 explicitly mentions that the Directive brought to the Portuguese legal framework adequate procedures that will ensure the application of effective, proportionate and dissuasive penalties by the competent authorities. However, this provision is not set out in the context of control of the continuity of the appliance of the provisions of Annex I to DL 31/2009.
Art. 21(1), 2 nd subpara., pt (a)	(a) to require the payment institution to provide any information needed to monitor compliance;	Art. 6(2)(a) of Annex I to DL 317/2009	Art. 6(2)(a) 2 – In the exercise of its powers of supervision, the Bank of Portugal may, in particular: a) require payment institutions to provide any information which it regards as necessary to check compliance with the rules of this Law;	CONFORM Article 6(2)(a) of Annex I to DL 317/2009 reflects the content in Article 21(1)(a) of the Directive.
Art. 21(1),	(b) to carry out on-site inspections at	Art.	Art. 6(2)(b)	CONFORM

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2 nd subpara., pt (b)	the payment institution, at any agent or branch providing payment services under the responsibility of the payment institution, or at any entity to which activities are outsourced;	6(2)(b) of Annex I to DL 317/2009	b) carry out inspections at the establishments of payment institutions and at branches and agents providing payment services under their responsibility and also at the establishments of third parties to which relevant operational functions relating to payment services are outsourced;	Article 6(2)(b) of Annex I to DL 317/2009 reflects the content in Article 21(1)(b) of the Directive.
Art. 21(1), 2 nd subpara., pt (c)	(c) to issue recommendations, guidelines and, if applicable, binding administrative provisions; and	Art. 6(2)(c), Art. 6(1)(c) and Art. 18(3) of Annex I to DL 317/2009	Art. 6(2)(c) c) issue specific recommendations and decisions in order to remedy any irregularities detected. Art. 6(1)(c) c) issuing any regulations necessary for the application of its provisions; Art. 18(3) Agents 3 – Once it has received the information listed in the preceding paragraph, the Bank of Portugal shall list the agent in the special register in accordance with Articles 20 and 21, unless it considers that the information is incorrect, in which case it may take action to verify the information.	CONFORM Article 6(2)(c) of Annex I to DL 317/2009 reflects generally the content in Article 21(1)(c) of the Directive. However, the reference to binding administrative provisions and guidelines is not explicit in Annex I to DL 317/2009. Nevertheless, several articles of that act reflect the fact that the Bank of Portugal have the power to issue binding administrative provisions and guidelines. The quoted articles were quoted to illustrate this. Article 6(1)(c) demonstrates that the Bank of Portugal can issue regulations for the application of its provisions. Those regulations might be therefore considered as binding administrative provisions. Moreover, the above mentioned Articles of Annex I to DL 317/2009 regarding the decision of authorisation and the evaluations that the Bank of Portugal can carry out, show by themselves that the Bank of Portugal can generally issue binding administrative provisions and guidelines.
Art. 21(1), 2 nd subpara., pt (d)	(d) to suspend or withdraw authorisation in cases referred to in Article 12.	Art. 6(1)(a) of Annex I to DL 317/2009	Art. 6(1)(a) a) granting authorisation for the establishment of payment institutions and withdrawing it where provided for by law;	CONFORM Although Article 6(1)(a) of Annex I to DL 317/2009 does not refer to the suspension of authorisation, it reflects the content in Article 21(1)(d) of the Directive since, as mentioned above,

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				Article 12 of the Directive was properly transposed in the Portuguese legislation. The reference in Article 6(1)(a) of Annex I to DL 317/2009 to provisions of that act regarding the withdrawing of authorisation corresponds to the cross-reference of Article 12, made in Article 21(1)(d) of the Directive.
Art. 21(2)	2. Without prejudice to the procedures for the withdrawal of authorisations and the provisions of criminal law, the Member States shall provide that their respective competent authorities, may, as against payment institutions or those who effectively control the business of payment institutions which breach laws, regulations or administrative provisions concerning the supervision or pursuit of their payment service business, adopt or impose in respect of them penalties or measures aimed specifically at ending observed breaches or the causes of such breaches.	Art. 6(1)(e) of Annex I to DL 317/2009	Art. 6(1)(e) e) establishing processes for administrative offences and imposing the relevant penalties.	CONFORM Article 6(1)(e) of Annex I to DL 317/2009 reflects the content in Article 21(2) of the Directive. Article 6(1)(e) of Annex I to DL 317/2009 is more general in comparison with Article 21(2) of the Directive. However, the whole Title V of Annex I to DL 317/2009, which is implied in Article 6(1)(e) of that act, specifically regulates the administrative offences.
Art. 21(3)	3. Notwithstanding the requirements of Article 6, Article 7(1) and (2) and Article 8, Member States shall ensure that the competent authorities are entitled to take steps described under paragraph 1 of this Article to ensure sufficient capital for payment services, in particular where the non-payment services activities of the payment institution impair or are likely to impair the financial soundness of the payment institution.	Art. 31(4) of Annex I to DL 317/2009	Art. 31(4) Own funds requirements 4 - Notwithstanding the provisions of the preceding paragraphs and Articles 29 and 30, the Bank of Portugal may adopt the procedures provided for in Article 6 in order to ensure that payment institutions allocate to the operation of their activity of providing payment services a sufficient level of own funds, in particular where the activities referred to in Article 8(2) prejudice or may prejudice the financial soundness of the payment institution.	CONFORM Article 31(4) of Annex I to DL 317/2009 reflects the content in Article 21(3) of the Directive. The cross-references to Article 29, 30 and the other paragraphs of Article 31 of Annex I to DL 317/2009 correspond to the cross-references made in the Directive. In fact, those articles also regulate the minimum capital, the own funds and the calculation of own funds. Moreover, the cross-reference to Article 8(2) in Article 31(4) corresponds to the reference made to the non-payment services activities in Article 21(3) of the Directive.

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Art. 22(1)	Article 22 Professional secrecy 1. Member States shall ensure that all persons working or who have worked for the competent authorities, as well as experts acting on behalf of the competent authorities, are bound by the obligation of professional secrecy, without prejudice to cases covered by criminal law.	Art. 37(2) of Annex I to DL 317/2009 and Art. 80(1) of RGICSF	Art. 37(2) (Annex I to DL 317/2009) Professional secrecy and cooperation 2 – The provisions of Articles 80 to 82 of the RGICSF, together with the specific provisions set out in the following paragraphs, shall apply to the Bank of Portugal. Art. 80(1) (RGICSF) Duty of secrecy of the supervision authorities 1 - The persons who exercise or have exercised functions in the Bank of Portugal as well as the ones who provide or have provided services to it, permanently or occasionally, shall be subject to the duty of secrecy regarding the facts resulting from their work or provision of services. Also, those persons shall not disclose or use the obtained information.	CONFORM Article 37(2) of Annex I to DL 317/2009 cross-refers to Articles 80 to 82 of the RGICSF which regulate in general the duty of secrecy for supervision authorities. Therefore, Article 37(2) of Annex I to DL 317/2009 and Article 80(1) of the RGICSF reflect the content in Article 22(1) of the Directive.
Art. 22(2)	2. In the exchange of information in accordance with Article 24, professional secrecy shall be strictly applied to ensure the protection of individual and business rights.	Art. 81(1) and (4) of the RGICSF	Art. 81(1) and (4) (RGICSF) Cooperation with other entities 1 – The previous articles do not prevent the Bank of Portugal to also exchange information with the Portuguese Securities Market Commission, the Mutual Agricultural Credit Central Fund (<i>Caixa Central do Crédito Agrícola Mútuo</i>), with authorities, organisms, and persons who exercise the equivalent functions to the ones of these entities in another Member State of the European Community and also with the following entities also belonging to a Member States of the European	CONFORM There is no explicit reference in Article 80 to 82 of RGCISF to the protection of the individual and business rights. However, Article 80(4) mentions that the disclosure of information for statistical purposes is legal, if it does not enable the individual identification of persons and institutions. Therefore, it can be inferred from Article 80 (which regulates the secrecy duty of supervision authorities) that the individual and business rights must be protected.

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			Community: 4 – All the authorities, organisms and persons which participate in the exchange of information referred to in the previous paragraphs shall be subject to the secrecy duty.	
Art. 22(3)	3. Member States may apply this Article taking into account, mutatis mutandis, Articles 44 to 52 of Directive 2006/48/EC.	Art. 37(2) of Annex I to DL 317/2009	Art. 37(2) 2 – The provisions of Articles 80 to 82 of the RGICSF, together with the specific provisions set out in the following paragraphs, shall apply to the Bank of Portugal.	CONFORM Article 22(3) of the Directive sets out an option. Portugal has chosen to adopt this option through Articles 80 to 82 of the RGICSF, which are cross-referred to in Article 37(2) of Annex I to DL 317/2009. In fact, Article 80 to 82 regulate the duty of secrecy for competent authorities and the duty of secrecy of competent authorities in the context of cooperation with other entities and with third countries. This seems to correspond with Articles 44 to 52 of Directive 2006/48/EC.
Art. 23(1)	Article 23 Right to apply to the courts 1. Member States shall ensure that decisions taken by the competent authorities in respect of a payment institution pursuant to the laws, regulations and administrative provisions adopted in accordance with this Directive may be contested before the courts.	Art. 22 of Annex I to DL 317/2009 and Art. 12(1) of the RGICSF	Art. 22 Legal remedies The provisions of Article 12 of the RGICSF shall apply, mutatis mutandis, to actions against decisions of the Bank of Portugal taken under this Chapter. Art. 12(1) Decisions of the Bank of Portugal 1 - The actions against the decision of the Bank of Portugal shall follow, besides the provisions set out in the RGICSF, also the provisions laid down in the organic law of the Bank of Portugal.	CONFORM Article 12 of the RGICSF, which is cross-referred to in Article 22 of Annex I to DL 317/2009, reflects the content in Article 23(1) of the Directive. Article 12(1) provides for the possibility of actions against the decisions of the Bank of Portugal according to the rules set out in the RGICSF and the ones of the organic law of the Bank of Portugal.

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Art. 23(2)	2. Paragraph 1 shall apply also in respect of failure to act.	Art. 22 of Annex I to DL 317/2009	Art. 22 (Annex I to DL 317/2009) The provisions of Article 12 of the RGICSF shall apply, mutatis mutandis, to actions against decisions of the Bank of Portugal taken under this Chapter. Art. 12(1) (RGICSF) Decisions of the Bank of Portugal 1 - The actions against the decision of the Bank of Portugal shall follow, besides the provisions set out in the RGICSF, also the provisions laid down in the organic law of the Bank of Portugal. Art. 39 (Organic Law of the Bank of Portugal) Appeals or law actions provided for by the applicable legislation on procedure in contentious administrative matters, including those intended to obtain the declaration of illegality of regulatory rules, may be filed against any acts adopted, in the exercise of public authority functions, by the Governor, the Vice-governors, the Board of Directors and other bodies of the Bank, or in the use of powers delegated by them.	CONFORM No explicit reference to the failure of act of the Bank of Portugal was found in the Portuguese NIMs. However, the failure to act of the Bank of Portugal can be inferred from the Portuguese administrative procedure law (as it is cross-referred in the Organic Law of the Bank of Portugal). The Portuguese Administrative Procedure Code contains an entire section (Section VI of Chapter II) regulating administrative actions and claims.
Art. 24(1)	Article 24 Exchange of information 1. The competent authorities of the different Member States shall cooperate with each other and, where appropriate,	Art. 37(3) of Annex I to DL 317/2009	Art. 37(3) Professional secrecy and cooperation 3 – As the competent supervisory authority for the purposes of this Law, the Bank of Portugal shall cooperate and exchange	CONFORM Article 37(3) of Annex I to DL 317/2009 reflects the content in Article 24(1) of the Directive.

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	with the European Central Bank and the national central banks of the Member States and other relevant competent authorities designated under Community or national legislation applicable to payment service providers.		information with the supervisory authorities of the other Member States and, where appropriate, with the European Central Bank and the national central banks and other relevant competent authorities designated under Community or national legislation applicable to payment service providers.	
Art. 24(2), intr. wording	2. Member States shall, in addition, allow the exchange of information between their competent authorities and the following:	Art. 37(3) of Annex I to DL 317/2009	Art. 37(3) 3 – As the competent supervisory authority for the purposes of this Law, the Bank of Portugal shall cooperate and exchange information (...)	CONFORM Article 37(3) of Annex I to DL 317/2009 transposes the content in the first subparagraph of Article 24(2) of the Directive.
Art. 24(2)(a)	(a) the competent authorities of other Member States responsible for the authorisation and supervision of payment institutions;	Art. 37(3) of Annex I to DL 317/2009	Art. 37(3) 3 - As the competent supervisory authority for the purposes of this Law, the Bank of Portugal shall cooperate and exchange information with the supervisory authorities of the other Member States(...)	CONFORM Article 37(3) of Annex I to DL 317/2009 transposes the content in Article 24(2)(a) of the Directive.
Art. 24(2)(b)	(b) the European Central Bank and the national central banks of Member States, in their capacity as monetary and oversight authorities, and, where appropriate, other public authorities responsible for overseeing payment and settlement systems;	Art. 37(3) and (4)(a) of Annex I to DL 317/2009 and Art. 81(1)(f) of the RGICSF	Art. 37(3) and (4)(a) 3 - As the competent supervisory authority for the purposes of this Law, the Bank of Portugal shall cooperate and exchange information with the supervisory authorities of the other Member States and, where appropriate, with the European Central Bank and the national central banks and other relevant competent authorities designated under Community or national legislation applicable to payment service providers. 4 – The Bank of Portugal shall also exchange information with the following	CONFORM Article 37(3) and (4)(a) of Annex I to DL 317/2009 seem to reflect the content in Article 24(2)(b) of the Directive. However, there is no explicit reference in Article 37(3) to the capacity as monetary and oversight authorities of the national central banks. Therefore, it is necessary to also mention Article 81 of the RGICSF, which is cross-referred to in Article 37(2) of Annex I to DL 317/2009 and which is also applicable to the competent authorities mentioned in this act. Article 81(1)(f) refers to central banks and other organisms with a similar vocation [which means, as a supervision authority], in their capacity as monetary authorities. Therefore, Article

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			entities: a) public authorities responsible for overseeing payment and settlement systems; Art. 81(1)(f) (RGICSF) Cooperation with other entities 1 – The previous articles do not prevent the Bank of Portugal to also exchange information with the Portuguese Securities Market Commission, the Mutual Agricultural Credit Central Fund (<i>Gaixa Central do Crédito Agrícola Mútuo</i>), with authorities, organisms, and persons who exercise the equivalent functions to the ones of these entities in another Member State of the European Community and also with the following entities also belonging to a Member States of the European Community: f) Central banks and other organisms with a similar vocation, in their capacity as monetary authorities, and other authorities with powers for overseeing payment systems;	24(2)(b) is properly transposed into the Portuguese legislation.
Art. 24(2)(c)	(c) other relevant authorities designated under this Directive, Directive 95/46/EC, Directive 2005/60/EC and other Community legislation applicable to payment service providers, such as legislation applicable to the protection of individuals with regard to the processing of personal data as well as money laundering and terrorist financing.	Art. 37(4)(b) of Annex I to DL 317/2009	Art. 37(4)(b) b) other relevant authorities designated under Directive 95/46/EC of the European Parliament and of the Council of 24 October, Directive 2005/60/EC of the European Parliament and of the Council of 26 October and other national or Community legislation applicable to payment service providers, such as	CONFORM Article 37(4)(b) of Annex I to DL 317/2009 reflects the content in Article 24(2)(c) of the Directive.

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			legislation applicable to the protection of individuals with regard to the processing of personal data as well as money laundering and terrorist financing.	
Art. 25(1)	Article 25 Exercise of the right of establishment and freedom to provide services 1. Any authorised payment institution wishing to provide payment services for the first time in a Member State other than its home Member State, in exercise of the right of establishment or the freedom to provide services, shall so inform the competent authorities in its home Member State. Within one month of receiving that information, the competent authorities of the home Member State shall inform the competent authorities of the host Member State of the name and address of the payment institution, the names of those responsible for the management of the branch, its organisational structure and of the kind of payment services it intends to provide in the territory of the host Member State.	Art. 23(1) and (2) of Annex I to DL 317/2009	Art. 23(1) to (3) General requirements 1 – A payment institution having its registered office in Portugal which wishes to provide payment services for the first time in another Member State, in particular by establishing a branch or by engaging an agent, must provide the Bank of Portugal with prior notification of that fact, specifying the following information: a) The country where the payment institution suggests to establish a branch, engaging an agent, or, in general, provide payment services; b) the name and address of the payment institution; c) the organisational structure of the branch or agent, when this one is not a natural person, and eventual address of those ones in the host Member States; d) the names of those responsible for the management of the branch or of the agent, under the terms provided for in the previous point, and proofs of their suitability and competence; e) the kind of payment services it intends to provide in the territory of the host Member State. 2 - Within one month of receiving the	CONFORM Article 23(1) and (2) of Annex I to DL 317/2009 reflect properly the content in Article 25(1) of the Directive. There is no explicit reference in Article 23 of Annex I to DL 317/2009 to the exercise of right of establishment and the freedom to provide services. However, Article 23 is included in Chapter III, which is named “Right of establishment and the freedom to provide services”. Moreover, the fact of establishing a branch and engaging an agent can be considered as belonging to the right of establishment and the freedom to provide services. Article 23(1) of Annex I to DL 317/2009 provides for additional requirements, in comparison with Article 25(1) of the Directive. In fact, Article 23(1) lists more requirements in the list of information to provide to the Bank of Portugal. Moreover, it refers to information regarding the branches and agents, and not only to the information regarding the branches, as in the Directive. Furthermore, Article 23(3) requires information to be sent to the Bank of Portugal and to the competent authority of the host Member State in case of modifications of the elements provided for in Article 23(1)(b) to (e). However, the above mentioned additional requirements do not contradict or go beyond the scope of the Directive.

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			information mentioned in the previous paragraph, the Bank of Portugal shall communicate that information to the competent authorities of the host Member States. 3- Whenever there is a change in the elements provided for in points 1(b) to (e), the payment institutions shall communicate that change, in written, to the Bank of Portugal and to the competent authority of the host Member State.	
Art. 25(2)	2. In order to carry out the controls and take the necessary steps provided for in Article 21 in respect of the agent, branch or entity to which activities are outsourced of a payment institution located in the territory of another Member State, the competent authorities of the home Member State shall cooperate with the competent authorities of the host Member State.	Art. 23(4) and Art. 34(4) and (5) of Annex I to DL 317/2009	Art. 23(4) 4 – For the purposes of controlling the requirements set out in paragraph 1, the Bank of Portugal may carry out on-site inspections in the host Member State and delegate the task of carrying them out, as provided for in Article 34(4). Art. 34(4) and (5) Supervision procedures 4 – The Bank of Portugal may carry out on-site inspections in the territory of the host Member State or delegate that task to the competent authorities of the mentioned Member-State. In both cases the Bank of Portugal shall first notify those entities. 5 – In the exercise of its supervisory powers, the Bank of Portugal collaborates with the competent authorities of the host Member States and exchange with them the essential and relevant information, especially in case of infringements or suspected infringements by an agent, a	CONFORM Articles 23(4) and 34(4) and (5) of Annex I to DL 317/2009 reflects the content in Article 25(2) of the Directive. Whereas the above mentioned Article 6 of Annex I to DL 317/2009 lists supervision acts to be exercised by the Bank of Portugal in general, Article 34(4) and (5) are specifically dedicated to cases where the payment institution wishes to provide payment services in other Member States.

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			branch or an entity to which activities are outsourced and for that purpose shall communicate, upon request, all relevant information and, on their own initiative, all essential information.	
Art. 25(3)	3. By way of cooperation in accordance with paragraphs 1 and 2, the competent authorities of the home Member State shall notify the competent authorities of the host Member State whenever they intend to carry out an on-site inspection in the territory of the latter. However, if they so wish, the competent authorities of the home Member State may delegate to the competent authorities of the host Member State the task of carrying out on-site inspections of the institution concerned.	Art. 35(1) to (4) of Annex I to DL 317/2009	Art. 35(1) to (4) Payment institutions authorised in other Member States 1 – Payment institutions authorised in other Member States which provide services in Portugal, provided that they are subject to the supervision of the competent authorities of the countries of origin, shall not be subject to the prudential supervision of the Bank of Portugal. 2 – The Bank of Portugal shall cooperate with the competent authorities of the Member States of origin with regard to the supervision of branches, agents and third parties having operational functions which provide services in Portugal under the responsibility of the payment institutions referred to in the preceding paragraph. 3 – With a view to exercising the prudential supervision functions incumbent on them, the competent authorities of the Member States of origin, after informing the Bank of Portugal of that fact, may carry out on-site inspections in Portuguese territory. 4 – At the request of the competent authorities of the Member States of origin, the carrying out of the inspections referred to in the preceding paragraph may be	CONFORM Articles 35(1) to (4) of Annex I to DL 317/2009 reflect the content in Article 25(3) of the Directive. The structure of the provisions regarding the supervision and the exercise of the right of establishment and freedom to provide services provided for in Annex I to DL 317/2009 differs from the one of the Directive. In fact, Article 35 of Annex I to DL 317/2009 is exclusively dedicated to cases of payment institutions authorised in other Member States which provide services in Portugal. Therefore, in Article 35 Portugal is considered the host Member State. On the other hand, the already mentioned Article 34(4) and (5) of Annex I to DL 317/2009 refers to cases where Portugal is the home Member State. However, both Articles 34 and 35 are inserted in the context of the payment institutions supervision. Furthermore, Article 23 of Annex I to DL 317/2009 which was also mentioned for the analysis of Article 25 of the Directive, is set out in the context of the right of establishment and freedom to provide services. Therefore, the equivalent of the content of the entire Article 25 of the Directive is spread through several Chapters and Sections of the Portuguese act.

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			delegated to the Bank of Portugal.	
Art. 25(4)	4. The competent authorities shall provide each other with all essential and/or relevant information, in particular in the case of infringements or suspected infringements by an agent, a branch or an entity to which activities are outsourced. In this regard, the competent authorities shall communicate, upon request, all relevant information and, on their own initiative, all essential information.	Art. 34(5) and Art. 35(5) of Annex I to DL 317/2009	Art. 34(5) Supervision procedures 5 – In the exercise of its powers of supervision, the Bank of Portugal collaborates with the competent authorities of the host Member States and exchange with them the essential and relevant information, especially in case of infringements or suspected infringements by an agent, a branch or an entity to which activities are outsourced and for that purpose shall communicate, upon request, all relevant information and, on their own initiative, all essential information. Art. 35(5) Payment institutions authorised in other Member States 5 – The Bank of Portugal and the competent authorities of the Member States of origin shall provide each other with all essential and relevant information, in particular in the case of infringements or suspected infringements by an agent, a branch or an entity to which functional operations are outsourced, and for that purpose shall communicate, upon request, all relevant information and, on their own initiative, all essential information.	CONFORM Articles 34(5) and 35(5) of Annex I to DL 317/2009 reflect the content in Article 25(4) of the Directive. Both Articles 34 and 35 of Annex I to DL 317/2009 are quoted in order to analyse only one provision of the Directive. In fact, as mentioned above, Article 35 is exclusively dedicated to cases where Portugal is considered as the host Member State and Article 34(5) refers to cases where Portugal is the home Member State. Portugal has chosen to include in the scope of Article 34(5) of Annex I to DL 317/2009 the essential and relevant information.
Art. 25(5)	5. Paragraphs 1 to 4 shall be without prejudice to the obligation of competent authorities under Directive 2005/60/EC and Regulation (EC) No 1781/2006, in particular under Article 37(1) of Directive	Art. 35(7) of Annex I to DL 317/2009	Art. 35(7) 7 – The preceding paragraphs shall be without prejudice to the obligations of the Bank of Portugal and the other competent Portuguese authorities under Law No	CONFORM Article 35(7) of Annex I to DL 317/2009 reflects the content in Article 25(5) of the Directive.

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	2005/60/EC and Article 15(3) of Regulation (EC) No 1781/2006 to supervise or monitor the compliance with the requirements laid down in those instruments.		25/2008 of 5 June and Decree Law No 125/2008 of 21 June concerning the supervision or monitoring of compliance with the rules laid down in those instruments.	Law No 25/2008 which is cross-referred to in Article 35(7) corresponds to Directive 2005/60/EC, which is cross-referred to in Article 25(5) of the Directive. In fact, that Law sets preventive and repressive measures against money laundering of benefits with illicit origin and against the terrorist financing and transposes Directive 2005/60/EC and 2006/70/EC. Decree Law No 125/2008 which is cross-referred to in Article 35(7) corresponds to Regulation (EC) No 1781/2006, which is cross-referred to in Article 25(5) of the Directive. In fact, that Decree Law introduces a legal framework of supervision and administrative offences applicable to infringements to the duties provided for in Regulation (EC) No 1781/2006 on information on the payer accompanying transfers of funds. Moreover, the provisions of the cross-referred acts (Law No 25/2008 and Decree Law No 125/2008) regarding the supervision or monitoring of compliance with the rules set out in those acts correspond to Articles 37(1) and 15(3), which are cross-referred to in Article 25(5) of the Directive. The equivalent of Article 25(5) of the Directive is only laid down in Annex I to DL 317/2009 in the context where Portugal is a host Member State.
Art. 26(1), intr. wording	Section 4 Waiver Article 26 Conditions 1. Notwithstanding Article 13, Member States may waive or allow their competent authorities to waive the application of all or part of the procedure and conditions set out in Sections 1 to 3, with the exception of Articles 20, 22, 23 and 24, and allow natural or legal persons to be entered in the register provided for in Article 13, where:	N/A	N/A	Article 26 of the Directive sets out an option. Owing to this option, Portugal has not chosen to apply the Directive provision.

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Art. 26(1)(a)	(a) the average of the preceding 12 months' total amount of payment transactions executed by the person concerned, including any agent for which it assumes full responsibility, does not exceed EUR 3 million per month. That requirement shall be assessed on the projected total amount of payment transactions in its business plan, unless an adjustment to that plan is required by the competent authorities; and	N/A	N/A	Article 26 of the Directive sets out an option. Owing to this option, Portugal has not chosen to apply the Directive provision.
Art. 26(1)(b)	(b) none of the natural persons responsible for the management or operation of the business has been convicted of offences relating to money laundering or terrorist financing or other financial crimes.	N/A	N/A	Article 26 of the Directive sets out an option. Owing to this option, Portugal has not chosen to apply the Directive provision.
Art. 26(2)	2. Any natural or legal person registered in accordance with paragraph 1 shall be required to have its head office or place of residence in the Member State in which it actually carries on its business.	N/A	N/A	Article 26 of the Directive sets out an option. Owing to this option, Portugal has not chosen to apply the Directive provision.
Art. 26(3)	3. The persons referred to in paragraph 1 shall be treated as payment institutions, save that Article 10(9) and Article 25 shall not apply to them.	N/A	N/A	Article 26 of the Directive sets out an option. Owing to this option, Portugal has not chosen to apply the Directive provision.
Art. 26(4)	4. Member States may also provide that any natural or legal person registered in accordance with paragraph 1 may engage only in certain activities listed in Article 16.	N/A	N/A	Article 26 of the Directive sets out an option. Owing to this option, Portugal has not chosen to apply the Directive provision.
Art. 26(5)	5. The persons referred to in paragraph 1	N/A	N/A	Article 26 of the Directive sets out an option. Owing to this

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	shall notify the competent authorities of any change in their situation which is relevant to the conditions specified in that paragraph. Member States shall take the necessary steps to ensure that where the conditions set out in paragraphs 1, 2 and 4 are no longer fulfilled, the persons concerned shall seek authorisation within 30 calendar days in accordance with the procedure laid down in Article 10.			option, Portugal has not chosen to apply the Directive provision.
Art. 26(6)	6. This Article shall not be applied in respect of provisions of Directive 2005/60/EC or national anti-money-laundering provisions.	N/A	N/A	Article 26 of the Directive sets out an option. Owing to this option, Portugal has not chosen to apply the Directive provision.
Art. 27	Article 27 Notification and information If a Member State avails itself of the waiver provided for in Article 26, it shall notify the Commission accordingly by 1 November 2009 and it shall notify the Commission forthwith of any subsequent change. In addition, the Member State shall inform the Commission of the number of natural and legal persons concerned and, on an annual basis, of the total amount of payment transactions executed as of 31 December of each calendar year, as referred to in Article 26(1)(a).	N/A	N/A	Article 27 of the Directive depends on its Article 26. Therefore, Article 27 was also not adopted by the Portuguese legislation.
Art. 28(1), 1 st subpara. & 2 nd subpara.	<i>CHAPTER 2</i> <i>Common provisions</i> Article 28 Access to payment systems	Art. 39(1) and introducto ry wording of	Art. 39(1) and introductory wording of Art. 39(2) Rules on access to payment systems 1 - The rules on access of authorised or registered payment service providers that	CONFORM Article 39(1) and the introductory wording of Article 39(2) of Annex I to DL 317/2009 literally transpose Article 28(1) and

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intr. wording	1. Member States shall ensure that the rules on access of authorised or registered payment service providers that are legal persons to payment systems shall be objective, non-discriminatory and proportionate and that those rules do not inhibit access more than is necessary to safeguard against specific risks such as settlement risk, operational risk and business risk and to protect the financial and operational stability of the payment system. Payment systems shall impose on payment service providers, on payment service users or on other payment systems none of the following requirements:	Art. 39(2) of Annex I to DL 317/2009	are legal persons to payment systems shall be objective, non-discriminatory and proportionate and shall not inhibit access more than is necessary to safeguard against specific risks such as settlement risk, operational risk and business risk and to protect the financial and operational stability of the payment system. 2 – The provisions referred to in the preceding paragraph may not impose on payment service providers, on payment service users or on other payment systems:	introductory wording of Article 28(1) of the Directive.
Art. 28(1), 2 nd subpara., pt (a)	(a) any restrictive rule on effective participation in other payment systems;	Art. 39(2)(a) of Annex I to DL 317/2009	Art. 39(2)(a) a) any restrictions on effective participation in other payment systems;	CONFORM Article 39(2)(a) of Annex I to DL 317/2009 reflects the content in Article 28(1)(a) of the Directive.
Art. 28(1) 2 nd subpara., pt (b)	(b) any rule which discriminates between authorised payment service providers or between registered payment service providers in relation to the rights, obligations and entitlements of participants; or	Art. 39(2)(b) of Annex I to DL 317/2009	Art. 39(2)(b) b) any discrimination between authorised payment service providers or between registered payment service providers in relation to the rights, obligations or entitlements of participants; or	CONFORM Article 39(2)(b) of Annex I to DL 317/2009 reflects the content in Article 28(1)(b) of the Directive.
Art. 28(1) 2 nd subpara., pt (c)	(c) any restriction on the basis of institutional status.	Art. 39(2)(c) of Annex I to DL 317/2009	Art. 39(2)(c) c) any restriction on the basis of company status.	CONFORM Article 39(2)(c) of Annex I to DL 317/2009 reflects the content in Article 28(2)(c) of the Directive.

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Art. 28(2), intr. wording	2. Paragraph 1 shall not apply to:	Introductory wording of Art. 39(3) of Annex I to DL 317/2009	Introductory wording of Art. 39(3) 3 – The above paragraphs shall not apply to:	CONFORM The introductory wording of Article 39(3) of Annex I to DL 317/2009 reflects the content in the introductory wording of Article 28(2) of the Directive.
Art. 28(2)(a)	(a) payment systems designated under Directive 98/26/EC;	Art. 39(3)(a) of Annex I to DL 317/2009	Art. 39(3)(a) a) payment systems designated under Decree Law 221/2000 of 9 September;	CONFORM Decree Law No 221/2000, which is cross-referred to in Article 39(3)(a) of Annex I to DL 317/2009, transposes into the Portuguese legal framework, strictly regarding the payment systems, Directive 98/26/EC on settlement finality in payment and securities settlement systems.
Art. 28(2)(b)	(b) payment systems composed exclusively of payment service providers belonging to a group composed of entities linked by capital where one of the linked entities enjoys effective control over the other linked entities; or	Art. 39(3)(b) of Annex I to DL 317/2009	Art. 39(3)(b) b) payment systems composed exclusively of payment service providers belonging to a group composed of entities linked by capital where one of the linked entities enjoys effective control over the other linked entities; or;	CONFORM Article 39(3)(b) of Annex I to DL 317/2009 literally transposes Article 28(2)(b) of the Directive.
Art. 28(2)(c), intro. wording	(c) payment systems where a sole payment service provider (whether as a single entity or as a group):	Introductory wording of Art. 39(3)(c) of Annex I to DL 317/2009	Introductory wording of Art. 39(3)(c) c) payment systems where a sole payment service provider (whether as a single entity or as a group):	CONFORM The introductory wording of Article 39(3)(c) of Annex I to DL 317/2009 literally transposes the introductory wording of Article 28(2)(c) of the Directive.
Art. 28(2)(c),	— acts or can act as the payment service provider for both the payer and the payee and is exclusively responsible for	Art. 39(3)(c)(i) of Annex I	Art. 39(3)(c)(i) i) acts or can act as the payment service	CONFORM

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1 st indent	the management of the system, and	to DL 317/2009	provider for both the payer and the payee and is exclusively responsible for the management of the system, and	Article 39(3)(c)(i) of Annex I to DL 317/2009 literally transposes the first indent of Article 28(2)(c) of the Directive.
Art. 28(2)(c), 2 nd indent	— licenses other payment service providers to participate in the system and the latter have no right to negotiate fees between or amongst themselves in relation to the payment system although they may establish their own pricing in relation to payers and payees.	Art. 39(3)(c)(ii) of Annex I to DL 317/2009	Art. 39(3)(c)(ii) ii) licenses other payment service providers to participate in the system and the latter have no right to negotiate fees between or amongst themselves in relation to the payment system although they may establish their own pricing in relation to payers and payees.	CONFORM Article 39(3)(c)(ii) of Annex I to DL 317/2009 literally transposes the second indent of Article 28(2)(c) of the Directive.
Art. 29	Article 29 Prohibition for persons other than payment service providers to provide payment services Member States shall prohibit natural or legal persons that are neither payment service providers nor explicitly excluded from the scope of this Directive from providing the payment services listed in the Annex.	Art. 7(1) of Annex I to DL 317/2009	Art. 7(1) Payment service providers and the exclusivity principle 1 – The payment services referred to in Article 4 may be provided solely by the following entities: a) credit institutions, including electronic money institutions, having their registered office in Portugal; b) payment institutions having their registered office in Portugal; c) the concessionaire of the universal postal service; d) the State, the autonomous regions and the direct and indirect services and bodies of the State's administration, when acting without public authority powers; e) the Bank of Portugal, when not exercising public authority powers; f) credit institutions, including electronic money institutions, and payment	CONFORM Although DL 317/2009 does not prohibit explicitly persons other than payment service providers to provide payment services, the exclusivity principle referred to in the title of Article 7(1) of Annex I to DL 317/2009 indicates that Article 29 of the Directive is transposed properly. Moreover, Article 7(1) of Annex I to DL 317/2009 mentions that the payment services referred to in Article 4 may be provided solely by the listed entities.

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			institutions having their registered office in another Member State of the European Community, in accordance with this Decree Law.	
Art. 30(1)	TITLE III TRANSPARENCY OF CONDITIONS AND INFORMATION REQUIREMENTS FOR PAYMENT SERVICES <i>CHAPTER 1</i> <i>General rules</i> Article 30 Scope 1. This Title shall apply to single payment transactions, framework contracts and payment transactions covered by them. The parties may agree that it shall not apply in whole or in part when the payment service user is not a consumer.	Art. 40(1) and (3) of Annex I to DL 317/2009	Art. 40(1) and (3) Scope 1 - This Chapter shall apply to single payment transactions, framework contracts and payment transactions covered by them. 3 - When the payment service user is not a consumer, the parties may exclude, in whole or in part, the application of the provisions of this Chapter.	CONFORM Article 40(1) and (3) of Annex I to DL 317/2009 reflect the content in Article 30(1) of the Directive.
Art. 30(2)	2. Member States may provide that the provisions in this Title shall be applied to micro enterprises in the same way as to consumers.	Art. 40(2) of Annex I to DL 317/2009	Art. 40(2) 2 - The provisions in this Chapter shall apply to micro enterprises in the same way as to consumers.	CONFORM Article 30(2) of the Directive sets out an option which was adopted by Portugal through Article 40(2) of Annex I to DL 317/2009.
Art. 30(3)	3. This Directive shall be without prejudice to national measures implementing Directive 87/102/EEC. This Directive shall also be without prejudice to other relevant Community or national legislation regarding conditions for granting credit to consumers not harmonised by this Directive that are in	Art. 40(4) and (5) of Annex I to DL 317/2009	Art. 40(4) and (5) 4 – This Chapter shall apply without prejudice to the provisions of Decree Law No 133/2009 of 2 June. 5 – Other legislation concerning conditions for granting credit to consumers shall be applicable in so far as it contains	CONFORM Decree Law No 133/2009, which is cross-referred to in Article 40(4) of Annex I to DL 317/2009, transposes Directive 2008/48/EC into the Portuguese legislation. Directive 2008/48/EC amends Directive 87/102/EEC, therefore, Article 30(3) of the Directive is properly transposed into Article 40(4)

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	conformity with Community law.		provisions not laid down in this Chapter.	of Annex I to DL 317/2009. Moreover, Article 40(5) of Annex I to DL 317/2009 reflects properly the content in the second sentence of Article 30(3) of the Directive.
Art. 31, 1 st para.	Article 31 Other provisions in Community legislation The provisions of this Title are without prejudice to any Community legislation containing additional requirements on prior information.	Art. 41(1) of Annex I to DL 317/2009	Art. 41(1) Other provisions on pre-contractual information 1 - The provisions of this Title are without prejudice to any provisions containing additional requirements on pre-contractual information.	CONFORM Article 41(1) of Annex I to DL 317/2009 reflects the content in the first paragraph of Article 31 of the Directive. Article 41(1) of Annex I to DL 317/2009 refers to pre-contractual information instead of referring to prior information, as it is mentioned in the Directive. However, Article 41(1) belongs to a Chapter named “Transparency of conditions of information requirement for payment services”. Therefore, the context of the Portuguese provision seems to be the same as the one of Article 31 of the Directive.
Art. 31, 2 nd para.	However, where Directive 2002/65/EC is also applicable, the information requirements set out in Article 3(1) of that Directive, with the exception of points (2)(c) to (g), (3)(a), (d) and (e), and (4)(b) of that paragraph shall be replaced by Articles 36, 37, 41 and 42 of this Directive.	Art. 41(2) of Annex I to DL 317/2009	Art. 41(2) 2 – In the situations covered by Decree Law No 95/2006 of 29 May, Articles 47, 48, 52 and 53 of this Law shall take precedence over the provisions of Articles 9, 11(1), 13 and 14, with the exception of points (c) to (h), of Article 15, with the exception of points (a), (b), and (c) of paragraph 1 and of paragraph 2, and also of Article 16, with the exception of point (a), of that Decree Law.	CONFORM Decree Law No 95/2006, which is cross-referred to in Article 41(2) of Annex I to DL 317/2009, lays down the rules applicable to the distance contracts relating to the financial service concluded with the consumers, transposing Directive 2002/65/EC into the national legislation. That Decree Law is also amended in Article 7 of DL 317/2009. The articles cross-referred to in Article 41(2) correspond to the provisions cross-referred to in the second paragraph of Article 31 of the Directive. Therefore, Article 41(2) reflects properly the content in the second paragraph of Article 31.
Art. 32(1)	Article 32 Charges for information	Art. 43(1) of Annex I to DL	Art. 43(1) Charges for information	CONFORM

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	1. The payment service provider shall not charge the payment service user for providing information under this Title.	317/2009	1 - The payment service provider shall not charge the payment service user for providing information under this Chapter.	Article 43(1) of Annex I to DL 317/2009 reflects the content in Article 32(1) of the Directive. However, Article 43(1) of Annex I to DL 317/2009 uses a verb (“[não] pode”) which is more prohibitive than the one used in the Portuguese version of the Directive (“[não] deve”). Article 43(1) of Annex I to DL 317/2009 transposes almost literally Article 32(1) of the Directive, and changes only the verb, using one more stringent than the one of the Directive, which can be questionable.
Art. 32(2)	2. The payment service provider and the payment service user may agree on charges for additional or more frequent information, or transmission by means of communication other than those specified in the framework contract, provided at the payment service user's request.	Art. 43(2) of Annex I to DL 317/2009	Art. 43(2) 2 - The payment service provider and the payment service user may, however, agree on charges for additional or more frequent information, or transmission of information by means of communication other than those specified in the framework contract, provided at the payment service user's request.	CONFORM Article 43(2) of Annex I to DL 317/2009 reflects the content in Article 32(2) of the Directive.
Art. 32(3)	3. Where the payment service provider may impose charges for information in accordance with paragraph 2, they shall be appropriate and in line with the payment service provider's actual costs.	Art. 43(3) of Annex I to DL 317/2009	Art. 43(3) 3 – In the cases provided for in paragraph 2, the charges shall be appropriate and in line with the payment service provider's actual costs.	CONFORM Article 43(3) of Annex I to DL 317/2009 reflects the content in Article 32(3) of the Directive.
Art. 33	Article 33 Burden of proof on information requirements Member States may stipulate that the burden of proof shall lie with the payment service provider to prove that it has complied with the information requirements set out in this Title.	Art. 44 of Annex I to DL 317/2009	Art. 44 Burden of proof on information requirements The burden of proof shall lie with the payment service provider to prove that it has complied with the information requirements set out in this Title.	CONFORM Article 33 of the Directive sets out an option which was adopted by Portugal through Article 44 of Annex I to DL 317/2009.

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Art. 34(1), intr. wording	Article 34 Derogation from information requirements for low-value payment instruments and electronic money 1. In cases of payment instruments which, according to the framework contract, concern only individual payment transactions that do not exceed EUR 30 or that either have a spending limit of EUR 150 or store funds that do not exceed EUR 150 at any time:	Introductory wording of Art. 45 of Annex I to DL 317/2009	Introductory wording of Art. 45 Derogation from information requirements for low-value payment instruments and electronic money In cases of payment instruments which, according to the framework contract, concern only individual payment transactions that do not exceed EUR 30, that either have a spending limit of EUR 150 or that allow the storing of funds that do not exceed EUR 150 under any circumstances:	CONFORM The introductory wording of Article 45 of Annex I to DL 317/2009 reflects the content in Article 34(1) of the Directive.
Art. 34(1)(a)	(a) by way of derogation from Articles 41, 42 and 46, the payment service provider shall provide the payer only with information on the main characteristics of the payment service, including the way in which the payment instrument can be used, liability, charges levied and other material information needed to take an informed decision as well as an indication of where any other information and conditions specified in Article 42 are made available in an easily accessible manner;	Art. 45(a) of Annex I to DL 317/2009	Art. 45(a) a) by way of derogation from Articles 52, 53 and 57, the payment service provider shall be required to provide the payer only with information on the main characteristics of the payment service, including the way in which the payment instrument can be used, liability, charges levied and other material information needed to take an informed decision as well as an indication of where any other information and conditions specified in Article 53 are made available in an easily accessible manner;	CONFORM Articles 52, 53 and 57, which are cross-referred to in Article 45(a) of Annex I to DL 317/2009 correspond to Articles 41, 42 and 46, which are cross-referred to in Article 34(1)(a) of the Directive. Therefore, Article 45(a) of Annex I to DL 317/2009 reflects the content in Article 34(1)(a) of the Directive.
Art. 34(1)(b)	(b) it may be agreed that, by way of derogation from Article 44, the payment service provider shall not be required to propose changes in the conditions of the framework contract in the same way as provided for in Article 41(1);	Art. 45(b) of Annex I to DL 317/2009	Art. 45(b) b) it may be agreed that, by way of derogation from Article 55, the payment service provider shall not be required to propose any changes in the conditions of the framework contract in the same way as provided for in Article 55(1);	CONFORM Article 45(b) of Annex I to DL 317/2009 contains an erroneous cross-reference. In fact, Article 55(1), which is cross-referred to in Article 45(b) of Annex I to DL 317/2009, does not correspond to Article 41(1) of the Directive. Article 45(b) should refer instead to Article 52(1) and (2) of Annex I to DL 317/2009.

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				Nevertheless, apart from the erroneous cross-reference, the content in Article 34(1)(b) of the Directive is properly reflected in Article 45(b) of Annex I to DL 317/2009.
Art. 34(1)(c), intr. wording	(c) it may be agreed that, by way of derogation from Articles 47 and 48, after the execution of a payment transaction:	Introductory wording of Art. 45(c) of Annex I to DL 317/2009	Introductory wording of Art. 45(c) c) it may be agreed that, by way of derogation from Articles 58 and 59, after the execution of a payment transaction:	CONFORM Articles 58 and 59, which are cross-referred to in the introductory wording of Article 45(c) of Annex I to DL 317/2009 correspond to Articles 47 and 48, which are cross-referred to in the introductory wording of Article 34(1)(c) of the Directive. Therefore, the introductory wording of Article 45(c) of Annex I to DL 317/2009 reflects the content in the introductory wording of Article 34(1)(c) of the Directive.
Art. 34(1)(c)(i)	(i) the payment service provider shall provide or make available only a reference enabling the payment service user to identify the payment transaction, the amount of the payment transaction, any charges and/or, in the case of several payment transactions of the same kind made to the same payee, information on the total amount and charges for those payment transactions;	Art. 45(c)(i) of Annex I to DL 317/2009	Art. 45(c)(i) i) the payment service provider shall provide or make available only a reference enabling the payment service user to identify the payment transaction, the amount of the payment transaction, any charges or, in the case of several payment transactions of the same kind made to the same payee, a single reference identifying all those payment transactions, their total amount and charges;	CONFORM Article 45(c)(i) of Annex I to DL 317/2009 reflects the content in Article 34(1)(c)(i) of the Directive. Portugal has chosen to include in the scope of Article 45(c)(i) of Annex I to DL 317/2009, the amount of the payment transaction, any charges or (...) a single reference identifying all those payment transactions, their total amount and charges.
Art. 34(1)(c)(ii)	(ii) the payment service provider shall not be required to provide or make available information referred to in point (i) if the payment instrument is used anonymously or if the payment service provider is not otherwise technically in a position to provide it. However, the payment service provider shall provide the payer with a possibility to verify the	Art. 45(c)(ii) of Annex I to DL 317/2009	Art. 45(c)(ii) ii) the payment service provider shall not be required to provide or make available information referred to in the preceding point if the payment instrument is used anonymously or if the payment service provider is not otherwise technically in a position to provide it and, in any case, the	CONFORM Article 45(c)(ii) of Annex I to DL 317/2009 reflects the content in Article 34(1)(c)(ii) of the Directive.

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	amount of funds stored.		payment service provider shall provide the payer with a possibility to verify the amount of funds stored.	
Art. 34(2)	2. For national payment transactions, Member States or their competent authorities may reduce or double the amounts referred to in paragraph 1. For prepaid payment instruments, Member States may increase those amounts up to EUR 500.	N/A	N/A	Article 34(2) of the Directive sets out an option. Owing to this option, Portugal has not chosen to apply the Directive provision.
Art. 35(1)	<i>CHAPTER 2</i> <i>Single payment transactions</i> Article 35 Scope 1. This Chapter shall apply to single payment transactions not covered by a framework contract.	Art. 46(1) of Annex I to DL 317/2009	Art. 46(1) Scope 1 - This Chapter shall apply to single payment transactions not covered by a framework contract.	CONFORM Articles 46 to 50 of Annex I to DL 317/2009 are included in a Section named “Single payment transactions”. Therefore, Article 46(1) of Annex I to DL 317/2009 literally transposes Article 35(1) of the Directive.
Art. 35(2)	2. When a payment order for a single payment transaction is transmitted by a payment instrument covered by a framework contract, the payment service provider shall not be obliged to provide or make available information which is already given to the payment service user on the basis of a framework contract with another payment service provider or which will be given to him according to that framework contract.	Art. 46(2) of Annex I to DL 317/2009	Art. 46(2) 2 - When a payment order for a single payment transaction is transmitted by a payment instrument covered by a framework contract, the payment service provider shall not be obliged to provide or make available information which is already given to the payment service user on the basis of a framework contract with another payment service provider or which will be given to him according to that framework contract.	CONFORM Article 46(2) of Annex I to DL 317/2009 literally transposes Article 35(2) of the Directive.
Art. 36(1)	Article 36 Prior general information 1. Member States shall require that before	Art. 47(1) and (2) and Art.	Art. 47(1) and (2) Pre-contractual general information relating to single payment transactions	CONFORM

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	the payment service user is bound by any single payment service contract or offer, the payment service provider, in an easily accessible manner, makes available to the payment service user the information and conditions specified in Article 37. At the payment service user's request, the payment service provider shall provide the information and conditions on paper or on another durable medium. The information and conditions shall be given in easily understandable words and in a clear and comprehensible form, in an official language of the Member State where the payment service is offered or in any other language agreed between the parties.	42 of Annex I to DL 317/2009	1 - The payment service provider shall communicate the information and conditions specified in Article 48 to the payment service user before the payment service user is bound by any single payment service contract or offer. 2 - The payment service provider shall inform the payment service user that, at the payment service user's request, the information and conditions must be provided on paper or on another durable medium. Art. 42 Language and transparency of information All the information and conditions to be provided by the payment service provider to the payment service user under this Law shall: a) be transmitted in the Portuguese language, except where the use of another language is agreed between the parties; b) be given in easily understandable words and in a clear and comprehensible form; and c) be easily legible by a reader of average visual acuity, in cases where they are provided on paper or on another durable medium.	Article 48, which is cross-referred to in Article 47(1) of Annex I to DL 317/2009, corresponds with Article 37, which is cross-referred to in Article 36(1) of the Directive. However, Article 47(1) does not mention that the availability of the information and conditions should be done in an easily accessible manner. Nevertheless, the spirit of Article 36(1) is reflected in Article 47(1). Moreover, Article 42 of Annex I to DL 317/2009 is set out in the context of general requirements, therefore that provision applies both for framework contracts and for single payment transactions.
Art. 36(2)	2. If the single payment service contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to	Art. 47(3) of Annex I to DL 317/2009	Art. 47(3) 3 - If the single payment service contract has been concluded at the request of the payment service user using a means of	CONFORM Article 47(3) of Annex I to DL 317/2009 reflects the content in

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	comply with paragraph 1, the payment service provider shall fulfil its obligations under that paragraph immediately after the execution of the payment transaction.		distance communication which does not enable the payment service provider to comply with paragraphs 1 and 2, the payment service provider shall fulfil its obligations under those paragraphs immediately after the execution of the payment transaction.	Article 36(2) of the Directive.
Art. 36(3)	3. The obligations under paragraph 1 may also be discharged by supplying a copy of the draft single payment service contract or the draft payment order including the information and conditions specified in Article 37.	Art. 47(4) of Annex I to DL 317/2009	Art. 47(4) 4 - The obligations under paragraphs 1 and 2 may be discharged by supplying a copy of the draft single payment service provision contract or the draft payment order including the information and conditions specified in Article 48.	CONFORM Article 48, which is cross-referred to in Article 47(4) of Annex I to DL 317/2009, corresponds to Article 37, which is cross-referred to in Article 36(3) of the Directive. Therefore, Article 47(4) of Annex I to DL 317/2009 reflects the content in Article 36(3) of the Directive.
Art. 37(1), intr. wording	Article 37 Information and conditions 1. Member States shall ensure that the following information and conditions are provided or made available to the payment service user:	Introductory wording of Art. 48(1) of Annex I to DL 317/2009	Introductory wording of Art. 48(1) Information and conditions relating to single payment transactions 1 – Payment service providers shall supply or make available to the payment service user the following information and conditions:	CONFORM The introductory wording of Article 48(1) of Annex I to DL 317/2009 reflects properly the content in the introductory wording of Article 37(1) of the Directive.
Art. 37(1)(a)	(a) a specification of the information or unique identifier that has to be provided by the payment service user in order for a payment order to be properly executed;	Art. 48(1)(a) of Annex I to DL 317/2009	Art. 48(1)(a) a) a specification of the information or unique identifier that has to be provided by the payment service user in order for a payment order to be properly executed;	CONFORM Article 48(1)(a) of Annex I to DL 317/2009 literally transposes Article 37(1)(a) of the Directive.
Art. 37(1)(b)	(b) the maximum execution time for the payment service to be provided;	Art. 48(1)(b) of Annex I to DL 317/2009	Art. 48(1)(b) b) the maximum execution time for the payment service to be provided;	CONFORM Article 48(1)(b) of Annex I to DL 317/2009 literally transposes Article 37(1)(b) of the Directive.

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Art. 37(1)(c)	(c) all charges payable by the payment service user to his payment service provider and, where applicable, the breakdown of the amounts of any charges;	Art. 48(1)(c) of Annex I to DL 317/2009	Art. 48(1)(c) c) all charges payable by the payment service user to his payment service provider and, where applicable, the breakdown of their amounts;	CONFORM Article 48(1)(c) of Annex I to DL 317/2009 reflects the content in Article 37(1)(c) of the Directive.
Art. 37(1)(d)	(d) where applicable, the actual or reference exchange rate to be applied to the payment transaction.	Art. 48(1)(d) of Annex I to DL 317/2009	Art. 48(1)(d) d) where applicable, the actual or reference exchange rate to be applied to the payment transaction.	CONFORM Article 48(1)(d) of Annex I to DL 317/2009 literally transposes Article 37(1)(d) of the Directive.
Art. 37(2)	2. Where applicable, any other relevant information and conditions specified in Article 42 shall be made available to the payment service user in an easily accessible manner.	Art. 48(2) of Annex I to DL 317/2009	Art. 48(2) 2 - Where applicable, any other relevant information and conditions specified in Article 53 shall be made available to the payment service user in an easily accessible manner.	CONFORM Article 53, which is cross-referred to in Article 48(2) of Annex I to DL 317/2009, corresponds to Article 42, which is cross-referred to in Article 37(2) of the Directive. Therefore, Article 48(2) of Annex I to DL 317/2009 literally transposes Article 37(2) of the Directive.
Art. 38, intr. wording	Article 38 Information for the payer after receipt of the payment order Immediately after receipt of the payment order, the payer's payment service provider shall provide or make available to the payer, in the same way as provided for in Article 36(1), the following information:	Introductory wording of Art. 49 of Annex I to DL 317/2009	Introductory wording of Art. 49 Information for the payer after receipt of the payment order Immediately after receipt of the payment order, the payer's payment service provider shall provide or make available to the payer, in the same way as provided for in Article 42 and Article 47(2), the following information:	CONFORM The introductory wording of Article 49 of Annex I to DL 317/2009 literally transposes the introductory wording of Article 38 of the Directive. Article 47(2), which is cross-referred to in the introductory wording of Article 49 of Annex I to DL 317/2009 corresponds solely to the part of the cross-referred Article 36(1) of the Directive which mentions that the payment service provider shall inform the payment service user that, at the payment service user's request, the information and conditions must be provided on paper or on another durable medium.

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Art. 38(a)	(a) a reference enabling the payer to identify the payment transaction and, where appropriate, information relating to the payee;	Art. 49(a) of Annex I to DL 317/2009	Art. 49(a) a) a reference enabling the payer to identify the payment transaction and, where appropriate, information relating to the payee;	CONFORM Article 49(a) of Annex I to DL 317/2009 literally transposes Article 38(a) of the Directive.
Art. 38(b)	(b) the amount of the payment transaction in the currency used in the payment order;	Art. 49(b) of Annex I to DL 317/2009	Art. 49(b) b) the amount of the payment transaction in the currency used in the payment order;	CONFORM Article 49(b) of Annex I to DL 317/2009 literally transposes Article 38(b) of the Directive.
Art. 38(c)	(c) the amount of any charges for the payment transaction payable by the payer and, where applicable, a breakdown of the amounts of such charges;	Art. 49(c) of Annex I to DL 317/2009	Art. 49(c) c) the amount of any charges for the payment transaction payable by the payer and, where applicable, a breakdown thereof;	CONFORM Article 49(c) of Annex I to DL 317/2009 reflects the content in Article 38(c) of the Directive.
Art. 38(d)	(d) where applicable, the exchange rate used in the payment transaction by the payer's payment service provider or a reference thereto, when different from the rate provided in accordance with Article 37(1)(d), and the amount of the payment transaction after that currency conversion; and	Art. 49(d) of Annex I to DL 317/2009	Art. 49(d) d) where applicable, the exchange rate used in the payment transaction by the payer's payment service provider or a reference thereto, when different from the rate provided in accordance with Article 48(1)(d), and the amount of the payment transaction after that currency conversion; and	CONFORM Article 49(d) of Annex I to DL 317/2009 literally transposes Article 38(d) of the Directive. Article 48(1)(d), which is cross-referred to in Article 49(d) of Annex I to DL 317/2009, corresponds to Article 37(1)(d), which is cross-referred to in Article 38(d) of the Directive.
Art. 38(e)	(e) the date of receipt of the payment order.	Art. 49(e) of Annex I to DL 317/2009	Art. 49(e) e) the date of receipt of the payment order.	CONFORM Article 49(e) of Annex I to DL 317/2009 literally transposes Article 38(e) of the Directive.

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Art. 39, intr. wording	Article 39 Information for the payee after execution Immediately after the execution of the payment transaction, the payee's payment service provider shall provide or make available to the payee, in the same way as provided for in Article 36(1), the following information:	Introductory wording of Art. 50 of Annex I to DL 317/2009	Introductory wording of Art. 50 Information for the payee after execution of the payment transaction Immediately after the execution of the payment transaction, the payee's payment service provider shall provide or make available to the payee, in the same way as provided for in Article 47(1), the following information:	CONFORM The introductory wording of Article 50 of Annex I to DL 317/2009 reflects the content in the introductory wording of Article 39 of the Directive. Article 47(1), which is cross-referred to in the introductory wording of Article 50 of Annex I to DL 317/2009 corresponds solely to the part of the cross-referred Article 36(1) of the Directive which mentions that the payment service provider shall communicate the information and conditions specified in Article 48 to the payment service user before the payment service user is bound by any single payment service contract or offer.
Art. 39(a)	(a) the reference enabling the payee to identify the payment transaction and, where appropriate, the payer and any information transferred with the payment transaction;	Art. 50(a) of Annex I to DL 317/2009	Art. 50(a) a) the reference enabling the payee to identify the payment transaction and, where appropriate, the payer and any information transferred with the payment transaction;	CONFORM Article 50(a) of Annex I to DL 317/2009 literally transposes Article 39(a) of the Directive.
Art. 39(b)	(b) the amount of the payment transaction in the currency in which the funds are at the payee's disposal;	Art. 50(b) of Annex I to DL 317/2009	Art. 50(b) b) the amount of the payment transaction in the currency in which the funds are at the payee's disposal;	CONFORM Article 50(b) of Annex I to DL 317/2009 literally transposes Article 39(b) of the Directive.
Art. 39(c)	(c) the amount of any charges for the payment transaction payable by the payee and, where applicable, a breakdown of the amount of such charges;	Art. 50(c) of Annex I to DL 317/2009	Art. 50(c) c) the amount of any charges for the payment transaction payable by the payee and, where applicable, a breakdown thereof;	CONFORM Article 50(c) of Annex I to DL 317/2009 reflects the content in Article 39(c) of the Directive.
Art. 39(d)	(d) where applicable, the exchange rate used in the payment transaction by the	Art. 50(d) of Annex I	Art. 50(d)	CONFORM

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	payee's payment service provider, and the amount of the payment transaction before that currency conversion; and	to DL 317/2009	d) where applicable, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before that currency conversion; and	Article 50(d) of Annex I to DL 317/2009 literally transposes Article 39(d) of the Directive.
Art. 39(e)	(e) the credit value date.	Art. 50(e) of Annex I to DL 317/2009	Art. 50(e) e) the credit value date.	CONFORM Article 50(e) of Annex I to DL 317/2009 literally transposes Article 39(e) of the Directive.
Art. 40	<i>CHAPTER 3</i> <i>Framework contracts</i> Article 40 Scope This Chapter applies to payment transactions covered by a framework contract.	Art. 51 of Annex I to DL 317/2009	Art. 51 Scope This Section applies to payment transactions covered by a framework contract.	CONFORM Articles 51 to 59 of Annex I to DL 317/2009 are included in a Section named "Framework contracts". Therefore, Article 51 of Annex I to DL 317/2009 reflects the content in Article 40 of the Directive.
Art. 41(1)	Article 41 Prior general information 1. Member States shall require that, in good time before the payment service user is bound by any framework contract or offer, the payment service provider provide the payment service user on paper or on another durable medium with the information and conditions specified in Article 42. The information and conditions shall be given in easily understandable words and in a clear and comprehensible form, in an official language of the Member State where the payment service is offered or in any other language agreed between the parties.	Art. 52(1) and (2) and Art. 42 of Annex I to DL 317/2009	Art. 52(1) and (2) Pre-contractual general information 1 - The payment service provider shall communicate the information and conditions specified in Article 53 to the payment service user before the payment service user is bound by any framework contract or offer. 2 – The communication must be provided on paper or on another durable medium. Art. 42 Language and transparency of information All the information and conditions to be provided by the payment service provider	CONFORM Article 53, which is cross-referred to in Article 52(1) of Annex I to DL 317/2009 corresponds with Article 42, which is cross-referred to in Article 41(1) of the Directive. Article 52(1) and (2) do not state that the information and conditions shall be communicated in good time. However, since it states that the information and conditions should be communicated before the payment service user is bound by any framework contract or offer, it can be concluded that Article 52(1) and (2) are conformed to the Directive. Moreover, Article 42 is set out in the context of general requirements, therefore that provision applies both for framework contracts and for single payment transactions.

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			to the payment service user under this Law shall: a) be transmitted in the Portuguese language, except where the use of another language is agreed between the parties; b) be given in easily understandable words and in a clear and comprehensible form; and c) be easily legible by a reader of average visual acuity, in cases where they are provided on paper or on another durable medium.	Although the structure of the provision of Annex I to DL 317/2009 differs from the one set out in the Directive, Article 52(1) and (2) and Article 42 reflect the content in Article 41(1) of the Directive.
Art. 41(2)	2. If the framework contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to comply with paragraph 1, the payment service provider shall fulfil its obligations under that paragraph immediately after the conclusion of the framework contract.	Art. 52(3) of Annex I to DL 317/2009	Art. 52(3) 3 - If the framework contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to comply with paragraph 1, the payment service provider shall fulfil its obligations under that paragraph immediately after the conclusion of the framework contract.	CONFORM Article 52(3) of Annex I to DL 317/2009 literally transposes Article 41(2) of the Directive. Article 52(1), which is cross-referred to in Article 52(3) of Annex I to DL 317/2009, merely corresponds to the part of the cross-referred Article 41(1) of the Directive which mentions that the payment service provider shall communicate the information and conditions to the payment service user before the payment service user is bound by any framework contract or offer.
Art. 41(3)	3. The obligations under paragraph 1 may also be discharged by supplying a copy of the draft framework contract including the information and conditions specified in Article 42.	Art. 52(4) of Annex I to DL 317/2009	Art. 52(4) 4 - The obligations under paragraph 1 may also be discharged by supplying a copy of the draft framework contract including the information and conditions specified in Article 53.	CONFORM Article 52(4) of Annex I to DL 317/2009 literally transposes Article 41(3) of the Directive. Article 53, which is cross-referred to in Article 52(4) of Annex I to DL 317/2009 corresponds to Article 42, which is cross-referred to in Article 41(3) of the Directive. Article 52(1), which is cross-referred to in Article 52(4) of Annex I to DL 317/2009, merely corresponds to the part of the

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				cross-referred Article 41(1) of the Directive which mentions that the payment service provider shall communicate the information and conditions to the payment service user before the payment service user is bound by any framework contract or offer.
Art. 42, intr. wording and pt (1), intr. wording	Article 42 Information and conditions Member States shall ensure that the following information and conditions are provided to the payment service user: 1. on the payment service provider:	Introductory wording of Art. 53(a) of Annex I to DL 317/2009	Introductory wording of Art. 53(a) Information and conditions The following information and conditions shall be provided to the payment service user: a) on the payment service provider:	CONFORM The introductory wording of Article 53(a) of Annex I to DL 317/2009 reflect the content in the introductory wording of Article 42(1) of the Directive.
Art. 42, pt (1)(a)	(a) the name of the payment service provider, the geographical address of its head office and, where applicable, the geographical address of its agent or branch established in the Member State where the payment service is offered, and any other address, including electronic mail address, relevant for communication with the payment service provider; and	Art. 53(a)(i) of Annex I to DL 317/2009	Art. 53(a)(i) i) the name of the payment service provider, the geographical address of its head office and, where applicable, the geographical address of its agent or branch in Portugal, and any other address, including electronic mail address, relevant for communication with the payment service provider; and	CONFORM Article 53(a)(i) of Annex I to DL 317/2009 reflects the content in Article 42(1)(a) of the Directive.
Art. 42, pt (1)(b)	(b) the particulars of the relevant supervisory authorities and of the register provided for in Article 13 or of any other relevant public register of authorisation of the payment service provider and the registration number, or equivalent means of identification in that register;	Art. 53(a)(ii) of Annex I to DL 317/2009	Art. 53(a)(ii) ii) the particulars of the relevant supervisory authorities and of the register provided for in Article 20 or of any other relevant public register of authorisation of the payment service provider and the registration number, or equivalent means of identification in that register;	CONFORM Article 53(a)(ii) of Annex I to DL 317/2009 literally transposes Article 42(1)(b) of the Directive. Article 20, which is cross-referred to in Article 53(a)(ii) of Annex I to DL 317/2009 corresponds to Article 13, which is cross-referred to in Article 42(1)(b) of the Directive.
Art. 42, pt (2), intr. wording & pt (a)	2. on use of the payment service: (a) a description of the main characteristics of the payment service to be provided;	Art. 53(b)(i) of Annex I to DL	Art. 53(b)(i) b) on use of the payment service: i) a description of the main characteristics	CONFORM Article 53(b)(i) of Annex I to DL 317/2009 literally transposes

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		317/2009	of the payment service to be provided;	Article 42(2)(a) of the Directive.
Art. 42, pt (2)(b)	(b) a specification of the information or unique identifier that has to be provided by the payment service user in order for a payment order to be properly executed;	Art. 53(b)(ii) of Annex I to DL 317/2009	Art. 53(b)(ii) ii) a specification of the information or unique identifier that has to be provided by the payment service user in order for a payment order to be properly executed;	CONFORM Article 53(b)(ii) of Annex I to DL 317/2009 literally transposes Article 42(2)(b) of the Directive.
Art. 42, pt (2)(c)	(c) the form of and procedure for giving consent to execute a payment transaction and withdrawal of such consent in accordance with Articles 54 and 66;	Art. 53(b)(iii) of Annex I to DL 317/2009	Art. 53(b)(iii) iii) the form of and procedure for giving consent to execute a payment transaction and withdrawal of such consent in accordance with Articles 65 and 77;	CONFORM Article 53(b)(iii) of Annex I to DL 317/2009 literally transposes Article 42(2)(c) of the Directive. Articles 65 and 77, which are cross-referred to in Article 53(b)(iii) of Annex I to DL 317/2009 correspond with Articles 54 and 66, which are cross-referred to in Article 42(2)(c) of the Directive.
Art. 42, pt (2)(d)	(d) a reference to the point in time of receipt of a payment order as defined in Article 64 and the cut-off time, if any, established by the payment service provider;	Art. 53(b)(iv) of Annex I to DL 317/2009	Art. 53(b)(iv) iv) a reference to the point in time of receipt of a payment order as defined in Article 75 and the cut-off time, if any, established by the payment service provider;	CONFORM Article 53(b)(iv) of Annex I to DL 317/2009 literally transposes Article 42(2)(d) of the Directive. Article 75, which is cross-referred to in Article 53(b)(iv) of Annex I to DL 317/2009 corresponds with Article 64, which is cross-referred to in Article 42(2)(d) of the Directive.
Art. 42, pt (2)(e)	(e) the maximum execution time for the payment services to be provided; and	Art. 53(b)(v) of Annex I to DL 317/2009	Art. 53(b)(v) v) the maximum execution time for the payment services to be provided; and	CONFORM Article 53(b)(v) of Annex I to DL 317/2009 literally transposes Article 42(2)(e) of the Directive.
Art. 42, pt (2)(f)	(f) whether there is a possibility to agree on spending limits for the use of the payment instrument in accordance with	Art. 53(b)(vi) of Annex I	Art. 53(b)(vi) vi) whether there is a possibility to agree on spending limits for the use of the	CONFORM

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	Article 55(1);	to DL 317/2009	payment instrument in accordance with Article 66(1);	Article 53(b)(vi) of Annex I to DL 317/2009 literally transposes Article 42(2)(f) of the Directive. Article 66(1), which is cross-referred to in Article 53(b)(vi) of Annex I to DL 317/2009 corresponds with Article 55(1), which is cross-referred to in Article 42(2)(f) of the Directive.
Art. 42, pt (3), intr. wording & pt (a)	3. on charges, interest and exchange rates: (a) all charges payable by the payment service user to the payment service provider and, where applicable, the breakdown of the amounts of any charges;	Art. 53(c)(i) of Annex I to DL 317/2009	Art. 53(c)(i) c) on charges, interest and exchange rates: i) all charges payable by the payment service user to the payment service provider and, where applicable, the breakdown of their amounts;	CONFORM Article 53(c)(i) of Annex I to DL 317/2009 reflects the content in Article 42(3)(a) of the Directive. Article 42(3)(a) of the Directive refers to the breakdown of the amounts of any charges while Article 53(c)(i) of Annex I to DL 317/2009 refers to the breakdown of all charges.
Art. 42, pt (3)(b)	(b) where applicable, the interest and exchange rates to be applied or, if reference interest and exchange rates are to be used, the method of calculating the actual interest, and the relevant date and index or base for determining such reference interest or exchange rate; and	Art. 53(c)(ii) of Annex I to DL 317/2009	Art. 53(c)(ii) ii) where applicable, the interest and exchange rates to be applied or, if reference interest and exchange rates are to be used, the method of calculating the actual interest, and the relevant date and index or base for determining such reference interest or exchange rate; and	CONFORM Article 53(c)(ii) of Annex I to DL 317/2009 literally transposes Article 42(3)(b) of the Directive.
Art. 42, pt (3)(c)	(c) if agreed, the immediate application of changes in reference interest or exchange rate and information requirements related to the changes in accordance with Article 44(2);	Art. 53(c)(iii) of Annex I to DL 317/2009	Art. 53(c)(iii) iii) if agreed, the immediate application of changes in reference interest or exchange rate and information requirements related to the changes in accordance with Article 55(4);	CONFORM Article 53(c)(iii) of Annex I to DL 317/2009 literally transposes Article 42(3)(c) of the Directive. Article 55(4), which is cross-referred to in Article 53(c)(iii) of Annex I to DL 317/2009 seems to correspond to Article 44(2), which is cross-referred to in Article 42(3)(c) of the Directive.
Art. 42, pt (4), intr. wording	4. on communication: (a) where applicable, the means of	Art. 53(d)(i) of Annex I to	Art. 53(d)(i) d) on communication:	CONFORM

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& pt (a)	communication, including the technical requirements for the payment service user's equipment, agreed between the parties for the transmission of information or notifications under this Directive;	DL 317/2009	i) where applicable, the means of communication, including the technical requirements for the payment service user's equipment, agreed between the parties for the transmission of information or notifications under this Law;	Article 53(d)(i) of Annex I to DL 317/2009 reflects the content in Article 42(4)(a) of the Directive.
Art. 42, pt (4)(b)	(b) the manner in and frequency with which information under this Directive is to be provided or made available;	Art. 53(d)(ii) of Annex I to DL 317/2009	Art. 53(d)(ii) ii) the manner in and frequency with which information under this Law is to be provided or made available;	CONFORM Article 53(d)(ii) of Annex I to DL 317/2009 reflects the content in Article 42(4)(b) of the Directive.
Art. 42, pt (4)(c)	(c) the language or languages in which the framework contract will be concluded and communication during this contractual relationship undertaken; and	Art. 53(d)(iii) of Annex I to DL 317/2009	Art. 53(d)(iii) iii) the language or languages in which the framework contract will be concluded and communication during this contractual relationship undertaken; and	CONFORM Article 53(d)(iii) of Annex I to DL 317/2009 literally transposes Article 42(4)(c) of the Directive.
Art. 42, pt (4)(d)	(d) the payment service user's right to receive the contractual terms of the framework contract and information and conditions in accordance with Article 43;	Art. 53(d)(iv) of Annex I to DL 317/2009	Art. 53(d)(iv) iv) the payment service user's right to receive the contractual terms of the framework contract and information and conditions in accordance with Article 54;	CONFORM Article 53(d)(iv) of Annex I to DL 317/2009 literally transposes Article 42(4)(d) of the Directive. Article 54, which is cross-referred to in Article 53(d)(iv) of Annex I to DL 317/2009 corresponds with Article 43, which is cross-referred to in Article 42(4)(d) of the Directive.
Art. 42, pt (5), intr. wording & pt (a)	5. on safeguards and corrective measures: (a) where applicable, a description of steps that the payment service user is to take in order to keep safe a payment instrument and how to notify the payment service provider for the purposes of Article 56(1)(b);	Art. 53(e)(i) of Annex I to DL 317/2009	Art. 53(e)(i) e) on preventive and corrective measures: i) where applicable, a description of steps that the payment service user is to take in order to keep safe a payment instrument and how to notify the payment service provider for the purposes of Article	CONFORM Article 53(e)(i) of Annex I to DL 317/2009 reflects the content in Article 42(5)(a) of the Directive. Article 67(1)(b), which is cross-referred to in Article 53(e)(i) of Annex I to DL 317/2009 corresponds with Article 56(1)(b), which is cross-referred to in Article 42(5)(a) of the Directive.

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			67(1)(b);	
Art. 42, pt (5)(b)	(b) if agreed, the conditions under which the payment service provider reserves the right to block a payment instrument in accordance with Article 55;	Art. 53(e)(ii) of Annex I to DL 317/2009	Art. 53(e)(ii) ii) if agreed, the conditions under which the payment service provider reserves the right to block a payment instrument in accordance with Article 66;	CONFORM Article 53(e)(ii) of Annex I to DL 317/2009 literally transposes Article 42(5)(b) of the Directive. Article 66, which is cross-referred to in Article 53(e)(ii) of Annex I to DL 317/2009 corresponds with Article 55, which is cross-referred to in Article 42(5)(b) of the Directive.
Art. 42, pt (5)(c)	(c) the liability of the payer in accordance with Article 61, including information on the relevant amount;	Art. 53(e)(iii) of Annex I to DL 317/2009	Art. 53(e)(iii) iii) the liability of the payer in accordance with Article 72, including information on the relevant amount;	CONFORM Article 53(e)(iii) of Annex I to DL 317/2009 literally transposes Article 42(5)(c) of the Directive. Article 72, which is cross-referred to in Article 53(e)(iii) of Annex I to DL 317/2009 corresponds with Article 61, which is cross-referred to in Article 42(5)(c) of the Directive.
Art. 42, pt (5)(d)	(d) how and within what period of time the payment service user is to notify the payment service provider of any unauthorised or incorrectly executed payment transaction in accordance with Article 58 as well as the payment service provider's liability for unauthorised payment transactions in accordance with Article 60;	Art. 53(e)(iv) of Annex I to DL 317/2009	Art. 53(e)(iv) iv) how and within what period of time the payment service user is to notify the payment service provider of any unauthorised or incorrectly executed payment transaction in accordance with Article 69 as well as the payment service provider's liability for unauthorised payment transactions in accordance with Article 71;	CONFORM Article 53(e)(iv) of Annex I to DL 317/2009 literally transposes Article 42(5)(d) of the Directive. Articles 69 and 71, which are cross-referred to in Article 53(e)(iv) of Annex I to DL 317/2009 correspond respectively with Articles 58 and 60, which are cross-referred to in Article 42(5)(d) of the Directive.
Art. 42, pt (5)(e)	(e) the liability of the payment service provider for the execution of payment transactions in accordance with Article 75; and	Art. 53(e)(v) of Annex I to DL 317/2009	Art. 53(e)(v) v) the liability of the payment service provider for the execution of payment transactions in accordance with Articles 86	CONFORM Article 53(e)(v) of Annex I to DL 317/2009 reflects the content in Article 42(5)(e) of the Directive.

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			and 87 and	Articles 86 and 87, which are cross-referred to in Article 53(e)(v) of Annex I to DL 317/2009 correspond with Article 75, which is cross-referred to in Article 42(5)(e) of the Directive.
Art. 42, pt (5)(f)	(f) the conditions for refund in accordance with Articles 62 and 63;	Art. 53(e)(vi) of Annex I to DL 317/2009	Art. 53(e)(vi) vi) the conditions for refund in accordance with Articles 73 and 74;	CONFORM Article 53(e)(vi) of Annex I to DL 317/2009 literally transposes Article 42(5)(f) of the Directive. Articles 73 and 74, which are cross-referred to in Article 53(e)(vi) of Annex I to DL 317/2009 correspond respectively with Articles 62 and 63, which are cross-referred to in Article 42(5)(f) of the Directive.
Art. 42, pt (6), intr. wording & pt (a)	6. on changes in and termination of framework contract: (a) if agreed, information that the payment service user will be deemed to have accepted changes in the conditions in accordance with Article 44, unless he notifies the payment service provider that he does not accept them before the date of their proposed date of entry into force;	Art. 53(f)(i) of Annex I to DL 317/2009	Art. 53(f)(i) f) on changes in and termination of framework contract: i) if agreed, information that the payment service user will be deemed to have accepted changes in the conditions in accordance with Article 55, unless he notifies the payment service provider that he does not accept them before the date of their proposed date of entry into force;	CONFORM Article 55, which is cross-referred to in Article 53(f)(i) of Annex I to DL 317/2009 corresponds with Article 44, which is cross-referred to in Article 42(6)(a) of the Directive. The transposition of Article 42(6)(a) in Article 53(f)(i) of Annex I to DL 317/2009 is almost literal. The only difference is the use of the word “denúncia” instead of “resolução”, as stated in the Portuguese version of the Directive. As mentioned in the conclusions, «resolução» and «denúncia» are two different types of termination of contracts. The “denúncia” only happens for contracts of long term operation which do not have a time limit (conventionally or legally fixed), for their duration and which have been agreed to be in force for an indefinite period. The “resolução” is the termination of the contract with retroactive effects by unilateral and binding declaration of one of the parties. The “resolução” of the contract is done by only one of the contractors. However, it is not freely done by that party. It is a right that can only be performed when it has a legal

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				or contractual basis.
Art. 42, pt (6)(b)	(b) the duration of the contract; and	Art. 53(f)(ii) of Annex I to DL 317/2009	Art. 53(f)(ii) ii) the duration of the contract; and	CONFORM Article 53(f)(ii) of Annex I to DL 317/2009 literally transposes Article 42(6)(b) of the Directive.
Art. 42, pt (6)(c)	(c) the right of the payment service user to terminate the framework contract and any agreements relating to termination in accordance with Article 44(1) and Article 45;	Art. 53(f)(iii) of Annex I to DL 317/2009	Art. 53(f)(iii) iii) the right of the payment service user to terminate the framework contract and any agreements relating to termination in accordance with Article 55(3) and Article 56;	CONFORM Articles 55(3) and 56 which are cross-referred to in Article 53(f)(iii) of Annex I to DL 317/2009 correspond with Article 44(1) and 45, which are cross-referred to in Article 42(6)(c) of the Directive. Article 55(3) of Annex I to DL 317/2009 corresponds merely to the part of Article 44(1) of the Directive concerning the right to terminate the framework contract.
Art. 42, pt (7), intr. wording & pt (a)	7. on redress: (a) any contractual clause on the law applicable to the framework contract and/or the competent courts; and	Art. 53(g)(i) of Annex I to DL 317/2009	Art. 53(g)(i) g) on redress: i) any contractual clause on the law applicable to the framework contract and the competent courts; and	CONFORM Article 53(g)(i) of Annex I to DL 317/2009 reflects the content in Article 42(7)(a) of the Directive. Portugal has chosen to include in the scope of Article 53(g)(i) of Annex I to DL 317/2009 the law applicable to the framework contract and the competent courts.
Art. 42, pt (7)(b)	(b) the out-of-court complaint and redress procedures available to the payment service user in accordance with Articles 80 to 83.	Art. 53(g)(ii) of Annex I to DL 317/2009	Art. 53(g)(ii) ii) the out-of-court complaint and redress procedures available to the payment service user in accordance with Articles 92 and 93.	CONFORM Article 53(g)(ii) of Annex I to DL 317/2009 literally transposes Article 42(7)(b) of the Directive.

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				Articles 92 and 93, which are cross-referred to in Article 53(g)(ii) of Annex I to DL 317/2009 correspond with Articles 80 to 83, which are cross-referred to in Article 42(7)(b) of the Directive.
Art. 43	Article 43 Accessibility of information and conditions of the framework contract At any time during the contractual relationship the payment service user shall have a right to receive, on request, the contractual terms of the framework contract as well as the information and conditions specified in Article 42 on paper or on another durable medium.	Art. 54 of Annex I to DL 317/2009	Art. 54 Access to information and conditions In the course of the contractual relationship the payment service user shall have a right to receive, on request and at any time, the contractual terms of the framework contract as well as the information and conditions specified in Article 53 on paper or on another durable medium.	CONFORM Article 54 of Annex I to DL 317/2009 reflects the content in Article 43 of the Directive. Article 53, which is cross-referred to in Article 54 of Annex I to DL 317/2009, corresponds with Article 42, which is cross-referred to in Article 43 of the Directive.
Art. 44(1), 1 st subpara.	Article 44 Changes in conditions of the framework contract 1. Any changes in the framework contract as well as the information and conditions specified in Article 42, shall be proposed by the payment service provider in the same way as provided for in Article 41(1) and no later than two months before their proposed date of application.	Art. 55(1) of Annex I to DL 317/2009	Art. 55(1) Changes in conditions 1 - Any changes in the framework contract as well as the information and conditions specified in Article 53, shall be proposed by the payment service provider in the same way as provided for in Article 52 and no later than two months before their proposed date of application.	CONFORM Article 55(1) of Annex I to DL 317/2009 reflects the content in the first subparagraph of Article 44(1) of the Directive. Articles 53 and 52, which are cross-referred to in Article 55(1) of Annex I to DL 317/2009, correspond with Articles 42 and 41(1), which are cross-referred to in Article 44(1) of the Directive.
Art. 44(1), 2 nd subpara.	Where applicable in accordance with point (6)(a) of Article 42, the payment service provider shall inform the payment service user that he is to be deemed to have accepted these changes if he does not notify the payment service provider that he does not accept them before the proposed date of their entry into force. In this case, the payment service provider shall also specify that the payment service user has	Art. 55(2) and (3) of Annex I to DL 317/2009	Art. 55(2) and (3) 2 - Where applicable in accordance with Article 53(f)(i), the payment service provider shall inform the payment service user that he is to be deemed to have accepted these changes if he does not notify the payment service provider that he does not accept them before the proposed date of their entry into force.	CONFORM Article 55(2) and (3) of Annex I to DL 317/2009 reflect the content in the second subparagraph of Article 44(1) of the Directive. Article 53(f)(i), which is cross-referred to in Article 55(2) of Annex I to DL 317/2009 corresponds with Article 42(6)(a), which is cross-referred to in Article 44(1) of the Directive.

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	the right to terminate the framework contract immediately and without charge before the date of the proposed application of the changes.		3 - In the case referred to in the preceding paragraph, the payment service provider shall also specify that the payment service user has the right to terminate the framework contract, immediately and without charge, before the date of the proposed application of the changes.	
Art. 44(2)	2. Changes in the interest or exchange rates may be applied immediately and without notice, provided that such a right is agreed upon in the framework contract and that the changes are based on the reference interest or exchange rates agreed on in accordance with Article 42(3)(b) and (c). The payment service user shall be informed of any change in the interest rate at the earliest opportunity in the same way as provided for in Article 41(1), unless the parties have agreed on a specific frequency or manner in which the information is to be provided or made available. However, changes in interest or exchange rates which are more favourable to the payment service users, may be applied without notice.	Art. 55(4), (5) and (6) of Annex I to DL 317/2009	Art. 55(4), (5) and (6) 4 - Changes in the interest or exchange rates may be applied immediately and without notice, provided that such a right is agreed upon in the framework contract and that the changes are based on the reference interest or exchange rates agreed on in accordance with Article 53(c)(ii) and (iii). 5 - The payment service user shall be informed of any change in the interest rate at the earliest opportunity in the same way as provided for in Article 52, unless the parties have agreed on a specific frequency or manner in which the information is to be provided or made available. 6 - Changes in interest or exchange rates which are more favourable to the payment service users, may be applied without notice.	CONFORM Article 55(4), (5) and (6) of Annex I to DL 317/2009 reflect the content in Article 44(2) of the Directive. Articles 53(c)(ii) and (iii) and 52, which are cross-referred in Article 55(4) and (5) of Annex I to DL 317/2009 correspond respectively with Articles 42(3)(b) and (c) and 41(1), which are cross-referred to in Article 44(2) of the Directive.
Art. 44(3)	3. Changes in the interest or exchange rate used in payment transactions shall be implemented and calculated in a neutral manner that does not discriminate against payment service users.	Art. 55(7) of Annex I to DL 317/2009	Art. 55(7) 7 - Changes in the interest or exchange rate used in payment transactions shall be implemented and calculated in a neutral manner that does not discriminate against payment service users.	CONFORM Article 55(7) of Annex I to DL 317/2009 literally transposes Article 44(3) of the Directive.

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Art. 45(1)	Article 45 Termination 1. The payment service user may terminate the framework contract at any time, unless the parties have agreed on a period of notice. Such a period may not exceed one month.	Art. 56(1) of Annex I to DL 317/2009	Art. 56(1) Termination 1 - The payment service user may terminate the framework contract at any time, unless the parties have agreed on a period of notice. Such a period may not exceed one month.	CONFORM Article 56(1) of Annex I to DL 317/2009 reflects the content in Article 44(2) of the Directive. As mentioned above, there is a difference of terminology between the Portuguese version of the Directive and the Portuguese NIM. According to the characteristics of the termination of contract set out in Article 45(1) of the Directive, the use of “resolução” would seem more appropriate than the use of “denúncia”. In fact, the “resolução” is generally done by unilateral declaration of only one of the parties, on a legal or contractual basis.
Art. 45(2)	2. Termination of a framework contract concluded for a fixed period exceeding 12 months or for an indefinite period shall be free of charge for the payment service user after the expiry of 12 months. In all other cases charges for the termination shall be appropriate and in line with costs.	Art. 56(3) of Annex I to DL 317/2009	Art. 56(3) [2 – Where the payment service user is a consumer or micro enterprise, termination of the framework contract shall always be free of charge.] 3 - Except in the cases set out in the preceding paragraph, termination of a framework contract of indefinite duration or concluded for a fixed period exceeding 12 months shall be free of charge for the payment service user after the expiry of 12 months and in all other cases charges for the termination shall be appropriate and in line with costs.	CONFORM Article 56(3) of Annex I to DL 317/2009 excludes, through the reference to the previous paragraph (Article 56(3)) the cases where the payment service user is a consumer or micro enterprise. In these cases, the termination of the framework contract shall always be free of charge. Since Article 45(6) of the Directive states that the Member States may provide more favourable provisions for payment service users, the above mentioned exclusion does not seem to jeopardise the conformity of the Portuguese legislation.
Art. 45(3)	3. If agreed in the framework contract, the payment service provider may terminate a framework contract concluded for an indefinite period by giving at least two months' notice in the same way as provided for in Article 41(1).	Art. 56(4) of Annex I to DL 317/2009	Art. 56(4) 4 - If agreed in the framework contract, the payment service provider may terminate a framework contract of indefinite duration by giving at least two months' notice in the same way as provided for in Article 52.	CONFORM Article 52, which is cross-referred to in Article 56(4) of Annex I to DL 317/2009 corresponds with Article 41(1), which is cross-referred to in Article 45(3) of the Directive.

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Art. 45(4)	4. Charges for payment services levied on a regular basis shall be payable by the payment service user only proportionally up to the termination of the contract. If such charges are paid in advance, they shall be reimbursed proportionally.	Art. 56(6) of Annex I to DL 317/2009	Art. 56(6) 6 - Charges for payment services levied on a regular basis shall be payable by the payment service user only in proportion to the period which has elapsed up to the termination of the contract and if such charges are paid in advance, they shall be reimbursed in proportion to the period which has not yet elapsed.	CONFORM Article 56(6) of Annex I to DL 317/2009 refers in a different manner to proportionality. In fact, it states that the charges shall be payable by the payment service user only in proportion to the period which has elapsed up to the termination of the contract. Moreover, it states that those charges shall be reimbursed in proportion to the period which has not yet elapsed.
Art. 45(5)	5. The provisions of this Article are without prejudice to the Member States' laws and regulations governing the rights of the parties to declare the framework contract unenforceable or void.	N/A	N/A	No provision stating that the Portuguese laws and regulations governing the rights of the parties to declare the framework contract unenforceable or void should be taken into consideration within the application of the provision of Article 45 of the Directive could be located. The legislation concerning the rights of the parties to declare the framework contracts unenforceable or void are included in the general rules of the Portuguese civil law. Article 45(5) of the Directive does not require implementation into national legislation provided no provision contradicts the requirement. Therefore, unless stated otherwise, the Portuguese legislation conforms with Article 45(5) of the Directive. This may be further clarified.
Art. 45(6)	6. Member States may provide more favourable provisions for payment service users.	Art. 56(2) of Annex I to DL 317/2009	Art. 56(2) 2 – Where the payment service user is a consumer or micro enterprise, termination of the framework contract shall always be free of charge.	CONFORM Article 45(6) of the Directive sets out an option which was adopted by Portugal through Article 56. This provision provides in fact for additional, more favourable provisions for payment service users which are consumers or micro-enterprises. These may always terminate the framework contract free of charge.

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Art. 46	Article 46 Information before execution of individual payment transactions In the case of an individual payment transaction under a framework contract initiated by the payer, a payment service provider shall, at the payer's request for this specific payment transaction, provide explicit information on the maximum execution time and the charges payable by the payer and, where applicable, a breakdown of the amounts of any charges.	Art. 57 of Annex I to DL 317/2009	Art. 57 Information before execution of individual payment transactions In the case of an individual payment transaction under a framework contract initiated by the payer, a payment service provider shall, at the payer's request for this specific payment transaction, provide the following explicit information: a) the maximum execution time of the individual payment transaction; b) charges to be borne by the payer and, where applicable, a breakdown of their amounts.	CONFORM Although the structure of Article 57 of Annex I to DL 317/2009 differs from the one in Article 46 of the Directive, the content of the Directive provision is reflected properly in the Portuguese act.
Art. 47(1), intr. wording and pt (1), intr. wording	Article 47 Information for the payer on individual payment transactions 1. After the amount of an individual payment transaction is debited from the payer's account or, where the payer does not use a payment account, after the receipt of the payment order, the payer's payment service provider shall provide the payer without undue delay in the same way as laid down in Article 41 (1) with the following information:	Introductory wording of Art. 58(1) of Annex I to DL 317/2009	Introductory wording of Art. 58(1) Information for the payer on individual payment transactions 1 - After the amount of an individual payment transaction is debited from the payer's account or, where the payer does not use a payment account, after the receipt of the payment order, the payer's payment service provider shall provide the payer, immediately, save where delay is justified, and in the same way as laid down in Article 52, with the following information:	CONFORM The introductory wording of Article 58(1) of Annex I to DL 317/2009 reflects the content in the introductory wording of Article 47(1) of the Directive. Article 52, which is cross-referred to in the introductory wording of Article 58(1) of Annex I to DL 317/2009 corresponds with Article 41(1), which is cross-referred to in the introductory wording of Article 47(1) of the Directive. Moreover, although the introductory wording of Article 47(1) of the Directive refers that the payer's payment service provider shall provide the payer without undue delay, the introductory wording of Article 58(1) of Annex I to DL 317/2009 states that that should be done immediately, save where delay is justified. However, the meaning of the provisions seems to be the same.
Art. 47pt (1)(a)	(a) a reference enabling the payer to identify each payment transaction and,	Art. 58(1)(a) of	Art. 58(1)(a) a) a reference enabling the payer to	CONFORM

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	where appropriate, information relating to the payee;	Annex I to DL 317/2009	identify each payment transaction and, where appropriate, information relating to the payee;	Article 58(1)(a) of Annex I to DL 317/2009 literally transposes Article 47(1)(a) of the Directive.
Art. 47pt (1)(b)	(b) the amount of the payment transaction in the currency in which the payer's payment account is debited or in the currency used for the payment order;	Art. 58(1)(b) of Annex I to DL 317/2009	Art. 58(1)(b) b) the amount of the payment transaction in the currency in which the payer's payment account is debited or in the currency used for the payment order;	CONFORM Article 58(1)(b) of Annex I to DL 317/2009 literally transposes Article 47(1)(b) of the Directive.
Art. 47(1)(c)	(c) the amount of any charges for the payment transaction and, where applicable, a breakdown thereof, or the interest payable by the payer;	Art. 58(1)(c) of Annex I to DL 317/2009	Art. 58(1)(c) c) the amount of any charges for the payment transaction and, where applicable, a breakdown thereof, or the interest payable by the payer;	CONFORM As mentioned in the conclusions, regarding the word “breakdown”, although Annex I to DL 317/2009 uses the term “discriminação” instead of using “repartição”, as set out in the Portuguese version of the Directive, the meaning of both words seem to be equivalent and therefore do not jeopardise the transposition of the Directive.
Art. 47(1)(d)	(d) where applicable, the exchange rate used in the payment transaction by the payer's payment service provider, and the amount of the payment transaction after that currency conversion; and	Art. 58(1)(d) of Annex I to DL 317/2009	Art. 58(1)(d) d) where applicable, the exchange rate used in the payment transaction by the payer's payment service provider, and the amount of the payment transaction after that currency conversion; and	CONFORM Article 58(1)(d) of Annex I to DL 317/2009 literally transposes Article 47(1)(d) of the Directive.
Art. 47(1)(e)	(e) the debit value date or the date of receipt of the payment order.	Art. 58(1)(e) of Annex I to DL 317/2009	Art. 58(1)(e) e) the debit value date or the date of receipt of the payment order.	CONFORM Article 58(1)(e) of Annex I to DL 317/2009 literally transposes Article 47(1)(e) of the Directive.
Art. 47(2)	2. A framework contract may include a condition that the information referred to in paragraph 1 is to be provided or made	Art. 58(2) of Annex I to DL	Art. 58(2) 2 - A framework contract may include a condition that the information referred to	CONFORM

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	available periodically at least once a month and in an agreed manner which allows the payer to store and reproduce information unchanged.	317/2009	in the preceding paragraph is to be provided or made available periodically at least once a month and in an agreed manner which allows the payer to store and reproduce information unchanged.	Article 58(2) of Annex I to DL 317/2009 literally transposes Article 47(2) of the Directive.
Art. 47(3)	3. However, Member States may require payment service providers to provide information on paper once a month free of charge.	Art. 58(3) of Annex I to DL 317/2009	Art. 58(3) 3 - A framework contract shall include a condition that, at the payment service user's express request, the payment service provider shall be obliged to provide the information referred to in paragraph 1 on paper once a month free of charge.	CONFORM Article 47(3) of the Directive sets out an option. Portugal seems to have chosen to apply this option through Article 58(3) of Annex I to DL 317/2009.
Art. 48(1), intr. wording	Article 48 Information for the payee on individual payment transactions 1. After the execution of an individual payment transaction, the payee's payment service provider shall provide the payee without undue delay in the same way as laid down in Article 41 (1) with the following information:	Introductory wording of Art. 59(1) of Annex I to DL 317/2009	Introductory wording of Art. 59(1) Information for the payee on individual payment transactions 1 - After the execution of an individual payment transaction, the payee's payment service provider shall provide the payee without undue delay in the same way as laid down in Article 52 with the following information:	CONFORM The introductory wording of Article 59(1) of Annex I to DL 317/2009 literally transposes the introductory wording of Article 48(1) of the Directive. Article 52, which is cross-referred to in the introductory wording of Article 59(1) of Annex I to DL 317/2009 corresponds with Article 41(1), which is cross-referred to in the introductory wording of Article 48(1) of the Directive.
Art. 48(1)(a)	(a) the reference enabling the payee to identify the payment transaction and, where appropriate, the payer, and any information transferred with the payment transaction;	Art. 59(1)(a) of Annex I to DL 317/2009	Art. 59(1)(a) a) the reference enabling the payee to identify the payment transaction and, where appropriate, the payer, and any information transferred with the payment transaction;	CONFORM Article 59(1)(a) of Annex I to DL 317/2009 literally transposes Article 48(1)(a) of the Directive.
Art. 48(1)(b)	(b) the amount of the payment transaction in the currency in which the payee's payment account is credited;	Art. 59(1)(b) of Annex I to DL	Art. 59(1)(b) b) the amount of the payment transaction in the currency in which the payee's	CONFORM Article 59(1)(b) of Annex I to DL 317/2009 literally transposes

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		317/2009	payment account is credited;	Article 48(1)(b) of the Directive.
Art. 48(1)(c)	(c) the amount of any charges for the payment transaction and, where applicable, a breakdown thereof, or the interest payable by the payee;	Art. 59(1)(c) of Annex I to DL 317/2009	Art. 59(1)(c) c) the amount of any charges for the payment transaction and, where applicable, a breakdown thereof, or the interest payable by the payee;	CONFORM Article 59(1)(c) of Annex I to DL 317/2009 reflects the content in Article 48(1)(c) of the Directive.
Art. 48(1)(d)	(d) where applicable, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before that currency conversion; and	Art. 59(1)(d) of Annex I to DL 317/2009	Art. 59(1)(d) d) where applicable, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before that currency conversion; and	CONFORM Article 59(1)(d) of Annex I to DL 317/2009 literally transposes Article 48(1)(d) of the Directive.
Art. 48(1)(e)	(e) the credit value date.	Art. 59(1)(e) of Annex I to DL 317/2009	Art. 59(1)(e) e) the credit value date.	CONFORM Article 59(1)(e) of Annex I to DL 317/2009 literally transposes Article 48(1)(e) of the Directive.
Art. 48(2)	2. A framework contract may include a condition that the information referred to in paragraph 1 is to be provided or made available periodically at least once a month and in an agreed manner which allows the payee to store and reproduce information unchanged.	Art. 59(2) of Annex I to DL 317/2009	Art. 59(2) 2 - A framework contract may include a condition that the information referred to in paragraph 1 is to be provided or made available periodically at least once a month and in an agreed manner which allows the payee to store and reproduce information unchanged.	CONFORM Article 59(2) of Annex I to DL 317/2009 literally transposes Article 48(2) of the Directive.
Art. 48(3)	3. However, Member States may require payment service providers to provide information on paper once a month free of charge.	Art. 59(3) of Annex I to DL 317/2009	Art. 59(3) 3 - A framework contract shall include a condition that, at the payment service user's express request, the payment service provider shall provide the information referred to in paragraph 1 on paper once a	CONFORM Article 48(3) of the Directive sets out an option. Portugal has chosen to apply this option through Article 59(3) of Annex I to DL 317/2009.

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			month free of charge.	
Art. 49(1)	<i>CHAPTER 4</i> <i>Common provisions</i> Article 49 Currency and currency conversion 1. Payments shall be made in the currency agreed between the parties.	Art. 60(1) of Annex I to DL 317/2009	Art. 60(1) Currency and currency conversion 1 - Payments shall be made in the currency agreed between the parties.	CONFORM Article 60(1) of Annex I to DL 317/2009 literally transposes Article 49(1) of the Directive.
Art. 49(2), 1 st subpara.	2. Where a currency conversion service is offered prior to the initiation of the payment transaction and where that currency conversion service is offered at the point of sale or by the payee, the party offering the currency conversion service to the payer shall disclose to the payer all charges as well as the exchange rate to be used for converting the payment transaction.	Art. 60(2) of Annex I to DL 317/2009	Art. 60(2) 2 - Where a currency conversion service is offered prior to the initiation of the payment transaction through an automatic payment terminal or by the payee, the party offering the currency conversion service to the payer shall provide the following information: a) the charges to be borne by the payer; b) the exchange rate to be used for converting the payment transaction.	CONFORM Although the structure of Article 60(2) of Annex I to DL 317/2009 differs from the one in Article 49(2) of the Directive, the Directive provision is properly reflected in the Portuguese act. Where Article 49(2) of the Directive refers to the currency conversion service offered at the point of the sale, Article 60(2) of Annex I to DL 317/2009 refers to the currency conversion service offered through an automatic payment terminal. Therefore, Article 60(2) seems to be more specific or even more restrictive than the Directive provision.
Art. 49(2), 2 nd subpara.	The payer shall agree to the currency conversion service on that basis.	Art. 60 of Annex I to DL 317/2009	Art. 60 Currency and currency conversion 1 - Payments shall be made in the currency agreed between the parties. 2 - Where a currency conversion service is offered prior to the initiation of the payment transaction through an automatic payment terminal or by the payee, the party offering the currency conversion service to the payer shall provide the following information:	CONFORM Article 60 of Annex I to DL 317/2009 reflects the spirit of the provision of the Directive.

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			a) the charges to be borne by the payer; b) the exchange rate to be used for converting	
Art. 50(1)	Article 50 Information on additional charges or reductions 1. Where, for the use of a given payment instrument, the payee requests a charge or offers a reduction, the payee shall inform the payer thereof prior to the initiation of the payment transaction.	Art. 61(1) of Annex I to DL 317/2009	Art. 61(1) Information on additional charges or reductions 1 - Where, for the use of a given payment instrument, the payee requests a charge or offers a reduction, the payee shall inform the payer thereof prior to the initiation of the payment transaction.	CONFORM Article 61(1) of Annex I to DL 317/2009 literally transposes Article 50(1) of the Directive.
Art. 50(2)	2. Where, for the use of a given payment instrument, a payment service provider or a third party requests a charge, he shall inform the payment service user thereof prior to the initiation of the payment transaction.	Art. 61(2) of Annex I to DL 317/2009	Art. 61(2) 2 - Where, for the use of a given payment instrument, a payment service provider, or a third party, requests a charge, he shall inform the payment service user thereof prior to the initiation of the payment transaction.	CONFORM Article 61(2) of Annex I to DL 317/2009 literally transposes Article 50(2) of the Directive.
Art. 51(1)	TITLE IV RIGHTS AND OBLIGATIONS IN RELATION TO THE PROVISION AND USE OF PAYMENT SERVICES CHAPTER 1 Common provisions Article 51 Scope 1. Where the payment service user is not a consumer, the parties may agree that Article 52(1), Article 54(3), and Articles 59, 61, 62, 63, 66 and 75 shall not apply in whole or in part. The parties may also agree on a time period different from that	Art. 62(2) of Annex I to DL 317/2009	Art. 62(2) Scope 2 - Where the payment service user is not a consumer, the parties may exclude, in whole or in part, the application of Article 63(3), Article 65(3) and Articles 70, 72, 73, 74 and 86 and also agree on a time period different from that laid down in Article 69.	CONFORM Article 62(2) of Annex I to DL 317/2009 reflects the content in Article 51(1) of the Directive. Articles 63(3), 65(3), 70, 72, 73, 74, 86 and 69, which are cross-referred to in Article 62(2) of Annex I to DL 317/2009 correspond respectively with Articles 52(1), 54(3), 59, 61, 62, 63, 66, 75 and 58, which are cross-referred to in Article 51(1) of the Directive.

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	laid down in Article 58.			
Art. 51(2)	2. Member States may provide that Article 83 does not apply where the payment service user is not a consumer.	N/A	N/A	Article 51(2) of the Directive sets out an option. Owing to this option, Portugal has not chosen to apply the Directive provision.
Art. 51(3)	3. Member States may provide that provisions in this Title are applied to micro enterprises in the same way as to consumers.	Art. 62(1) of Annex I to DL 317/2009	Art. 62(1) 1 – The provisions in this Chapter shall apply to micro enterprises in the same way as to consumers.	CONFORM Article 51(3) of the Directive sets out an option. Therefore, the Portuguese legislation has chosen to adopt that option, through Article 62(1) of Annex I to DL 317/2009. The Chapter to which Article 62(1) of Annex I to DL 317/2009 is referring is named “Rights and obligations in relation to the provision and use of payment services”. Therefore, Article 62(1) of Annex I to DL 317/2009 reflects the content in Article 51(2) of the Directive.
Art. 51(4)	4. This Directive shall be without prejudice to national measures implementing Directive 87/102/EEC. This Directive shall also be without prejudice to other relevant Community or national legislation regarding conditions for granting credit to consumers not harmonised by this Directive that are in conformity with Community law.	Art. 62(3) and (4) of Annex I to DL 317/2009	Art. 62(3) and (4) 3 - This Chapter shall apply without prejudice to the provisions of Decree Law No 133/2009 of 2 June. 4 - Other legislation concerning conditions for granting credit to consumers shall be applicable in so far as it contains provisions not laid down in this Chapter.	CONFORM Article 62(3) and (4) of Annex I to DL 317/2009 reflect the content in Article 51(4) of the Directive. Decree Law No 133/2009, which is cross-referred to in Article 62(3) of Annex I to DL 317/2009, transposes Directive 2008/48/EC into the Portuguese legislation. Directive 2008/48/EC is an amendment of Directive 87/102/EEC.
Art. 52(1)	Article 52 Charges applicable 1. The payment service provider may not charge the payment service user for fulfilment of its information obligations or corrective and preventive measures under this Title, unless otherwise specified in Articles 65(1), 66(5) and 74(2). Those	Art. 63(3), (4) and (5) of Annex I to DL 317/2009	Art. 63(3), (4) and (5) Charges applicable 3 - The payment service provider may not charge the payment service user for fulfilment of its information obligations or corrective and preventive measures under this Chapter. 4 – Without prejudice to the provisions of	CONFORM Although the structure of Article 63 of Annex I to DL 317/2009 differs to that of Article 52 of the Directive, the Portuguese act reflects properly the Directive provision. Articles 76(2), 77(5) and 85(3) which are cross-referred to in Article 63(4) of Annex I to DL 317/2009 correspond

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	charges shall be agreed between the payment service user and the payment service provider and shall be appropriate and in line with the payment service provider's actual costs.		the preceding paragraph, the payment service user and provider may agree to the levying of charges in the following situations: a) notification of justified refusal to execute a payment order, in accordance with Article 76(2); b) revocation of a payment order, in accordance with Article 77(5); c) recovery of funds, in accordance with Article 85(3). 5 – In the cases provided for in the preceding paragraph, the charges shall be appropriate and in line with the payment service provider's actual costs.	respectively with Articles 65(1), 66(5) and 74(2), which are cross-referred to in Article 52(1) of the Directive.
Art. 52(2)	2. Where a payment transaction does not involve any currency conversion, Member States shall require that the payee pays the charges levied by his payment service provider, and the payer pays the charges levied by his payment service provider.	Art. 63(1) and (2) of Annex I to DL 317/2009	Art. 63(1) and (2) 1 - The payee and the payer may be required only to pay the charges levied by their payment service provider. 2 - Where a payment transaction involves carrying out a currency conversion, the payer and the payee may agree to an allocation of charges other than that set out in the preceding paragraph.	CONFORM Although the structure of Article 63 of Annex I to DL 317/2009 differs from the one in Article 52 of the Directive, the content in Article 52(2) is properly reflected in Article 63(1) and (2).
Art. 52(3)	3. The payment service provider shall not prevent the payee from requesting from the payer a charge or from offering him a reduction for the use of a given payment instrument. However, Member States may forbid or limit the right to request charges taking into account the need to encourage competition and promote the use of	Art. 63(6) of Annex I to DL 317/2009	Art. 63(6) 6 - With respect to the use of a given payment instrument, the payment service provider shall not prevent the payee from: a) offering a reduction for its use; or, b) requesting a charge for its use, except where the payee requires the payer to use a	CONFORM Although the structure of Article 63(6) of Annex I to DL 317/2009 differs from the one in Article 52(3) of the Directive, the content of this provision is properly reflected in the Portuguese act. The last sentence of Article 52(3) sets out an option. Portugal

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	efficient payment instruments.		specific payment instrument or where there exists legislation which limits that right so as to encourage competition or promote the use of efficient payment instruments.	has adopted that option through Article 63(6)(b).
Art. 53(1), intr. wording	Article 53 Derogation for low value payment instruments and electronic money 1. In the case of payment instruments which according to the framework contract, solely concern individual payment transactions not exceeding EUR 30 or which either have a spending limit of EUR 150 or store funds which do not exceed EUR 150 at any time payment service providers may agree with their payment service users that:	Introductory wording of Art. 64(1) of Annex I to DL 317/2009	Introductory wording of Art. 64(1) Derogation for low value payment instruments and electronic money 1 - In the case of payment instruments which according to the framework contract, solely concern individual payment transactions not exceeding EUR 30, which either have a spending limit of EUR 150 or which allow the storing of funds which do not exceed EUR 150 under any circumstances, payment service providers may agree with their payment service users that:	CONFORM The introductory wording of Article 64(1) of Annex I to DL 317/2009 reflects the content in the introductory wording of Article 53(1) of the Directive.
Art. 53(1)(a)	(a) Article 56(1)(b) and Article 57(1)(c) and (d) as well as Article 61(4) and (5) do not apply if the payment instrument does not allow its blocking or prevention of its further use;	Art. 64(1)(a) of Annex I to DL 317/2009	Art. 64(1)(a) a) Article 67(1)(b), Article 68(1)(c) and (e) and Article 72(4) and (5) do not apply if the payment instrument does not allow its blocking or prevention of its further use;	CONFORM Article 64(1)(a) of Annex I to DL 317/2009 literally transposes Article 53(1)(a) of the Directive. Articles 67(1)(b), 68(1)(c) and (e), 72(4) and (5), which are cross-referred to in Article 64(1)(a) of Annex I to DL 317/2009 correspond respectively with Articles 56(1)(b), 57(1)(c) and (d) and 61(4) and (5), which are cross-referred to in Article 53(1)(a) of the Directive.
Art. 53(1)(b)	(b) Articles 59, 60 and Article 61(1) and (2) do not apply if the payment instrument is used anonymously or the payment service provider is not in a position for other reasons which are intrinsic to the payment instrument to	Art. 64(1)(b) of Annex I to DL 317/2009	Art. 64(1)(b) b) Articles 70 and 71 and Article 72(1) and (2) do not apply if the payment instrument is used anonymously or the payment service provider is not in a position for	CONFORM Article 64(1)(b) of Annex I to DL 317/2009 literally transposes Article 53(1)(b) of the Directive.

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	prove that a payment transaction was authorised;		other reasons which are intrinsic to the payment instrument to prove that a payment transaction was authorised;	Articles 70, 71 and 72(1) and (2), which are cross-referred to in Article 64(1)(b) of Annex I to DL 317/2009 correspond respectively with Articles 59, 60, 61(1) and (2), which are cross-referred to in Article 53(1)(b) of the Directive.
Art. 53(1)(c)	(c) by way of derogation from Article 65(1), the payment service provider is not required to notify the payment service user of the refusal of a payment order, if the nonexecution is apparent from the context;	Art. 64(1)(c) of Annex I to DL 317/2009	Art. 64(1)(c) c) by way of derogation from Article 76(2) and (4), the payment service provider is not required to notify the payment service user of the refusal of a payment order, if the non-execution is apparent from the context;	CONFORM Article 64(1)(c) of Annex I to DL 317/2009 literally transposes Article 53(1)(c) of the Directive. Article 76(2) and (4), which is cross-referred to in Article 64(1)(c) of Annex I to DL 317/2009 corresponds with Article 65(1), which is cross-referred to in Article 53(1)(c) of the Directive.
Art. 53(1)(d)	(d) by way of derogation from Article 66, the payer may not revoke the payment order after transmitting the payment order or giving his consent to execute the payment transaction to the payee;	Art. 64(1)(d) of Annex I to DL 317/2009	Art. 64(1)(d) d) by way of derogation from Article 77, the payer may not revoke the payment order after transmitting the payment order or giving his consent to execute the payment transaction to the payee;	CONFORM Article 64(1)(d) of Annex I to DL 317/2009 literally transposes Article 53(1)(d) of the Directive. Article 77, which is cross-referred to in Article 64(1)(d) of Annex I to DL 317/2009 corresponds with Article 66, which is cross-referred to in Article 53(1)(d) of the Directive.
Art. 53(1)(e)	(e) by way of derogation from Articles 69 and 70, other execution periods apply.	Art. 64(1)(e) of Annex I to DL 317/2009	Art. 64(1)(e) e) by way of derogation from Articles 80 and 81, other execution periods apply.	CONFORM Article 64(1)(e) of Annex I to DL 317/2009 literally transposes Article 53(1)(e) of the Directive. Articles 80 and 81, which are cross-referred to in Article 64(1)(e) of Annex I to DL 317/2009 corresponds with Articles 69 and 70, which are cross-referred to in Article 53(1)(e) of the Directive.
Art. 53(2)	2. For national payment transactions, Member States or their competent	N/A	N/A	Article 53(2) of the Directive sets out an option. Owing to this option, Portugal has chosen not to apply the Directive provision.

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	authorities may reduce or double the amounts referred to in paragraph 1. They may increase them for prepaid payment instruments up to EUR 500.			
Art. 53(3)	3. Articles 60 and 61 shall apply also to electronic money within the meaning of Article 1(3)(b) of Directive 2000/46/EC, except where the payer's payment service provider does not have the ability to freeze the payment account or block the payment instrument. Member States may limit that derogation to payment accounts or payment instruments of a certain value.	Art. 64(2) of Annex I to DL 317/2009 and Art. 4(1) of DL 42/2002	Art. 64(2) (Annex I to DL 317/2009) 2 – Article 71 and 72 shall apply also to electronic money within the meaning of Article 4(1) of Decree Law 42/2002 of 2 March. Art. 4(1) (DL 42/2002) Notion of electronic money 1 - 'electronic money' shall mean monetary value as represented by a claim on the issuer which is: a) stored on an electronic device; b) issued on receipt of funds c) accepted as means of payment by undertakings other than the issuer.	PARTIALLY CONFORM DL 42/2002, which is cross-referred to in Article 64(2) of Annex I to DL 317/2009 transposed into the national legislation, amongst other Directives, Directive 2000/46/EC and lays down the legal basis of the electronic money institutions. Article 4(1) of that Decree Law corresponds with Article 1(3)(b) of Directive 2000/46/EC. However, the exception set out in Article 53(3) of the Directive, wherein the payer's payment service provider does not have the ability to freeze the payment account or block the payment instrument, is not mentioned in Article 64 of Annex I to DL 317/2009. The last part of Article 53(3) of the Directive sets out an option. Owing to this option, Portugal has chosen not to adopt it.
Art. 54(1)	<i>CHAPTER 2</i> <i>Authorisation of payment transactions</i> Article 54 Consent and withdrawal of consent 1. Member States shall ensure that a payment transaction is considered to be authorised only if the payer has given consent to execute the payment transaction. A payment transaction may be authorised by the payer prior to or, if agreed between the payer and his payment service provider, after the execution of the	Art. 65(1) and (2) of Annex I to DL 317/2009	Art. 65(1) and (2) Consent and withdrawal of consent 1 - A payment transaction or a series of payment transactions is considered to be authorised only if the payer consents to its execution. 2 – Consent shall be given prior to execution of the transaction, unless agreed between the payer and his payment service provider that it shall be given subsequently.	CONFORM Although the structure of Article 65(1) and (2) of Annex I to DL 317/2009 differs from the one in Article 54(1) of the Directive, the content of this provision is reflected properly in the Portuguese act. Article 65(1) includes in the provision also a series of payment transactions, while Article 54 (1) of the Directive refers merely to a payment transaction.

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	payment transaction.			
Art. 54(2)	2. Consent to execute a payment transaction or a series of payment transactions shall be given in the form agreed between the payer and his payment service provider. In the absence of such consent, a payment transaction shall be considered to be unauthorised.	Art. 65(3) of Annex I to DL 317/2009	Art. 65(3) 3 – The consent referred to in the preceding paragraphs shall be given in the form agreed between the payer and his payment service provider and in the case of non-compliance with the form agreed, a payment transaction shall be considered to be unauthorised.	PARTIALLY CONFORM Article 65(3) of Annex I to DL 317/2009 refers to cases of non-compliance with the form agreed, while Article 54(2) of the Directive refers to cases of absence of the consent, which is not equivalent. Therefore, Article 65(3) of Annex I to DL 317/2009 is partially conformed to Article 54(2) of the Directive.
Art. 54(3)	3. Consent may be withdrawn by the payer at any time, but no later than the point in time of irrevocability under Article 66. Consent to execute a series of payment transactions may also be withdrawn with the effect that any future payment transaction is to be considered as unauthorised.	Art. 65(4) and (5) of Annex I to DL 317/2009	Art. 65(4) and (5) 4 - Consent may be withdrawn by the payer at any time, but no later than the point in time of irrevocability under Article 77. 5 - Consent to execute a series of payment transactions may also be withdrawn with the effect that any future payment transaction is to be considered as unauthorised.	CONFORM Although the structure of Article 65(4) and (5) of Annex I to DL 317/2009 differs from the one in Article 54(3) of the Directive, the Portuguese act reflects properly the Directive provision. Article 77, which is cross-referred to in Article 65(4) of Annex I to DL 317/2009 corresponds with Article 66, which is cross-referred to in Article 54(3) of the Directive.
Art. 54(4)	4. The procedure for giving consent shall be agreed between the payer and the payment service provider.	Art. 65(6) of Annex I to DL 317/2009	Art. 65(6) 6 - The procedures for giving and withdrawing consent shall be agreed between the payer and the payment service provider.	CONFORM Article 65(6) of Annex I to DL 317/2009 reflects the requirements of Article 54(4) of the Directive. Article 65(6) of Annex I to DL 317/2009 additionally states that the procedure for withdrawing consent is also agreed between the payer and the payment service provider.
Art. 55(1)	Article 55 Limits of the use of the payment instrument 1. In cases where a specific payment	Art. 66(1) of Annex I to DL 317/2009	Art. 66(1) Limits of the use of the payment instrument 1 - In cases where a specific payment	CONFORM Article 66(1) of Annex I to DL 317/2009 literally transposes

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	instrument is used for the purposes of giving consent, the payer and his payment service provider may agree on spending limits for payment transactions executed through that payment instrument.		instrument is used for the purposes of giving consent, the payer and his payment service provider may agree on spending limits for payment transactions executed through that payment instrument.	Article 55(1) of the Directive.
Art. 55(2)	2. If agreed in the framework contract, the payment service provider may reserve the right to block the payment instrument for objectively justified reasons related to the security of the payment instrument, the suspicion of unauthorised or fraudulent use of the payment instrument or, in the case of a payment instrument with a credit line, a significantly increased risk that the payer may be unable to fulfil his liability to pay.	Art. 66(2) of Annex I to DL 317/2009	Art. 66(2) 2 - By means of an express condition in the framework contract, the payment service provider may reserve the right to block the payment instrument for objectively justified reasons related to: a) the security of the payment instrument; b) the suspicion of unauthorised or fraudulent use of the payment instrument; or c) a significantly increased risk that the payer may be unable to fulfil his liability to pay, in the case of a payment instrument with an associated credit line.	CONFORM Although the structure of Article 66(2) of Annex I to DL 317/2009 differs from the one in Article 55(2) of the Directive, the Portuguese act reflects properly the Directive provision. Article 66(2) of Annex I to DL 317/2009 requires that the right to block the payment instrument shall be stated by means of an express condition in the framework contract, while Article 55(2) merely mentions that that reserve shall be agreed in the framework contract. Therefore, Article 66(2) seems to be more stringent when referring to an express condition.
Art. 55(3)	3. In such cases the payment service provider shall inform the payer of the blocking of the payment instrument and the reasons for it in an agreed manner, where possible, before the payment instrument is blocked and at the latest immediately thereafter, unless giving such information would compromise objectively justified security reasons or is prohibited by other relevant Community or national legislation.	Art. 66(3) of Annex I to DL 317/2009	Art. 66(3) 3 - In the cases referred to in the preceding paragraph, the payment service provider shall inform the payer of the blocking of the payment instrument and the reasons for it in an agreed manner, where possible, before the payment instrument is blocked or at the latest immediately thereafter, unless giving such information would compromise objectively justified security reasons or is prohibited by other relevant legislation.	CONFORM Article 66(3) of Annex I to DL 317/2009 reflects the content in Article 55(3) of the Directive.
Art. 55(4)	4. The payment service provider shall	Art. 66(4)	Art. 66(4)	CONFORM

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	unblock the payment instrument or replace it with a new payment instrument once the reasons for blocking no longer exist.	of Annex I to DL 317/2009	4 - Once the reasons for blocking no longer exist, the payment service provider shall unblock the payment instrument or replace it with a new one.	Article 66(4) of Annex I to DL 317/2009 reflects the content in Article 55(4) of the Directive.
Art. 56(1), intr. wording	Article 56 Obligations of the payment service user in relation to payment instruments 1. The payment service user entitled to use a payment instrument shall have the following obligations:	Introductory wording of Art. 67(1) of Annex I to DL 317/2009	Introductory wording of Art. 67(1) Obligations of the payment service user in relation to payment instruments 1 - The payment service user entitled to use a payment instrument shall have the following obligations:	CONFORM The introductory wording of Article 67(1) of Annex I to DL 317/2009 literally transposes the introductory wording of Article 56(1) of the Directive.
Art. 56(1)(a)	(a) to use the payment instrument in accordance with the terms governing the issue and use of the payment instrument; and	Art. 67(1)(a) of Annex I to DL 317/2009	Art. 67(1)(a) a) to use the payment instrument in accordance with the terms governing the issue and use of the payment instrument; and	CONFORM Article 67(1)(a) of Annex I to DL 317/2009 literally transposes Article 56(1)(a) of the Directive.
Art. 56(1)(b)	(b) to notify the payment service provider, or the entity specified by the latter, without undue delay on becoming aware of loss, theft or misappropriation of the payment instrument or of its unauthorised use.	Art. 67(1)(b) of Annex I to DL 317/2009	Art. 67(1)(b) b) to notify the payment service provider, or the entity specified by the latter, without undue delay, on becoming aware of the loss, the theft or the misappropriation of the payment instrument or of its unauthorised use.	CONFORM Article 67(1)(b) of Annex I to DL 317/2009 literally transposes Article 56(1)(b) of the Directive.
Art. 56(2)	2. For the purposes of paragraph 1(a), the payment service user shall, in particular, as soon as he receives a payment instrument, take all reasonable steps to keep its personalised security features safe.	Art. 67(2) of Annex I to DL 317/2009	Art. 67(2) 2 - For the purposes of point (a) of the preceding paragraph, the payment service user shall, in particular, as soon as he receives a payment instrument, take all reasonable steps to keep its personalised security features safe.	CONFORM Article 67(2) of Annex I to DL 317/2009 literally transposes Article 56(2) of the Directive.
Art. 57(1),	Article 57	Introductory	Introductory wording of Art. 68(1)	CONFORM

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intr. wording	Obligations of the payment service provider in relation to payment instruments 1. The payment service provider issuing a payment instrument shall have the following obligations:	ry wording of Art. 68(1) of Annex I to DL 317/2009	Obligations of the payment service provider in relation to payment instruments 1 - The payment service provider issuing a payment instrument shall have the following obligations:	The introductory wording of Article 68(1) of Annex I to DL 317/2009 literally transposes the introductory wording of Article 57(1) of the Directive.
Art. 57(1)(a)	(a) to make sure that the personalised security features of the payment instrument are not accessible to parties other than the payment service user entitled to use the payment instrument, without prejudice to the obligations on the payment service user set out in Article 56;	Art. 68(1)(a) of Annex I to DL 317/2009	Art. 68(1)(a) a) to make sure that the personalised security features of the payment instrument are not accessible to parties other than the payment service user entitled to use the payment instrument, without prejudice to the obligations on the payment service user set out in the preceding Article;	CONFORM Article 68(1)(a) of Annex I to DL 317/2009 literally transposes Article 57(1)(a) of the Directive. The preceding article referred to in Article 68(1)(a) of Annex I to DL 317/2009 corresponds to Article 67 of Annex I to DL 317/2009 laying down the obligations of the payment service user in relation to payment instruments.
Art. 57(1)(b)	(b) to refrain from sending an unsolicited payment instrument, except where a payment instrument already given to the payment service user is to be replaced;	Art. 68(1)(b) of Annex I to DL 317/2009	Art. 68(1)(b) b) to refrain from sending an unsolicited payment instrument, except where a payment instrument already given to the payment service user is to be replaced;	CONFORM Article 68(1)(b) of Annex I to DL 317/2009 literally transposes Article 57(1)(b) of the Directive.
Art. 57(1)(c)	(c) to ensure that appropriate means are available at all times to enable the payment service user to make a notification pursuant to Article 56(1)(b) or request unblocking pursuant to Article 55(4); on request, the payment service provider shall provide the payment service user with the means to prove, for 18 months after notification, that he made such notification; and	Art. 68(1)(c) and (d) of Annex I to DL 317/2009	Art. 68(1)(c) and (d) c) to ensure that appropriate means are available at all times to enable the payment service user to make a notification pursuant to paragraph 1, point (b), of the preceding Article or request unblocking pursuant to Article 66(4); d) on request, the payment service provider shall provide the payment service user with the means to prove, for 18 months after the notification provided for in paragraph 1, point (b) of the preceding	CONFORM Article 68(1)(c) and (d) of Annex I to DL 317/2009 reflect the content in Article 57(1)(c) of the Directive. Article 66(4), which is cross-referred to in Article 68(1)(c) of Annex I to DL 317/2009 corresponds with Article 55(4), which is cross-referred to in Article 57(1)(c) of the Directive.

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			Article, that he made such notification; and	
Art. 57(1)(d)	(d) to prevent all use of the payment instrument once notification pursuant to Article 56(1)(b) has been made.	Art. 68(1)(e) of Annex I to DL 317/2009	Art. 68(1)(e) e) to prevent all use of the payment instrument once notification pursuant paragraph 1, point (b) of the preceding Article has been made.	CONFORM Article 68(1)(e) of Annex I to DL 317/2009 literally transposes Article 57(1)(d) of the Directive.
Art. 57(2)	2. The payment service provider shall bear the risk of sending a payment instrument to the payer or of sending any personalised security features of it.	Art. 68(2) of Annex I to DL 317/2009	Art. 68(2) 2 - The payment service provider shall bear the risk of sending a payment instrument to the payer or of sending any personalised security features of it.	CONFORM Article 68(2) of Annex I to DL 317/2009 literally transposes Article 57(2) of the Directive.
Art. 58	Article 58 Notification of unauthorised or incorrectly executed payment transactions The payment service user shall obtain rectification from the payment service provider only if he notifies his payment service provider without undue delay on becoming aware of any unauthorised or incorrectly executed payment transactions giving rise to a claim, including that under Article 75, and no later than 13 months after the debit date, unless, where applicable, the payment service provider has failed to provide or make available the information on that payment transaction in accordance with Title III.	Art. 69 of Annex I to DL 317/2009	Art. 69 Notification of unauthorised or incorrectly executed payment transactions and right of rectification 1 - The payment service user shall have the right to obtain rectification from the payment service provider if he notifies his payment service provider without undue delay on becoming aware of any unauthorised or incorrectly executed payment transactions capable of giving rise to a claim, including that under Articles 86 and 87, and no later than 13 months after the debit date. 2 – Where, in relation to the payment transaction at issue, the payment service provider has failed to provide or make available the information as required in accordance with Chapter I of Title III hereof, the limitation period referred to in the above paragraph shall not apply.	CONFORM The structure of Article 69 of Annex I to DL 317/2009 differs from that of Article 58 of the Directive. However, the Portuguese act reflects properly the content in the Directive provision. Articles 86, 87 and Chapter I of Title III, which are cross-referred to in Article 69(1) and (2) of Annex I to DL 317/2009 correspond respectively with Article 75 and Title III, which in turn are cross-referred to in Article 58 of the Directive.

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Art. 59(1)	Article 59 Evidence on authentication and execution of payment transactions 1. Member States shall require that, where a payment service user denies having authorised an executed payment transaction or claims that the payment transaction was not correctly executed, it is for his payment service provider to prove that the payment transaction was authenticated, accurately recorded, entered in the accounts and not affected by a technical breakdown or some other deficiency.	Art. 70(1) of Annex I to DL 317/2009	Art. 70(1) Evidence on authentication and execution of payment transactions 1 - Where a payment service user denies having authorised an executed payment transaction or claims that the payment transaction was not correctly executed, it is for his payment service provider to prove that the payment transaction was authenticated, accurately recorded, entered in the accounts and not affected by a technical breakdown or some other deficiency.	CONFORM Article 70(1) of Annex I to DL 317/2009 reflects the content in Article 59(1) of the Directive.
Art. 59(2)	2. Where a payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider shall in itself not necessarily be sufficient to prove either that the payment transaction was authorised by the payer or that the payer acted fraudulently or failed with intent or gross negligence to fulfil one or more of his obligations under Article 56.	Art. 70(2) of Annex I to DL 317/2009	Art. 70(2) 2 - Where a payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider shall in itself not necessarily be sufficient to prove either that the payment transaction was authorised by the payer, that the payer acted fraudulently or that he failed with intent or gross negligence to fulfil one or more of his obligations under Article 67.	CONFORM Article 70(2) of Annex I to DL 317/2009 reflects the content in Article 59(2) of the Directive. Article 67, which is cross-referred to in Article 70(2) of Annex I to DL 317/2009 corresponds with Article 56, which is cross-referred to in Article 59(2) of the Directive.
Art. 60(1)	Article 60 Payment service provider's liability for unauthorised payment transactions 1. Member States shall ensure that, without prejudice to Article 58, in the case of an unauthorised payment transaction, the payer's payment service provider refunds to the payer immediately the amount of the	Art. 71(1) of Annex I to DL 317/2009	Art. 71(1) Payment service provider's liability for unauthorised payment transactions 1 - Without prejudice to Article 69, in the case of an unauthorised payment transaction, the payer's payment service provider shall refund to the payer immediately the amount of the	CONFORM Article 71(1) of Annex I to DL 317/2009 reflects the content in Article 60(1) of the Directive. Article 69, which is cross-referred to in Article 71(1) of Annex I to DL 317/2009 corresponds with Article 58, which is cross-

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	unauthorised payment transaction and, where applicable, restores the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place.		unauthorised payment transaction and, where applicable, restore the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place.	referred to in Article 60(1) of the Directive.
Art. 60(2)	2. Further financial compensation may be determined in accordance with the law applicable to the contract concluded between the payer and his payment service provider.	Art. 71(2) and Art. 88 of Annex I to DL 317/2009	Art. 71(2) 2 – Where the payer is not immediately refunded by the his payment service provider in accordance with the preceding paragraph, default interest shall be due, on a daily basis from the date on which the payment service user denies having authorised the executed payment transaction until the date of its actual refund, calculated at the statutory rate, determined in accordance with the Civil Code, increased by 10 percentage points, without prejudice to any right to further compensation which may exist. Art. 88 Additional compensation The provisions of Articles 85 and 87 shall be without prejudice to the right to additional compensation in accordance with the legislation applicable to the contract.	CONFORM Article 71(2) of Annex I to DL 317/2009 refers to the provisions set out in the Civil Code, for cases where the payer is not immediately refunded by his payment service provider. Article 71(2) provides that this shall be without prejudice to any further compensation which may exist. Moreover, Article 88 of Annex I to DL 317/2009 provides for a right to additional compensation in accordance with the legislation applicable to the contract. Therefore, both Articles 71(2) and 88 of Annex I to DL 317/2009 transpose the financial compensation set out in Article 60(2) of the Directive.
Art. 61(1)	Article 61 Payer's liability for unauthorised payment transactions 1. By way of derogation from Article 60 the payer shall bear the losses relating to any unauthorised payment transactions, up	Art. 72(1) of Annex I to DL 317/2009	Art. 72(1) Payer's liability for unauthorised payment transactions 1 – In the case of unauthorised payment transactions resulting from the loss, theft or misappropriation of a payment	CONFORM Article 72(1) of Annex I to DL 317/2009 reflects the content in Article 61(1) of the Directive. Article 72(1) of Annex I to DL 317/2009 does not explicitly

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	to a maximum of EUR 150, resulting from the use of a lost or stolen payment instrument or, if the payer has failed to keep the personalised security features safe, from the misappropriation of a payment instrument.		instrument, where the payer has failed to ensure the safety of the personalised security features, the latter shall bear the losses relating to those transactions within the limit of the available balance or credit line associated with the account or with the payment instrument, up to a maximum of EUR 150.	provide that it applies by way of derogation from the equivalent of Article 71 (the equivalent of Article 60 of the Directive).
Art. 61(2)	2. The payer shall bear all the losses relating to any unauthorised payment transactions if he incurred them by acting fraudulently or by failing to fulfil one or more of his obligations under Article 56 with intent or gross negligence. In such cases, the maximum amount referred to in paragraph 1 of this Article shall not apply.	Art. 72(2) of Annex I to DL 317/2009	Art. 72(2) 2 - The payer shall bear all the losses relating to any unauthorised payment transactions, if he incurred them by acting fraudulently or by failing to fulfil one or more of the obligations provided for in Article 67 with intent, in which cases, the limits referred to in paragraph 1 shall not apply.	PARTIALLY CONFORM Article 67, which is cross-referred to in Article 72(2) of Annex I to DL 317/2009 corresponds with Article 56, which is cross-referred to in Article 61(2) of the Directive. Article 72(2) of Annex I to DL 317/2009 does not refer to the failure to fulfil the obligations with gross negligence. This omission is legally relevant and therefore the Portuguese act is considered as partially conformed to the Directive provision.
Art. 61(3)	3. In cases where the payer has neither acted fraudulently nor with intent failed to fulfil his obligations under Article 56, Member States may reduce the liability referred to in paragraphs 1 and 2 of this Article, taking into account, in particular, the nature of the personalised security features of the payment instrument and the circumstances under which it was lost, stolen or misappropriated.	Art. 72(3) of Annex I to DL 317/2009	Art. 72(3) 3 – In the case of gross negligence by the payer, the latter shall bear the losses resulting from unauthorised payment transactions up to the limit of the available balance or credit line associated with the account or with the payment instrument, even if they are higher than EUR 150, depending on the nature of the personalised security features of the payment instrument and the circumstances under which it was lost, stolen or misappropriated.	PARTIALLY CONFORM Article 61(3) of the Directive sets out an option. Owing to this option, Portugal has chosen to apply the Directive provision. However, the transposition of the Directive provision in Article 72(3) of Annex I to DL 317/2009 is not very clear. In fact Article 72(3) of Annex I to DL 317/2009 does not refer explicitly to the idea of reduction of liability in cases where the payer has neither acted fraudulently nor with intent. This idea can only be inferred <i>a contrario</i> from paragraph 3 of Article 72 of Annex I to DL 317/2009. Therefore the Portuguese act is considered as partially conformed to the Directive provision.
Art. 61(4)	4. The payer shall not bear any financial consequences resulting from use of the lost, stolen or misappropriated payment	Art. 72(4) of Annex I to DL	Art. 72(4) 4 - After notification in accordance with	CONFORM

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	instrument after notification in accordance with Article 56(1)(b), except where he has acted fraudulently.	317/2009	Article 67(1)(b), the payer shall not bear any financial consequences resulting from use of the lost, stolen or misappropriated payment instrument, except where he has acted fraudulently.	Article 72(4) of Annex I to DL 317/2009 reflects the content in Article 61(4) of the Directive. Article 67(1)(b), which is cross-referred to in Article 72(4) of Annex I to DL 317/2009 corresponds with Article 56(1)(b), which is cross-referred to in Article 61(4) of the Directive.
Art. 61(5)	5. If the payment service provider does not provide appropriate means for the notification at all times of a lost, stolen or misappropriated payment instrument, as required under Article 57(1)(c), the payer shall not be liable for the financial consequences resulting from use of that payment instrument, except where he has acted fraudulently.	Art. 72(5) of Annex I to DL 317/2009	Art. 72(5) 5 - If the payment service provider does not provide appropriate means for the notification at all times of a lost, stolen or misappropriated payment instrument, as required under Article 68(1)(c), the payer shall not be liable for the financial consequences resulting from use of that payment instrument, except where he has acted fraudulently.	CONFORM Article 72(5) of Annex I to DL 317/2009 reflects the content in Article 61(5) of the Directive. Article 68(1)(c), which is cross-referred to in Article 72(5) of Annex I to DL 317/2009 corresponds with Article 57(1)(c), which is cross-referred to in Article 61(5) of the Directive.
Art. 62(1), 1 st subpara., intr. wording	Article 62 Refunds for payment transactions initiated by or through a payee 1. Member States shall ensure that a payer is entitled to a refund from his payment service provider of an authorised payment transaction initiated by or through a payee which has already been executed, if the following conditions are met:	Introductory wording of Art. 73(1) of Annex I to DL 317/2009	Introductory wording of Art. 73(1) Refunds for payment transactions initiated by or through a payee 1 - A payer shall be entitled to a refund from his payment service provider of an authorised payment transaction, initiated by or through a payee, which has already been executed, if the following conditions are met:	CONFORM Article 72(1) of Annex I to DL 317/2009 reflects the content in Article 61(1) of the Directive.
Art. 62(1), 1 st subpara., pt (a)	(a) the authorisation did not specify the exact amount of the payment transaction when the authorisation was made; and	Art. 73(1)(a) of Annex I to DL 317/2009	Art. 73(1)(a) a) the authorisation did not specify the exact amount of the payment transaction when the authorisation was made; and	CONFORM Article 73(1)(a) of Annex I to DL 317/2009 literally transposes Article 62(1)(a) of the Directive.
Art. 62(1), 1 st subpara.,	(b) the amount of the payment transaction exceeded the amount the payer could reasonably have expected taking into	Art. 73(1)(b) of Annex I to	Art. 73(1)(b) b) the amount of the payment transaction exceeded the amount the payer could	CONFORM

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pt (b)	account his previous spending pattern, the conditions in his framework contract and relevant circumstances of the case.	DL 317/2009	reasonably have expected taking into account his previous spending pattern, the conditions in his framework contract and relevant circumstances of the case.	Article 73(1)(b) of Annex I to DL 317/2009 literally transposes Article 62(1)(b) of the Directive.
Art. 62(1), 2 nd subpara.	At the payment service provider's request, the payer shall provide factual elements relating to such conditions.	Art. 73(2) of Annex I to DL 317/2009	Art. 73(2) 2 - At the payment service provider's request, the payer shall provide factual elements relating to the conditions specified in the preceding paragraph.	CONFORM Article 73(2) of Annex I to DL 317/2009 reflects the content in the second subparagraph of Article 62(1) of the Directive.
Art. 62(1), 3 rd subpara.	The refund consists of the full amount of the executed payment transaction.	Art. 73(3) of Annex I to DL 317/2009	Art. 73(3) 3 - The refund referred to in paragraph 1 consists of the full amount of the executed payment transaction.	CONFORM Article 73(3) of Annex I to DL 317/2009 reflects the content in the third subparagraph of Article 62(1) of the Directive.
Art. 62(1), 4 th subpara.	For direct debits the payer and his payment service provider may agree in the framework contract that the payer is entitled to a refund from his payment service provider even though the conditions for refund in the first subparagraph are not met.	Art. 73(4) of Annex I to DL 317/2009	Art. 73(4) 4 - For direct debits the payer and his payment service provider may agree in the framework contract that the payer is entitled to a refund from his payment service provider even though the conditions for refund in paragraph 1 are not met.	CONFORM Article 73(4) of Annex I to DL 317/2009 literally transposes the fourth subparagraph of Article 62(1) of the Directive.
Art. 62(2)	2. However, for the purposes of point (b) of the first subparagraph of paragraph 1, the payer may not rely on currency exchange reasons if the reference exchange rate agreed with his payment service provider in accordance with Articles 37(1)(d) and 42(3)(b) was applied.	Art. 73(5) of Annex I to DL 317/2009	Art. 73(5) 5 - However, for the purposes of point (b) of paragraph 1, the payer may not rely on currency exchange reasons if the reference exchange rate agreed with his payment service provider in accordance with Articles 48(1)(d) and 53(3)(b) was applied.	CONFORM Article 73(5) of Annex I to DL 317/2009 literally transposes Article 62(2) of the Directive. However, Article 73(5) of Annex I to DL 317/2009 contains an erroneous cross-reference. In fact, it should mention Article 53(c)(ii) instead of referring to Article 53(3)(b), since these points do not exist in Article 53.

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Art. 62(3)	3. It may be agreed in the framework contract between the payer and the payment service provider that the payer has no right to a refund where he has given his consent to execute the payment transaction directly to his payment service provider and, where applicable, information on the future payment transaction was provided or made available in an agreed manner to the payer for at least four weeks before the due date by the payment service provider or by the payee.	Art. 73(6) of Annex I to DL 317/2009	Art. 73(6) 6 - It may be agreed in the framework contract between the payer and the payment service provider that the payer has no right to a refund where he has given his consent to execute the payment transaction directly to his payment service provider and, where applicable, information on the future payment transaction was provided or made available in an agreed manner to the payer for at least four weeks before the due date by the payment service provider or by the payee.	CONFORM Article 73(6) of Annex I to DL 317/2009 literally transposes Article 62(3) of the Directive.
Art. 63(1)	Article 63 Requests for refunds for payment transactions initiated by or through a payee 1. Member States shall ensure that the payer can request the refund referred to in Article 62 of an authorised payment transaction initiated by or through a payee for a period of eight weeks from the date on which the funds were debited.	Art. 74(1) of Annex I to DL 317/2009	Art. 74(1) Requests for refunds for payment transactions initiated by or through a payee 1 - The payer shall be entitled to request the refund referred to in Article 73 of an authorised payment transaction initiated by or through a payee for a period of eight weeks from the date on which the funds were debited.	CONFORM Article 74(1) of Annex I to DL 317/2009 reflects the content in Article 63(1) of the Directive.
Art. 63(2), 1 st subpara.	2. Within ten business days of receiving a request for a refund, the payment service provider shall either refund the full amount of the payment transaction or provide justification for refusing the refund, indicating the bodies to which the payer may refer the matter in accordance with Articles 80 to 83 if he does not accept the justification provided.	Art. 74(2) of Annex I to DL 317/2009	Art. 74(2) 2 - Within ten business days of the date of receiving a request for a refund, the payment service provider shall either refund the full amount of the payment transaction, or provide justification for refusing the refund, indicating the bodies to which the payer may refer the matter, in accordance with Articles 92 and 93, if he	CONFORM Article 74(2) of Annex I to DL 317/2009 reflects the content in Article 63(1) of the Directive. Articles 92 and 93, which are cross-referred to in Article 74(2) of Annex I to DL 317/2009 correspond with Articles 80 to 83, which are cross-referred to in Article 63(2) of the Directive.

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			does not accept the justification provided.	
Art. 63(2), 2 nd subpara.	The payment service provider's right under the first subparagraph to refuse the refund shall not apply in the case set out in the fourth subparagraph of Article 62(1).	Art. 74(3) of Annex I to DL 317/2009	Art. 74(3) 3 - The payment service provider's right under the preceding paragraph to refuse the refund shall not apply in the case set out in Article 73(4).	CONFORM Article 74(3) of Annex I to DL 317/2009 literally transposes the second subparagraph of Article 63(2) of the Directive. Article 73(4), which is cross-referred to in Article 74(3) of Annex I to DL 317/2009 corresponds with the fourth subparagraph of Article 62(1), which is cross-referred to in the last subparagraph of Article 63(2) of the Directive.
Art. 64(1)	<i>CHAPTER 3</i> <i>Execution of payment transactions</i> Section 1 Payment orders and amounts transferred Article 64 Receipt of payment orders 1. Member States shall ensure that the point in time of receipt is the time when the payment order transmitted directly by the payer or indirectly by or through a payee is received by the payer's payment service provider. If the point in time of receipt is not on a business day for the payer's payment service provider, the payment order shall be deemed to have been received on the following business day. The payment service provider may establish a cut-off time near the end of a business day beyond which any payment order received shall be deemed to have been received on the following business day.	Art. 75(1) to (3) of Annex I to DL 317/2009	Art. 75(1) to (3) Receipt of payment orders 1 - The point in time of receipt of the payment order shall coincide with the time when the payment order transmitted directly by the payer or indirectly by or through a payee is received by the payer's payment service provider. 2 - If the point in time of receipt is not on a business day for the payer's payment service provider, the payment order shall be deemed to have been received on the following business day. 3 - The payment service provider may establish a cut-off time near the end of a business day beyond which any payment order received shall be deemed to have been received on the following business day.	CONFORM Article 75(1) to (3) of Annex I to DL 317/2009 reflect the content in Article 64(1) of the Directive.

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Art. 64(2)	2. If the payment service user initiating a payment order and his payment service provider agree that execution of the payment order shall start on a specific day or at the end of a certain period or on the day on which the payer has set funds at his payment service provider's disposal, the point in time of receipt for the purposes of Article 69 is deemed to be the agreed day. If the agreed day is not a business day for the payment service provider, the payment order received shall be deemed to have been received on the following business day.	Art. 75(4) and (5) of Annex I to DL 317/2009	Art. 75(4) and (5) 4 - The payment service user initiating a payment order and his payment service provider may agree that the order shall be deemed to have been received: a) on a specific day; b) at the end of a certain period; or c) on the day on which the payer has set funds at his payment service provider's disposal. 5 - If the agreed day is not a business day for the payment service provider, the payment order received shall be deemed to have been received on the following business day.	CONFORM The structure of Article 75(4) and (5) of Annex I to DL 317/2009 differs from that of Article 64(2) of the Directive. However, the content in Article 64(2) is reflected properly in Article 75(4) and (5).
Art. 65(1), 1 st subpara.	Article 65 Refusal of payment orders 1. Where the payment service provider refuses to execute a payment order, the refusal and, if possible, the reasons for it and the procedure for correcting any factual mistakes that led to the refusal shall be notified to the payment service user, unless prohibited by other relevant Community or national legislation.	Art. 76(2) of Annex I to DL 317/2009	Art. 76(2) Refusal of payment orders 2 – Where all the conditions set out in the framework contract concluded with the payer are not met, any refusal of a payment order and, if possible, the reasons for it and the procedure for correcting any factual mistakes that led to the refusal shall be notified to the payment service user, unless otherwise provided by law.	CONFORM Article 76(2) of Annex I to DL 317/2009 reflects the content in the first subparagraph of Article 65(1) of the Directive.
Art. 65(1), 2 nd subpara.	The payment service provider shall provide or make available the notification in an agreed manner at the earliest opportunity, and in any case, within the periods specified in Article 69.	Art. 76(3) of Annex I to DL 317/2009	Art. 76(3) 3 - The payment service provider shall provide or make available the notification in an agreed manner and at the earliest opportunity within the periods specified in Article 80.	CONFORM Article 76(3) of Annex I to DL 317/2009 reflects the content in the second subparagraph of Article 65(1) of the Directive.

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Art. 65(1), 3 rd subpara.	The framework contract may include a condition that the payment service provider may charge for such a notification if the refusal is objectively justified.	Art. 76(4) of Annex I to DL 317/2009	Art. 76(4) 4 - The framework contract may include an express condition that the payment service provider may charge for the notification if the refusal is objectively justified.	CONFORM Article 76(4) of Annex I to DL 317/2009 reflects the content in the third subparagraph of Article 65(1) of the Directive.
Art. 65(2)	2. In cases where all the conditions set out in the payer's framework contract are met, the payer's payment service provider shall not refuse to execute an authorised payment order irrespective of whether the payment order is initiated by a payer or by or through a payee, unless prohibited by other relevant Community or national legislation.	Art. 76(1) of Annex I to DL 317/2009	Art. 76(1) 1 - In cases where all the conditions set out in the framework contract concluded with the payer are met, the payer's payment service provider shall not refuse to execute an authorised payment order irrespective of whether the payment order is initiated by a payer or by or through a payee, unless otherwise provided by law.	CONFORM Article 76(1) of Annex I to DL 317/2009 reflects the content in Article 65(2) of the Directive.
Art. 65(3)	3. For the purposes of Articles 69 and 75 a payment order of which execution has been refused shall be deemed not to have been received.	Art. 76(5) of Annex I to DL 317/2009	Art. 76(5) 5 - For the purposes of Articles 80, 86 and 87, a payment order of which execution has been refused shall be deemed not to have been received.	CONFORM Article 76(5) of Annex I to DL 317/2009 literally transposes Article 65(3) of the Directive. Articles 80, 86 and 87, which are cross-referred to in Article 76(5) of Annex I to DL 317/2009 correspond with Articles 69 and 75, which are cross-referred to in Article 65(3) of the Directive.
Art. 66(1)	Article 66 Irrevocability of a payment order 1. Member States shall ensure that the payment service user may not revoke a payment order once it has been received by the payer's payment service provider, unless otherwise specified in this Article.	Art. 77(1) of Annex I to DL 317/2009	Art. 77(1) Irrevocability of a payment order 1 – Unless otherwise provided for in the following paragraphs, the payment service user may not revoke a payment order once it has been received by the payer's payment service provider.	CONFORM Article 77(1) of Annex I to DL 317/2009 reflects the content in Article 66(1) of the Directive.

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Art. 66(2)	2. Where the payment transaction is initiated by or through the payee, the payer may not revoke the payment order after transmitting the payment order or giving his consent to execute the payment transaction to the payee.	Art. 77(2) of Annex I to DL 317/2009	Art. 77(2) 2 - Where the payment transaction is initiated by or through the payee, the payer may not revoke the payment order after transmitting the payment order or giving his consent to execute the payment transaction to the payee.	CONFORM Article 77(2) of Annex I to DL 317/2009 literally transposes Article 66(2) of the Directive.
Art. 66(3)	3. However, in the case of a direct debit and without prejudice to refund rights the payer may revoke the payment order at the latest by the end of the business day preceding the day agreed for debiting the funds.	Art. 77(3) of Annex I to DL 317/2009	Art. 77(3) 3 - However, in the case of a direct debit and without prejudice to refund rights the payer may revoke the payment order at the latest by the end of the business day preceding the day agreed for debiting the funds.	CONFORM Article 77(3) of Annex I to DL 317/2009 literally transposes Article 66(3) of the Directive.
Art. 66(4)	4. In the case referred to in Article 64(2) the payment service user may revoke a payment order at the latest by the end of the business day preceding the agreed day.	Art. 77(4) of Annex I to DL 317/2009	Art. 77(4) 4 - In the case referred to in Article 75(4) and (5) the payment service user may revoke a payment order at the latest by the end of the business day preceding the agreed day.	CONFORM Article 77(4) of Annex I to DL 317/2009 literally transposes Article 66(4) of the Directive. Article 75(4) and (5), which are cross-referred to in Article 77(4) of Annex I to DL 317/2009 correspond with Article 64(2), which is cross-referred to in Article 66(4) of the Directive.
Art. 66(5)	5. After the time limits specified in paragraphs 1 to 4, the payment order may be revoked only if agreed between the payment service user and his payment service provider. In the case referred to in paragraphs 2 and 3, the payee's agreement shall also be required. If agreed in the framework contract, the payment service provider may charge for revocation.	Art. 77(5) to (7) of Annex I to DL 317/2009	Art. 77(5) to (7) 5 - After the time limits specified in paragraphs 1 to 4, the payment order may be revoked only if agreed between the payment service user and his payment service provider. 6 - In the case of the payment transactions specified in paragraphs 2 and 3, in addition to the agreement referred to in paragraph 5, the payee's agreement shall also be	CONFORM Although the structure of Article 77(5) to (7) of Annex I to DL 317/2009 differs from the one in Article 66(5) of the Directive, the content in this provision is reflected properly in the Portuguese act.

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			required. 7 - The framework contract may include an express condition that the payment service provider may charge for revocation.	
Art. 67(1)	Article 67 Amounts transferred and amounts received 1. Member States shall require the payment service provider of the payer, the payment service provider of the payee and any intermediaries of the payment service providers to transfer the full amount of the payment transaction and refrain from deducting charges from the amount transferred.	Art. 78(1) of Annex I to DL 317/2009	Art. 78(1) Amounts transferred and amounts received 1 - The payment service provider of the payer, the payment service provider of the payee and any intermediaries of the payment service providers shall be required to transfer the full amount of the payment transaction and to refrain from deducting any charges from the amount transferred.	CONFORM Article 78(1) of Annex I to DL 317/2009 reflects the content in Article 67(1) of the Directive.
Art. 67(2)	2. However, the payee and his payment service provider may agree that the payment service provider deduct its charges from the amount transferred before crediting it to the payee. In such a case, the full amount of the payment transaction and charges shall be separated in the information given to the payee.	Art. 78(2) and (3) of Annex I to DL 317/2009	Art. 78(2) and (3) 2 - However, the payee and his payment service provider may agree that the payment service provider deduct its charges from the amount transferred before crediting it to the payee. 3 - In the case referred to in the preceding paragraph, the full amount of the payment transaction and charges shall be stated separately in the information given to the payee.	CONFORM Article 78(2) and (3) of Annex I to DL 317/2009 reflect the content in Article 67(2) of the Directive.
Art. 67(3)	3. If any charges other than those referred to in paragraph 2 are deducted from the amount transferred, the payment service provider of the payer shall ensure that the payee receives the full amount of the payment transaction initiated by the payer.	Art. 78(4) of Annex I to DL 317/2009	Art. 78(4) 4 - If any charges other than those agreed to under paragraph 2 are deducted from the amount transferred: a) the payment service provider of the	CONFORM Although the structure of Article 78(4) of Annex I to DL 317/2009 differs from the one in Article 67(3) of the Directive, the content in this provision is properly reflected in the

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	In cases where the payment transaction is initiated by or through the payee, his payment service provider shall ensure that the full amount of the payment transaction is received by the payee.		payer shall ensure that the payee receives the full amount of the payment transaction initiated by the payer; b) the payment service provider of the payee shall ensure that the payee receives the full amount of the transaction, in transactions initiated by or through the payee.	Portuguese act.
Art. 68(1), intr. wording	Section 2 Execution time and value date Article 68 Scope 1. This Section shall apply to:	Art. 79(1) of Annex I to DL 317/2009	Art. 79(1) Scope 1 – This Subsection shall apply to payment transactions in euro.	CONFORM Article 79(1) of Annex I to DL 317/2009 reflects the content in the introductory wording of Article 68(1) of the Directive.
Art. 68(1)(a)	(a) payment transactions in euro;	Art. 79(1) of Annex I to DL 317/2009	Art. 79(1) Scope 1 – This Subsection shall apply to payment transactions in euro.	CONFORM Article 79(1) of Annex I to DL 317/2009 literally transposes Article 68(1)(a) of the Directive. The subsection referred to in Article 79(1) of Annex I to DL 317/2009 is named “Execution time and value date”.
Art. 68(1)(b)	(b) national payment transactions in the currency of the Member State outside the euro area concerned; and	Art. 79(2) of Annex I to DL 317/2009	Art. 79(2) 2 - This Subsection shall also apply to payment transactions carried out in the currencies of the Member States outside the euro area, unless otherwise agreed between the payment service user and his payment service provider, however the parties may not exclude the application of the provisions of Article 84.	CONFORM Article 79(2) of Annex I to DL 317/2009 reflects the content in Article 68(1)(b) of the Directive.
Art. 68(1)(c)	(c) payment transactions involving only one currency conversion between the	Art. 60 and Art.	Art. 60 Currency and currency conversion	PARTIALLY CONFORM

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	euro and the currency of a Member State outside the euro area, provided that the required currency conversion is carried out in the Member State outside the euro area concerned and, in the case of cross-border payment transactions, the cross-border transfer takes place in euro.	80(2) of Annex I to DL 317/2009	1 - Payments shall be made in the currency agreed between the parties. 2 - Where a currency conversion service is offered prior to the initiation of the payment transaction through an automatic payment terminal or by the payee, the party offering the currency conversion service to the payer shall provide the following information: a) the charges to be borne by the payer; b) the exchange rate to be used for converting the payment transaction. Art. 80(2) Payment transactions to a payment account 2 – In the case of cross-border payment transactions, until 1 January 2012, a payer and his payment service provider may agree on a period no longer than three business days.	The existence of payment transactions involving a currency conversion can be inferred from Articles 60 and 80(2) of Annex I to DL 317/2009. However, there is no explicit reference in this act to payment transactions involving only one currency conversion. Moreover, the last part of Article 68(1)(c) is not expressly reflected in Annex I to DL 317/2009.
Art. 68(2)	2. This Section shall apply to other payment transactions, unless otherwise agreed between the payment service user and his payment service provider, with the exception of Article 73, which is not at the disposal of the parties. However, when the payment service user and his payment service provider agree on a longer period than those laid down in Article 69, for intra- Community payment transactions such period shall not exceed 4 business days following the point in time of receipt	Art. 79(2) and (3) of Annex I to DL 317/2009	Art. 79(2) and (3) 2 - This Subsection shall also apply to payment transactions carried out in the currencies of the Member States outside the euro area, unless otherwise agreed between the payment service user and his payment service provider, however the parties may not exclude the application of the provisions of Article 84. 3 - When the payment service user and his payment service provider agree on a longer period than those laid down in Article 80,	CONFORM The other payment transactions mentioned in Article 68(2) of the Directive seem to be the ones carried out in the currencies of the Member States outside the euro area in Article 79(2) of Annex I to DL 317/2009. Moreover, Article 84 and 80, which are cross-referred to in Article 79(2) and (3) of Annex I to DL 317/2009 correspond respectively with Articles 73 and 69, which are cross-referred to in Article 68(2) of the Directive. Therefore, Article 79(2) and (3) of Annex I to DL 317/2009

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	in accordance with Article 64.		for intra-Community payment transactions such period shall not exceed 4 business days following the point in time of receipt in accordance with Article 75.	reflect properly the content in Article 68(2) of the Directive.
Art. 69(1)	Article 69 Payment transactions to a payment account 1. Member States shall require the payer's payment service provider to ensure that, after the point in time of receipt in accordance with Article 64, the amount of the payment transaction is credited to the payee's payment service provider's account at the latest by the end of the next business day. Until 1 January 2012, a payer and his payment service provider may agree on a period no longer than three business days. These periods may be extended by a further business day for paper initiated payment transactions.	Art. 80(1) to (3) and Art. 83(2) of Annex I to DL 317/2009	Art. 80(1) to (3) Payment transactions to a payment account 1 - The payer's payment service provider shall ensure that, after the point in time of receipt of the payment order in accordance with Article 75, the amount of the payment transaction is credited to the payee's payment service provider's account at the latest by the end of the next business day. 2 – In the case of cross-border payment transactions, until 1 January 2012, a payer and his payment service provider may agree on a period no longer than three business days. 3 - The periods referred to in the preceding paragraphs may be extended by a further business day for paper-initiated payment transactions. Art. 83(2) National payment transactions 2 – The provisions of Article 80(2) shall not apply to internal transfers between payment accounts held with different payment service providers.	CONFORM Article 80 of Annex I to DL 317/2009 seems to restrict the application of the agreement on a period no longer than three business days for cases of cross-border payment transactions. Article 83(2) of Annex I to DL 317/2009 is relevant for the analysis of Article 69(1) of the Directive since it limits the application of Article 80(2) of Annex I to DL 317/2009. Therefore, the option set out in Article 69(1) of the Directive, providing for a time limit of three business days maximum, does not apply in cases of internal transfers between payment accounts held with different payment service providers. However, the Portuguese provisions do not contradict the requirements of Article 69(1) of the Directive. Article 75, which is cross-referred to in Article 80(1) to (3) of Annex I to DL 317/2009 corresponds with Article 64, which is cross-referred to in Article 69(1) of the Directive.
Art. 69(2)	2. Member States shall require the payment service provider of the payee to value date and make available the amount	Art. 80(4) of Annex I to DL	Art. 80(4) 4 - The payment service provider of the	CONFORM

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	of the payment transaction to the payee's payment account after the payment service provider has received the funds in accordance with Article 73.	317/2009	payee shall value date and make available the amount of the payment transaction to the payee's payment account after receiving the funds in accordance with Article 84.	Article 80(4) of Annex I to DL 317/2009 reflects the content in Article 69(2) of the Directive.
Art. 69(3)	3. Member States shall require the payee's payment service provider to transmit a payment order initiated by or through the payee to the payer's payment service provider within the time limits agreed between the payee and his payment service provider, enabling settlement, as far as direct debit is concerned, on the agreed due date.	Art. 80(5) of Annex I to DL 317/2009	Art. 80(5) 5 - The payee's payment service provider shall transmit a payment order initiated by or through the payee to the payer's payment service provider within the time limits agreed between the payee and his payment service provider, enabling settlement, as far as direct debit is concerned, on the agreed due date.	CONFORM Article 80(5) of Annex I to DL 317/2009 reflects the content in Article 69(3) of the Directive.
Art. 70	Article 70 Absence of payee's payment account with the payment service provider Where the payee does not have a payment account with the payment service provider, the funds shall be made available to the payee by the payment service provider who receives the funds for the payee within the period specified in Article 69.	Art. 81 of Annex I to DL 317/2009	Art. 81 Absence of payee's payment account with the payment service provider Where the payee does not have a payment account with the payment service provider, the funds shall be made available to the payee by the payment service provider who receives the funds for the payee within the period specified in Article 80.	CONFORM Article 81 of Annex I to DL 317/2009 literally transposes Article 70 of the Directive.
Art. 71	Article 71 Cash placed on a payment account Where a consumer places cash on a payment account with that payment service provider in the currency of that payment account, the payment service provider shall ensure that the amount is made available and value dated immediately after the point of time of the receipt of the funds. Where the payment	Art. 82(1) and (2) of Annex I to DL 317/2009	Art. 82 Cash placed on a payment account 1 - Where a consumer places cash on a payment account with that payment service provider in the currency of that payment account, the payment service provider shall ensure that the amount is made available and value dated immediately after the point of time of the receipt of the funds.	CONFORM Article 82 of Annex I to DL 317/2009 literally transposes Article 71 of the Directive.

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	service user is not a consumer, the amount shall be made available and value dated at the latest on the next business day after the receipt of the funds.		2 - Where the payment service user is not a consumer, the amount shall be made available and value dated at the latest on the next business day after the receipt of the funds.	
Art. 72	Article 72 National payment transactions For national payment transactions, Member States may provide for shorter maximum execution times than those provided for in this Section.	Art. 83 of Annex I to DL 317/2009	Art. 83 National payment transactions 1 – In the case of internal transfers, and unless otherwise stipulated, cash amounts shall be credited to the payee's account on the same day, if the transfer is made between accounts held with the same payment service provider, and the value date and the availability date shall be point of time of the credit. 2 – The provisions of Article 80(2) shall not apply to internal transfers between payment accounts held with different payment service providers.	CONFORM Regarding the national payment transactions, Portugal has adopted the option setting out shorter maximum execution times in comparison with those set out in the previous articles. In fact, Article 83 of Annex I to DL 317/2009 states that cash amounts shall be credited to the payee's account on the same day and that the provisions of Article 80(2) do not apply to internal transfers. Article 80(2) lays down an agreement on a period no longer than three business days.
Art. 73(1)	Article 73 Value date and availability of funds 1. Member States shall ensure that the credit value date for the payee's payment account is no later than the business day on which the amount of the payment transaction is credited to the payee's payment service provider's account. The payment service provider of the payee shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the payee's payment service provider's account.	Art. 84(1) and (2) of Annex I to DL 317/2009	Art. 84(1) and (2) Value date and availability of funds 1 - The credit value date for the payee's payment account shall be no later than the business day on which the amount of the payment transaction is credited to the payee's payment service provider's account. 2 - The payment service provider of the payee shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the payee's payment service provider's account.	CONFORM Article 84(1) and (2) of Annex I to DL 317/2009 reflect the content in Article 73(1) of the Directive.

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Art. 73(2)	2. Member States shall ensure that the debit value date for the payer's payment account is no earlier than the point in time at which the amount of the payment transaction is debited to that payment account.	Art. 84(3) of Annex I to DL 317/2009	Art. 84(3) 3 - The debit value date for the payer's payment account shall be no earlier than the point in time at which the amount of the payment transaction is debited to that payment account.	CONFORM Article 84(3) of Annex I to DL 317/2009 reflects the content in Article 73(2) of the Directive.
Art. 74(1)	Section 3 Liability Article 74 Incorrect unique identifiers 1. If a payment order is executed in accordance with the unique identifier, the payment order shall be deemed to have been executed correctly with regard to the payee specified by the unique identifier.	Art. 85(1) of Annex I to DL 317/2009	Art. 85(1) Incorrect unique identifiers 1 - If a payment order is executed in accordance with the unique identifier, the payment order shall be deemed to have been executed correctly with regard to the payee specified by the unique identifier.	CONFORM Article 85(1) of Annex I to DL 317/2009 literally transposes Article 74(1) of the Directive.
Art. 74(2), 1 st subpara.	2. If the unique identifier provided by the payment service user is incorrect, the payment service provider shall not be liable under Article 75 for non-execution or defective execution of the payment transaction.	Art. 85(2) of Annex I to DL 317/2009	Art. 85(2) 2 - If the unique identifier provided by the payment service user is incorrect, the payment service provider shall not be liable under Article 86 for non-execution or defective execution of the payment transaction.	CONFORM Article 85(2) of Annex I to DL 317/2009 literally transposes Article 74(1) of the Directive. Article 86, which is cross-referred to in Article 85(2) of Annex I to DL 317/2009 corresponds with Article 75, which is cross-referred to in Article 74(2) of the Directive.
Art. 74(2), 2 nd subpara.	However the payer's payment service provider shall make reasonable efforts to recover the funds involved in the payment transaction.	Art. 85(3) of Annex I to DL 317/2009	Art. 85(3) 3 - However the payer's payment service provider shall make reasonable efforts to recover the funds involved in the payment transaction, and may charge the payment service user for that recovery, if agreed in the framework contract.	CONFORM Although the structure of Article 85(3) of Annex I to DL 317/2009 differs from the one in Article 74(2) of the Directive, the Portuguese act reflects properly the content in the Directive provision.

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Art. 74(2), 3 rd subpara. a.	If agreed in the framework contract, the payment service provider may charge the payment service user for recovery.	Art. 85(3) of Annex I to DL 317/2009	Art. 85(3) 3 - However the payer's payment service provider shall make reasonable efforts to recover the funds involved in the payment transaction, and may charge the payment service user for that recovery, if agreed in the framework contract.	CONFORM Although the structure of Article 85(3) of Annex I to DL 317/2009 differs from the one in Article 74(2) of the Directive, the Portuguese act reflects properly the content in the Directive provision.
Art. 74(3)	3. If the payment service user provides information additional to that specified in Articles 37(1)(a) or 42(2)(b), the payment service provider shall be liable only for the execution of payment transactions in accordance with the unique identifier provided by the payment service user.	Art. 85(4) of Annex I to DL 317/2009	Art. 85(4) 4 - Although the payment service user may provide information additional to that specified in Article 48(1)(a) or Article 53(2)(b), the payment service provider shall be liable only for the execution of payment transactions in accordance with the unique identifier provided by the payment service user.	CONFORM Article 85(4) of Annex I to DL 317/2009 reflects the content in Article 74(3) of the Directive. Article 85(4) of Annex I to DL 317/2009 contains an erroneous cross-reference. In fact, it should mention Article 53(b)(ii) instead of referring to Article 53(2)(b), since these points do not exist in Article 53. Articles 48(1)(a) and 53(2)(b) (the actual Article 53(b)(ii)), which are cross-referred to in Article 85(4) of Annex I to DL 317/2009 correspond respectively with Articles 37(1)(a) and 42(2)(b), which are cross-referred to in Article 74(3) of the Directive.
Art. 75(1), 1 st subpara.	Article 75 Non-execution or defective execution 1. Where a payment order is initiated by the payer, his payment service provider shall, without prejudice to Article 58, Article 74 (2) and (3), and Article 78, be liable to the payer for correct execution of the payment transaction, unless he can prove to the payer and, where relevant, to the payee's payment service provider that the payee's payment service provider received the amount of the payment	Art. 86(1) and (2) of Annex I to DL 317/2009	Art. 86(1) and (2) Non-execution or defective execution of payment orders initiated by the payer 1 - Where a payment order is initiated by the payer, his payment service provider shall, without prejudice to Article 69, Article 85(2) and (3) and Article 90, be liable to the payer for correct execution of the payment transaction. 2 – If the payer's payment service provider can prove to the payer and, where relevant, to the payee's payment service provider	CONFORM Article 86(1) and (2) of Annex I to DL 317/2009 reflect the content in the first subparagraph of Article 75(1) of the Directive. Articles 69, 85(2) and (3), 90 and 80(1) which are cross-referred to in Article 86(1) and (2) of Annex I to DL 317/2009 correspond with Articles 58, 74 (2) and (3), 78 and 69(1), which are cross-referred to in Article 75(1) of the Directive.

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	transaction in accordance with Article 69 (1), in which case, the payee's payment service provider shall be liable to the payee for the correct execution of the payment transaction.		that the payee's payment service provider received the amount of the payment transaction in accordance with Article 80(1), the payee's payment service provider shall be liable to the payee for the correct execution of the payment transaction.	
Art. 75(1), 2 nd subpara.	Where the payer's payment service provider is liable under the first subparagraph, he shall without undue delay refund to the payer the amount of the non-executed or defective payment transaction and, where applicable, restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place.	Art. 86(3) of Annex I to DL 317/2009	Art. 86(3) 3 - Where the payer's payment service provider is liable under paragraph 1, he shall without undue delay refund to the payer the amount of the non-executed or defective payment transaction and, where applicable, restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place.	CONFORM Article 86(3) of Annex I to DL 317/2009 reflects the content in the second subparagraph of Article 75(1) of the Directive.
Art. 75(1), 3 rd subpara.	Where the payee's payment service provider is liable under the first subparagraph, he shall immediately place the amount of the payment transaction at the payee's disposal and, where applicable, credit the corresponding amount to the payee's payment account.	Art. 86(4) of Annex I to DL 317/2009	Art. 86(4) 4 - Where the payee's payment service provider is liable under paragraph 2, he shall immediately credit the corresponding amount to the payee's payment account or place the amount of the payment transaction at the payee's disposal.	CONFORM Article 86(4) of Annex I to DL 317/2009 reflects the content in the third subparagraph of Article 75(1) of the Directive.
Art. 75(1), 4 th subpara.	In the case of a non-executed or defectively executed payment transaction where the payment order is initiated by the payer, his payment service provider shall regardless of liability under this paragraph, on request, make immediate efforts to trace the payment transaction and notify the payer of the outcome.	Art. 86(5) of Annex I to DL 317/2009	Art. 86(5) 5 - In the case of a non-executed or defectively executed payment transaction where the payment order is initiated by the payer, his payment service provider shall regardless of liability under paragraphs 1 and 2, on request, make immediate efforts to trace the payment transaction and notify the payer of the outcome.	CONFORM Article 86(5) of Annex I to DL 317/2009 reflects the content in the fourth subparagraph of Article 75(1) of the Directive.

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Art. 75(2), 1 st subpara.	2. Where a payment order is initiated by or through the payee, his payment service provider shall, without prejudice to Article 58, Article 74(2) and (3), and Article 78, be liable to the payee for correct transmission of the payment order to the payment service provider of the payer in accordance with Article 69(3). Where the payee's payment service provider is liable under this subparagraph, he shall immediately re-transmit the payment order in question to the payment service provider of the payer.	Art. 87(1) and (2) of Annex I to DL 317/2009	Art. 87(1) and (2) Non-execution or defective execution of payment orders initiated by or through the payee 1 - Where a payment order is initiated by or through the payee, his payment service provider shall, without prejudice to the provisions of Article 69, Article 85(2) and (3) and Article 90, be liable to the payee for correct transmission of the payment order to the payment service provider of the payer in accordance with Article 80(5). 2 – In the cases referred to in the preceding paragraph, the payee's payment service provider shall immediately re-transmit the payment order in question to the payment service provider of the payer.	CONFORM Article 87(1) and (2) of Annex I to DL 317/2009 reflect the content in the first subparagraph of Article 75(2) of the Directive. Articles 69, 85(2) and (3), 90 and 80(5) which are cross-referred to in Article 87(1) of Annex I to DL 317/2009 correspond respectively with Articles 58, 74 (2) and (3), 78 and 69(3), which are cross-referred to in Article 75(2) of the Directive.
Art. 75(2), 2 nd subpara.	In addition, the payment service provider of the payee shall, without prejudice to Article 58, Article 74(2) and (3), and Article 78, be liable to the payee for handling the payment transaction in accordance with its obligations under Article 73. Where the payee's payment service provider is liable under this subparagraph, he shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the payee's payment service provider's account.	Art. 87(3) and (4) of Annex I to DL 317/2009	Art. 87(3) and (4) 3 – Notwithstanding the provisions of the preceding paragraph, the payment service provider of the payee shall, without prejudice to the provisions of Article 69, Article 85(2) and (3) and Article 90, be liable to the payee for handling the payment transaction in accordance with its obligations under Article 84. 4 - Where the payee's payment service provider is liable under the preceding paragraph, he shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the payee's payment service provider's account.	CONFORM Article 87(3) and (4) of Annex I to DL 317/2009 reflect the content in the second subparagraph of Article 75(2) of the Directive. Articles 69, 85(2) and (3), 90 and 84 which are cross-referred to in Article 87(3) of Annex I to DL 317/2009 correspond respectively with Articles 58, 74 (2) and (3), 78 and 73, which are cross-referred to in the second subparagraph of Article 75(2) of the Directive.

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Art. 75(2), 3 rd subpara.	In the case of a non-executed or defectively executed payment transaction for which the payee's payment service provider is not liable under the first and second subparagraphs, the payer's payment service provider shall be liable to the payer. Where the payer's payment service provider is so liable he shall, as appropriate and without undue delay, refund to the payer the amount of the non-executed or defective payment transaction and restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place.	Art. 87(5) and (6) of Annex I to DL 317/2009	Art. 87(5) and (6) 5 - In the case of a non-executed or defectively executed payment transaction for which the payee's payment service provider is not liable under the preceding paragraphs, the payer's payment service provider shall be liable to the payer. 6 – In the case referred to in the preceding paragraph, the payer's payment service provider shall, as appropriate and without undue delay, refund to the payer the amount of the non-executed or defective payment transaction and restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place.	CONFORM Article 87(5) and (6) of Annex I to DL 317/2009 reflect the content in the third subparagraph of Article 75(2) of the Directive.
Art. 75(2), 4 th subpara.	In the case of a non-executed or defectively executed payment transaction where the payment order is initiated by or through the payee, his payment service provider shall, regardless of liability under this paragraph, on request, make immediate efforts to trace the payment transaction and notify the payee of the outcome.	Art. 87(7) of Annex I to DL 317/2009	Art. 87(7) 7 - In the case of a non-executed or defectively executed payment transaction where the payment order is initiated by or through the payee, his payment service provider shall, regardless of liability under this Article, on request, make immediate efforts to trace the payment transaction and notify the payee of the outcome.	CONFORM Article 87(7) of Annex I to DL 317/2009 literally transposes the fourth subparagraph of Article 75(2) of the Directive.
Art. 75(3)	3. In addition, payment service providers shall be liable to their respective payment service users for any charges for which they are responsible, and for any interest to which the payment service user is subject as a consequence of non-execution or defective execution of the payment	Art. 86(6) and 87(8) of Annex I to DL 317/2009	Art. 86(6) Non-execution or defective execution of payment orders initiated by the payer 6 - In addition to the liability provided for in the preceding paragraphs, payment service providers shall be liable to their respective payment service users for any	CONFORM Article 86(6) of Annex I to DL 317/2009 reflects the content in Article 75(3) of the Directive. Article 75(3) of the Directive is set out in the context of the non-execution or defective execution of payment orders initiated by

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	transaction.		charges for which they are responsible, and for any interest to which the payment service user is subject as a consequence of non-execution or defective execution of the payment transaction. Art. 87(8) Non-execution or defective execution of payment orders initiated by or through the payee 8 - In addition to the liability provided for in the preceding paragraphs, payment service providers shall be liable to their respective payment service users for any charges for which they are responsible, and for any interest to which the payment service user is subject as a consequence of non-execution or defective execution of the payment transaction.	the payer and also by or through the payee. In Annex I to DL 317/2009 the above mentioned non execution or defective execution is approached in separate provisions depending on the cases where the payment orders are initiated by the payer or in cases where the payment orders are initiated by or through the payee. Therefore, it is necessary to mention both Articles 86(6) and 87(8) in order to demonstrate the proper transposition of Article 75(3).
Art. 76	Article 76 Additional financial compensation Any financial compensation additional to that provided for under this Section may be determined in accordance with the law applicable to the contract concluded between the payment service user and his payment service provider.	Art. 88 of Annex I to DL 317/2009	Art. 88 Additional compensation The provisions of Articles 85 and 87 shall be without prejudice to the right to additional compensation in accordance with the legislation applicable to the contract.	CONFORM Article 88 of Annex I to DL 317/2009 lays down a right to additional compensation in spite of the provisions of Articles 85 and 87 of that act (the equivalent of Articles 74 and 75(2) of the Directive).
Art. 77(1)	Article 77 Right of recourse 1. Where the liability of a payment service provider under Article 75 is attributable to another payment service provider or to an intermediary, that payment service	Art. 89(1) of Annex I to DL 317/2009	Art. 89(1) Right of recourse 1 - Where the liability of a payment service provider under Articles 86 and 87 is attributable to another payment service provider or to an intermediary, that	CONFORM Article 89(1) of Annex I to DL 317/2009 reflects the content in Article 77(1) of the Directive. Articles 86 and 87 which are cross-referred to in Article 89(1) of

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	provider or intermediary shall compensate the first payment service provider for any losses incurred or sums paid under Article 75.		payment service provider or that intermediary shall compensate the first payment service provider for any losses incurred or sums paid under Articles 86 and 87.	Annex I to DL 317/2009 correspond with Article 75, which is cross-referred to in Article 77(1) of the Directive.
Art. 77(2)	2. Further financial compensation may be determined in accordance with agreements between payment service providers and/or intermediaries and the law applicable to the agreement concluded between them.	Art. 89(2) of Annex I to DL 317/2009	Art. 89(2) 2 - Further compensation may be determined in accordance with agreements between payment service providers or between them and any intermediaries, as well as with the law applicable to the agreement concluded between them.	CONFORM Article 89(2) of Annex I to DL 317/2009 reflects the content in Article 77(2) of the Directive. Article 89(2) refers merely to compensation while the Directive provision refers to a financial compensation. Portugal has chosen to include in the scope of Article 89(2) of Annex I to DL 317/2009 the agreements between payment service providers or between them and any intermediaries.
Art. 78	Article 78 No liability Liability under Chapter 2 and 3 shall not apply in cases of abnormal and unforeseeable circumstances beyond the control of the party pleading for the application of those circumstances, the consequences of which would have been unavoidable despite all efforts to the contrary, or where a payment service provider is bound by other legal obligations covered by national or Community legislation.	Art. 90 of Annex I to DL 317/2009	Art. 90 Force majeure Liability under Articles 79 to 89 shall not apply in cases of abnormal and unforeseeable circumstances beyond the control of the party pleading them, if their consequences would have been unavoidable despite all efforts to the contrary, or where a payment service provider is bound by other legal obligations in relation to the prevention of money laundering and terrorist financing.	PARTIALLY CONFORM The liability set out in Articles 71 and 72 of Annex I to DL 317/2009 (the equivalent of Articles 60 and 61 of the Directive) is not mentioned in Article 90 of that act. In fact, this one merely mentions Articles 79 to 89, which are the equivalent of Articles 68 to 78 of the Directive. Articles 71 and 72 lay down provisions regarding, respectively, payment service provider's liability for unauthorised payment transactions and payer's liability for unauthorised payment transactions. Since Article 78 of the Directive is mentioning the liability under Chapter 2 and 3, it implicitly also includes the one set out in Articles 60 and 61 of the Directive (the equivalent of Articles 71 and 72 of Annex I to DL 317/2009). Therefore, the reference to Articles 71 and 72 might be missing or be excluded from the scope of Article 90 of Annex I to DL 317/2009.

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				Moreover, Article 90 of Annex I to DL 317/2009 specifies that the mentioned liability shall not apply in cases where a payment service provider is bound to other legal obligations in relation to the prevention of money laundering and terrorist financing. Therefore, Article 90 seems to be more restrictive in comparison with the Directive which mentions, in a general manner, the legal obligations covered by national or Community legislation.
Art. 79	<i>CHAPTER 4</i> <i>Data protection</i> Article 79 Data protection Member States shall permit the processing of personal data by payment systems and payment service providers when this is necessary to safeguard the prevention, investigation and detection of payment fraud. The processing of such personal data shall be carried out in accordance with Directive 95/46/EC.	Art. 91 of Annex I to DL 317/2009	Art. 91 Data protection 1 - The processing of personal data by payment systems and payment service providers shall be permitted only in so far as necessary to safeguard the prevention, investigation and detection of payment fraud, in terms to be laid down by order of the member of Government responsible for financial matters. 2 - The processing of personal data referred to in the preceding paragraph shall be carried out in accordance with Law No 67/98 of 26 October.	CONFORM Article 91 of Annex I to DL 317/2009 reflects the content in Article 79 of the Directive. The structure of Article 91 of Annex I to DL 317/2009 differs from the one in Article 79 of the Directive. Moreover, Article 91 of Annex I to DL 317/2009 submits the processing of personal data by payment systems and payment service providers to the terms to be laid down by order of the member of Government responsible for financial matters. Law No 67/98, which is cross-referred to in Article 91(2) of Annex I to DL 317/2009, transposed into the national legislation Directive 95/46/EC.
Art. 80(1)	<i>CHAPTER 5</i> <i>Out-of-court complaint and redress procedures for the settlement of disputes</i> Section 1 Complaint procedures Article 80 Complaints 1. Member States shall ensure that procedures are set up which allow payment service users and other interested parties, including consumer associations, to submit complaints to the competent authorities	Art. 93(1) and (3) of Annex I to DL 317/2009	Art. 93(1) and (3) Complaints to the Bank of Portugal 1 – Without prejudice to the right of access to appropriate judicial procedures, payment service users, or their representative associations and other interested parties, may submit complaints based on infringement of the rules set out in Title III of this Law by payment service providers directly to the Bank of Portugal. 3 – The rules on the complaints of customers of credit institutions laid down	CONFORM Article 93 of Annex I to DL 317/2009 enables the payment service users to submit complaints based on infringement by payment service providers directly to the Bank of Portugal. Therefore, Article 93 follows the requirements of the Directive provision and states that the competent authority for complaints is the Bank of Portugal. Moreover, Article 93 states that the representative associations of payment service users also can submit complaints. These associations shall be considered as included in the consumer

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	with regard to payment service providers' alleged infringements of the provisions of national law implementing the provisions of this Directive.		in Article 77 of the RGICSF shall apply, <i>mutatis mutandis</i> , to the complaints provided for in this Article.	associations mentioned in Article 80(1) of the Directive. Article 93(3) of Annex I to DL 317/2009 submits the complaints of payment service users to the same legal framework applied to the complaints of costumers of credit institutions (Article 77 of the RGICSF).
Art. 80(2)	2. Where appropriate and without prejudice to the right to bring proceedings before a court in accordance with national procedural law, the reply from the competent authorities shall inform the complainant of the existence of the out-of-court complaint and redress procedures set up in accordance with Article 83.	Art. 93(2) of Annex I to DL 317/2009	Art. 93(2) 2 - The reply from the Bank of Portugal shall inform complainants of the existence of the out-of-court dispute settlement procedures, provided that the complaints cannot be resolved by means of the measures which it may adopt by law or that the issue in question does not fall within its statutory powers.	CONFORM Although the terminology of Article 93(2) of Annex I to DL 317/2009 differs from that of Article 80(2) of the Directive, the content in the said article is properly reflected in the Portuguese act. Article 93(2) of Annex I to DL 317/2009 additionally states, in comparison with Article 80(2) of the Directive, that the Bank of Portugal should inform the complainants about the out-of-court dispute settlement procedures, provided that the complaints cannot be resolved by means of the measures which it may adopt by law or that the issue in question does not fall within its statutory powers. This additional provision does not contradict or go beyond the scope of Article 80(2) of the Directive. Moreover, Article 93(2) of Annex I to DL 317/2009 does not refer to Article 92 (the equivalent of Article 83 of the Directive). However, Article 93(2) refers to of the out-of-court dispute settlement procedures, which might imply the cross-reference to Article 92.
Art. 81(1)	Article 81 Penalties 1. Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. Such penalties shall be	Art. 94, Art. 95 and Art. 96(1) of Annex I to DL 317/2009	Art. 94 Penalties 1 – The following infringements shall be punishable by a fine of EUR 3 000 to EUR 1 500 000, depending on whether it is imposed on a natural or legal person: (...) 2 – Infringement of the information obligation concerning additional charges	CONFORM The whole Title V of Annex I to DL 317/2009, named “Administrative offenses”, sets out rules on penalties applicable to infringements of the provisions included in the Portuguese legal framework for payment services. Therefore, some of the provisions of title V of Annex I to DL 317/2009 are quoted in order to demonstrate that Article 81(1)

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	effective, proportionate and dissuasive.		or reductions, laid down in Article 61, where such an obligation is incumbent on a payee or third party other than the payment service provider, shall be punishable in accordance with Article 21 of Decree Law No 57/2008, and the Autoridade de Segurança Alimentar e Económica [Food and Economic Safety Authority] (ASAE) shall be responsible for initiating the relevant administrative offence procedures. Art. 95 Particularly serious offences The infringements set out below shall be punishable by a fine of EUR 10 000 to EUR 5 000 000 or EUR 4 000 to EUR 2 000 000, depending on whether it is imposed on a natural or legal person: (...) Art. 96(1) Supplementary penalties 1 – Depending on the seriousness of the infringement and the fault of the person concerned, the following supplementary penalties may also be imposed, together with the fine, on any person liable for the administrative offences laid down in Articles 94 and 9: (...)	of the Directive is properly reflected in the Portuguese act. Title V submits some infringements to other acts such as the RGICSF, Decree Law No 57/2008 (concerning unfair business to consumer commercial practices) and Decree Law No 433/82 (laying down offense ordinances and their respective procedures). Title V of Annex I to DL 317/2009 does not clearly refer to effective, proportionate and dissuasive penalties. However, the introductory part of DL 317/2009 explicitly mentions that the Directive brought into the Portuguese legal framework adequate procedures that will ensure the application of effective, proportionate and dissuasive penalties. To conclude, the requirements of Article 81(1) of the Directive are properly reflected in Title V of Annex I to DL 317/2009.
Art. 81(2)	2. Member States shall notify the Commission of the rules referred to in paragraph 1 and of the competent authorities referred to in Article 82 by 1 November 2009 and shall notify it without delay of any subsequent amendment affecting them.	N/A	N/A	CONFORM According to information which is available in the EC website of DG MARKT, there is an indication of the corresponding competent authority for complaints in Portugal. Therefore, Portugal has notified the EC and has transposed Article 81(2) of

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				the Directive.
Art. 82(1)	Article 82 Competent authorities 1. Member States shall take all the measures necessary to ensure that the complaints procedures and penalties provided for in Articles 80(1) and 81(1) respectively are administered by the authorities empowered to ensure compliance with the provisions of national law adopted pursuant to the requirements laid down in this Section.	Art. 6(1), and Art. 99 of Annex I to DL 317/2009	Art. 6(1) Competent authority 1 – The Bank of Portugal shall be responsible for prudential and behavioural supervision under this Law and in particular for: a) granting authorisation for the establishment of payment institutions and withdrawing it where provided for by law; b) supervising compliance with the provisions of this Law; c) issuing any regulations necessary for the application of its provisions; d) assessing complaints made by payment service users; e) establishing processes for administrative offences and imposing the relevant penalties. Art. 99 Applicable rules Where not otherwise provided for in the preceding articles, the rules governing administrative offences laid down in Articles 201 <i>et seq.</i> of the RGICSF shall apply, <i>mutatis mutandis</i>.	CONFORM Article 6(1) of Annex I to DL 317/2009 reflects properly the requirements of Article 82(1) of the Directive. In fact, Article 6(1) explicitly states that the Bank of Portugal is responsible for assessing complaints made by the payment users and establishing processes for administrative offences and imposing the relevant penalties. Other provisions of Annex I to DL 317/2009 reflect the proper transposition of Article 82(1) into the Portuguese legislation. In particular, Title IV and V of Annex I to DL 317/2009 set out rules on complaints to, and assessed by, the Bank of Portugal and rules regarding penalties administrated by the Bank of Portugal. Moreover, the rules governing administrative offences laid down in the RGICSF are a subsidiary legal framework that can be applied to the infringements set out in Title V of Annex I to DL 317/2009. Therefore, it can be concluded that Annex I to DL 317/2009 lays down measures necessary to ensure that the complaints procedures and penalties are administrated by the competent authorities.
Art. 82(2)	2. In the event of infringement or suspected infringement of the provisions of national law adopted pursuant to Titles III and IV, the competent authorities	Art. 6(4) of Annex I to DL 317/2009	Art. 6(4) Competent authority 4 – The Bank of Portugal shall supervise compliance with the rules in Title III by	CONFORM Although the terminology and structure of Articles 6(4) and

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	referred to in paragraph 1 shall be those of the home Member State of the payment service provider, except for agents and branches conducted under the right of establishment where the competent authorities shall be those of the host Member State.		payment service providers having their registered office in Portugal or established there, including the branches and agents of payment institutions authorised in other Member States. Art. 35(1) Payment institutions authorised in other Member States 1 – Payment institutions authorised in other Member States which provide services in Portugal, provided that they are subject to the supervision of the competent authorities of the countries of origin, shall not be subject to the prudential supervision of the Bank of Portugal.	35(1) of Annex I to DL 317/2009 differ from those of Article 82(2) of the Directive, this provision is transposed properly into the Portuguese act.
Art. 83(1)	Section 2 Out-of-court redress procedures Article 83 Out-of-court redress 1. Member States shall ensure that adequate and effective out-of-court complaint and redress procedures for the settlement of disputes between payment service users and their payment service providers are put in place for disputes concerning rights and obligations arising under this Directive, using existing bodies where appropriate.	Art. 92 of Annex I to DL 317/2009	Article 92 Availability of out-of-court dispute-resolution procedures 1 - Without prejudice to the right of access of payment service users to appropriate legal proceedings, payment service providers shall provide their payment service users with access to effective and adequate out-of-court complaint and redress procedures for disputes concerning rights and obligations laid down in Title III of this Law, involving amounts equal to or less than that covered by the first instance courts. 2 – The provision of access referred to in the preceding paragraph shall take place through the selection by payment service providers of at least two bodies authorised	CONFORM Article 92 of Annex I to DL 317/2009 reflects properly the content in Article 83(1) of the Directive. In fact, Article 92 of Annex I to DL 317/2009 provides for the terms in which the payment service providers can provide their payment service users with access to effective and adequate out-of-court complaint and redress.

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			to arbitrate under Decree Law No 425/86 of 27 December, or of two bodies registered under the voluntary registration system for out-of-court consumer dispute settlement procedures, established by Decree Law No 146/99 of 4 May. 3 – The bodies chosen by the payment service providers shall comply with the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes set out in Commission Recommendation 98/257/EC of 30 March 1998. 4 – Service providers may, in addition to the provision of access to the procedures referred to above, submit the disputes referred to in paragraph 1 to the Customer Ombudsman or a similar body, appointed in accordance with the principles set out in Commission Recommendation 98/257/EC of 30 March 1998. 5 – Service providers shall also ensure that the resolution of cross-border disputes is dealt with by a body which is a signatory to the protocol of accession to the FIN-NET network for cooperation in the out-of-court settlement of cross-border disputes in the financial sector, and may select one of the bodies referred to in the preceding paragraphs. 6 – Service providers shall communicate to the Bank of Portugal the bodies which they have selected under paragraph 2 within 15 days of the selection.	

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Art. 83(2)	2. In the case of cross-border disputes, Member States shall make sure that those bodies cooperate actively in resolving them.	Art. 92 of Annex I to DL 317/2009	Art. 92(5) 5 - Service providers shall also ensure that the resolution of cross-border disputes is dealt with by a body which is a signatory to the protocol of accession to the FIN-NET network for cooperation in the out-of-court settlement of cross-border disputes in the financial sector, and may select one of the bodies referred to in the preceding paragraphs.	CONFORM Article 92(5) of Annex I to DL 317/2009 requires that the body which deals with the resolution of cross-border disputes shall be a signatory to the protocol of accession to the FIN-NET network. Therefore, that implies that the different bodies co-operate actively in resolving cross-border disputes, as required in Article 83(2).
Art. 86(1)	TITLE VI FINAL PROVISIONS Article 86 Full harmonisation 1. Without prejudice to Article 30(2), Article 33, Article 34(2), Article 45(6), Article 47(3), Article 48(3), Article 51(2), Article 52(3), Article 53(2), Article 61(3), and Articles 72 and 88 insofar as this Directive contains harmonised provisions, Member States shall not maintain or introduce provisions other than those laid down in this Directive.	Art. 6(5) to (7), Art. 7(2) to (5), Art. 8(2)(d) and (8) to (11), Art. 9(3), Art. 10(2), Art. 23(3), Art. 26(3) to (6), Art. 28, Art. 29(3), Art. 30(6), Art. 34(2), Art. 38, Art. 39(4) and Art. 101 of Annex I to DL 317/2009	Art. 6(5) to (7) Competent authority 5 – Article 12 of the RGICSF is applicable, <i>mutatis mutandis</i>, to the decisions of the Bank of Portugal taken in connection with this Law. 6 – Article 12-A of RGICSF is applicable to the time limits laid down in this Law. 7 – Articles 87 and 88 of the RGISCF are also applicable, <i>mutatis mutandis</i>, concerning the application of the legislation of the protection of the competition to the payment service providers and their business associations, as well as to the payment systems. Art. 7(2) to (5) Payment service providers The exclusivity principle 2 – The entities mentioned in point (f) of the previous paragraph may solely provide payment services which are authorised in	PARTIALLY CONFORM Portugal has chosen not to adopt the options set out in Articles 34(2), 51(2), 53(2) and 88(3) and (4) of the Directive. The other provisions cross-referred to in Article 86(1) of the Directive seem to have been adopted by Portugal. There is only one case of a provision of Annex I to DL 317/2009 containing additional requirements resulting in a transposition which goes beyond the scope of the Directive. In fact, Article 14 of Annex I to DL 317/2009 transposes Article 11 of the Directive without following the full harmonisation requirement. As mentioned above in the report, the Portuguese NIM transposes properly the limits set out in Article 11 of the Directive: within 3 months of the receipt of the application and, where appropriate, within 3 months of the receipt of the additional information requested. However, Article 14 of Annex I to DL 317/2009 additionally states that in any case the limit should never be more than 12 months after the date on which the application was first submitted. Therefore, Article 14 of Annex I to DL 317/2009 sets out an additional provision which changes the scope of Article 11 of the Directive. Although they do not jeopardise the full harmonisation condition

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			their country of origin. 3 – the use of the expression “payment institution” is exclusively reserved to these entities, which may include that wording in the trade or business name during their activity. 4 – The payment institutions with their head office in another Member State can use the trade or business name that they use in their home Member State, according to the provisions of Article 46 of the RGICSF, which are applicable <i>mutatis mutandis</i>. 5 – Article 126 of the RGICSF is applicable, <i>mutatis mutandis</i>, in cases of reasonable suspicion of payment service provisions by a not enabled entity. Art. 8(2)(d) and (8) to (11) Payment institutions 2 – Payment institutions may also engage in the following activities: d) Activities included in the legal framework of currency exchange offices, according to the provisions applicable to these institutions. 8 – The payment institutions which exercise simultaneously the activities referred to in point (2)(c), are subject to the provisions of the Code of Insolvency and Rescue of Firms, with the specifications present in the following paragraphs.	set out by Article 86(1) of the Directive, other requirements which were additionally introduced in Annex I to DL 317/2009, in comparison with the Directive might also be relevant to refer, as follows: Regarding the payment service providers and the exclusivity principle, Article 7 of Annex I to DL 317/2009 specifies that the credit institutions including electronic money institutions, and payment institutions having their registered office in another Member State of the EC mentioned in point (f) (mentioned above, regarding Article 1 of the Directive) may solely provide payment services which are authorised in their country of origin. Moreover, other specifications regarding the trade or business name are set out in Article 7 of Annex I to DL 317/2009. Regarding payment institutions, Article 8 of Annex I to DL 317/2009 contains 4 (and not 3, as in the Directive) types of activities which can be effected in addition to the ones set out in Article 4 (the equivalent of the Annex of the Directive). In fact, Article 8 (the equivalent of Article 16 of the Directive) inserts in the list of activities, the ones included in the legal framework of currency exchange offices. Moreover, Article 8 of Annex I to DL 317/2009 submits the payment institutions that also engage in business activities other than the provision of payment services, to the provisions of the Code of Insolvency and Rescue of Firms. Therefore, some additional and specific provisions are included in Article 8 for situations of insolvency of payment institutions having that type of activity. Regarding the granting of credit, Article 9(3) of Annex I to DL 317/2009 requires that some information should be notified to the Central Credit Registers regarding the transactions made by the payment institutions which grant credit under that Article. Regarding the general requirements in the context of authorisation, set out in Article 10 of Annex I to DL 317/2009, there is an additional condition in comparison with the Directive. In fact, Article 10 requires that the payment

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			9 – The Bank of Portugal can request the announcement of insolvency if some of the facts mentioned in Article 20(1) of the Code of Insolvency and Rescue of Firms are verified. 10 – Without prejudice to the duties of communication to the Bank of Portugal imposed by the Law for the payment institutions, the court in which the announcement of insolvency is required informs, immediately, the Bank of Portugal of that fact for the purpose of the eventual withdrawal of authorisation for the exercise of the activity as a payment institution. 11 – If the authorisation is not withdrawn by the Bank of Portugal, the announcement of insolvency implies the lapse of the authorisation effects. Therefore, the Bank of Portugal shall exercise, during the insolvency procedure, the powers conferred to it by Articles 12 and 14 of Decree Law Nr. 199/2006, of 25 October. Art. 9(3) Granting of credit 3 – The payment institutions which grant credit under this Article shall communicate to the Central Credit Registers (<i>Central de Responsabilidades de Crédito</i>), managed by the Bank of Portugal, the information elements related to the transactions made by them, under the terms and for the purposes determined in the legislation	institutions with registered office in Portugal shall be set up as a public or a private limited company and shall have the minimum capital corresponding to the payment services to provide. Regarding the general requirements in the context of right of establishment and freedom to provide services, Articles 23 and 26 of Annex I to DL 317/2009 state that whenever there is a change in the elements provided for in points (b) to (e) of those articles, the payment institutions shall communicate that change, in written, to the Bank of Portugal and to the competent authority of the host or home Member State (depending on the position of Portugal as the host/home Member State). Regarding the activity in Portugal of payment institutions with registered office in other Member States, Article 26 of Annex I to DL 317/2009 sets out additional provisions in comparison with the Directive. In fact, those provisions specify the moment of initiation of activity in Portugal of a payment institution with registered office in another Member State, the information to be given by the agents of institutions of other Member States, In the context of the supervision of payment institutions, Article 28 of Annex I to DL 317/2009 stresses the granting of adequate levels of liquidity and solvability and Article 29(3) additionally states that the payment institutions shall constitute a special reserve with the objective to reinforce the net assets or to cover prejudices that the profit and loss account cannot withstand. Regarding the rules on access to the payment services, Article 39 of Annex I to DL 317/2009 additionally states that the Bank of Portugal shall, under the attributions conferred to it by the respective Organic Law, ensure the application of the provisions set out in this Article, without prejudice to the competences of the Competition Authority. Moreover, additional provisions are set out by Annex I to DL 317/2009 regarding administrative offences (Title V) and regarding the adaptation of the contracts in force, related to payment services, to the provisions set out by DL 317/2009 (Articles 100 to 103).

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			regulating the centralisation of the credit liabilities. Art. 10(2) Authorisation and general requirements 2 – The payment institutions with registered office in Portugal shall assure the following conditions: a) to be set up as a public or a private limited company; b) to have the minimum capital corresponding to the payment services to provide, under the provisions of Article 29. Art. 14 Decision 1 – The decision on the application for authorisation shall be notified to the persons concerned within three months of receipt of the application or, where appropriate, of receipt of the additional information requested from the applicants, but never more than 12 months after the date on which the application was first submitted. 2 - Article 20 of the RGICSF shall apply to refusals of authorisation. 3 - Reasons shall be given whenever an authorisation is refused. Art. 23(3)	The RGICSF is cross-referred to in Annex I to DL 317/2009 in several occasions, in order to regulate several matters, such as: the decisions of the Bank of Portugal, the time-limits set out in Annex I to DL 317/2009 and the application of the legislation of the protection of the competition to the payment service providers and their business associations, as well as to the payment systems (Article 6); the publicity regarding the payment institutions and the powers of the Bank of Portugal (Article 8(5)); the information that the legal persons which hold qualifying holdings in the institutions to be established must provide (Article 11(3)); the establishment of branches and constitution of subsidiaries in third countries (Article 27), the withdrawal and lapse of authorisation of the payment institution in the home Member State (when the host Member State is Portugal –Article 35(6)) and the professional secrecy for payment institutions (Article 37(1)). Moreover, the RGICSF is mentioned in order to regulate, in the alternative and therefore, <i>mutatis mutandis</i>, some matters such as the supervision of the payment institutions (Article 34(3)). Also, the cases of dissolution and liquidation of the payment institutions with registered office in Portugal are submitted, <i>mutatis mutandis</i> to the provisions of Decree Law Nr. 199/2006 regarding the liquidation of credit institutions and financial companies (Article 8(7)). Solely the articles considered relevant for the analysis of Article 86 were quoted. The mentioned additional requirements do not seem to go beyond the scope of the Directive. However, the Portuguese NIM is considered as partially conformed to Article 86(1) of the Directive as a result of the non respect of the full harmonisation requirement identified in Article 14 of Annex I to DL 317/2009, as mentioned before.

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			General requirements 3- Whenever there is a change in the elements provided for in points 1(b) to (e), the payment institutions shall communicate that change, in written, to the Bank of Portugal and to the competent authority of the host Member State. Art. 26(3) to (6) Activity in Portugal of payment institutions which have their head office in other Member States 3 – The payment institutions authorised in another Member State can initiate their activity in Portugal once the Bank of Portugal receives from the competent authority of the home Member State the communications provided for in Article 23(2) and Article 24, with the specification of the concerned elements. 4 – Whenever there is a change in the elements provided for in points (b) to (e) of Article 23, the payment institution shall communicate that change, in written, to the Bank of Portugal and to the competent authority of the home Member State. 5 – The agents of the institutions mentioned in paragraph 1 shall inform their clients about the institutions on whose behalf they are acting. 6 – In the exercise of their activity in Portugal, the mentioned institutions are subject to the provisions dictated for reasons of public interest.	

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			Art. 28 General principle The payment institutions shall apply the funds that they own, in order to ensure, at all time, adequate levels of liquidity and solvability. Art. 29(3) Minimum capital 3 - the payment institutions shall constitute a special reserve with the objective to reinforce the net assets or to cover prejudices that the profit and loss account cannot withstand. Article 30(6) Own funds 6 – When a payment institution carries out activities other than providing payment services listed in Article 4, which are also submitted to the own funds requirements, the payment institution shall additionally respect those requirements. Art. 34(2) Supervision procedures 2 – Where one of the circumstances provided for in Article 13 is verified, the Bank of Portugal can still determine, at anytime, that the payment institution subject to its supervision shall constitute a	

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			commercial company which has as exclusive object the provision of payment services listed in Article 4, within the period which will be fixed for that purpose. Art. 38 Violation of the duty of secrecy Without prejudice to other applicable sanctions, the violation of the duty of secrecy is punishable under the Criminal Code. Art. 39(4) Rules on access to payment systems 4 – The Bank of Portugal shall, under the attributions conferred to it by the respective Organic Law, ensure the application of the provisions set out in this Article, without prejudice to the competences of the Competition Authority. Art. 101 Adaptation of the contracts in force 1 – The provisions of this Law do not prejudice the validity of the contracts in force related to the payment services regulated thereof. Therefore, the provisions of this Law which are more favourable for the payment service users shall apply to the mentioned contracts. 2 – Without prejudice to the provisions set	

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			out in the previous paragraph, the payment service providers shall adapt the contracts in force before the entry into force of this Law, related to the payment services which they provide to the payment service users which are their clients, to the provisions of this Law, from the date of their entry into force and within no later than 6 months. 3- The payment service providers shall deliver to the payment service users which are their clients, a full copy of the contractual conditions which result from the adaptations done under the provisions set out in paragraph 1, by the form that was agreed with them or, in case there is no agreement, by letter, in which the essential of the adaptations is evidenced, in which there is information regarding the conditions where the mentioned adaptations are tacitly accepted by the users, under the terms set out in Art. 102, and in which there is an identification of the form that the user shall use to communicate the eventual non acceptance of the effected adaptations.	
Art. 86(2)	2. Where a Member State makes use of any of the options referred to in paragraph 1, it shall inform the Commission thereof as well as of any subsequent changes. The Commission shall make the information public on a web-site or other easily accessible means.	N/A	N/A	PARTIALLY CONFORM According to information which is available on the working documents of the EC, Portugal has notified the EC about the adoption of almost all the options referred to in paragraph 1 of Article 86 of the Directive. Portugal did not adopt the adoption set out in Article 88(3). However, the working documents of the EC state the contrary. Therefore, the Portuguese legislation is considered as partially

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				conformed to Article 86(2) of the Directive. The last part of Article 86(2) sets out an obligation which rests upon the EC.
Art. 86(3), 1 st subpara.	3. Member States shall ensure that payment service providers do not derogate, to the detriment of payment service users, from the provisions of national law implementing or corresponding to provisions of this Directive except where explicitly provided for therein.	Art. 6(1)(b), (2)(a) and (4) of Annex I to DL 317/2009	Art. 6(1)(b), (2)(a) and (4) Competent authority 1 – The Bank of Portugal shall be responsible for prudential and behavioural supervision under this Law and in particular for: b) supervising compliance with the provisions of this Law; 2 – In the exercise of its powers of supervision, the Bank of Portugal may, in particular: a) require payment institutions to provide any information which it regards as necessary to check compliance with the rules of this Law; 4 – The Bank of Portugal shall supervise compliance with the rules in Title III by payment service providers having their registered office in Portugal or established there, including the branches and agents of payment institutions authorised in other Member States.	CONFORM The requirement that payment service providers do not derogate, to the detriment of payment service users, from the provisions of national law implementing the Directive is noticeable throughout Annex I to DL 317/2009. Therefore, some of the articles which clearly demonstrate the content in Article 86(3) were quoted.
Art. 86(3), 2 nd subpara.	However, payment service providers may decide to grant more favourable terms to payment service users.	Art. 56(2) and Art. 101(1) of Annex I to DL 317/2009	Art. 56(2) 2 – Where the payment service user is a consumer or micro enterprise, termination of the framework contract shall always be free of charge.	CONFORM Articles 56(2) and 101(1) of Annex I to DL 317/2009 are examples that illustrate the adoption of Article 45(6) of the Directive, which explicitly refers that more favourable terms for payment service users can be set out.

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			Art. 101(1) Adaptation of the contracts in force 1 – The provisions of this Law do not prejudice the validity of the contracts in force related to the payment services regulated thereof. Therefore, the provisions of this Law which are more favourable for the payment service users shall apply to the mentioned contracts.	The Portuguese act also demonstrates such adoption through the application of other optional provisions cross-referred to in Article 86(1) of the Directive.
Art. 88(1)	Article 88 Transitional provision 1. Without prejudice to Directive 2005/60/EC or other relevant Community legislation, Member States shall allow legal persons who have commenced before 25 December 2007 the activities of payment institutions within the meaning of this Directive, in accordance with the national law in force to continue those activities within the Member State concerned until 30 April 2011, without authorisation under Article 10. Any such persons who have not been granted authorisation within this period shall be prohibited in accordance with Article 29 to provide payment services.	Art. 10 of DL 317/2009	Art. 10 Transitional provision 1 - Currency exchange offices (bureaux de change) and companies issuing or managing credit cards which, before 25 December 2007, were authorised and registered to provide in Portugal payment services within the meaning of this Decree Law, may continue their activity in Portugal until 30 April 2011 without the authorisation provided for in Article 10 of the law which governs access to the activity of payment institutions and the provision of payment services, approved in Annex I to this Decree Law. 2 – During the transitional period, companies issuing or managing credit cards shall continue to be regarded as financial companies and to be governed by the provisions of the RGICSF and the specific legislation which is applicable to them. 3 – At the end of the period laid down in paragraph 1, the companies which have not obtained authorisation shall be prohibited from providing payment	CONFORM Article 10 of DL 317/2009 reflects the content in Article 88(1) of the Directive. Article 10 of DL 317/2009 is more specific, in comparison with the Directive, addressing the provision to the currency exchange offices and the companies issuing or managing credit cards. Article 10 of DL 317/2009 additionally states that during the transitional period, companies issuing or managing credit cards shall continue to be regarded as financial companies and to be governed by the provisions of the RGICSF and the specific legislation which is applicable to them. However, this additional provision does not contradict or go beyond the scope of Article 88(1) of the Directive.

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			services.	
Art. 88(2)	2. Notwithstanding paragraph 1, an exemption to the authorisation requirement under Article 10 shall be granted to financial institutions that have commenced activities listed in point 4 of Annex I to Directive 2006/48/EC and meet the conditions of point (e) of the first subparagraph of Article 24(1), of that Directive in accordance with national law before 25 December 2007. However, they shall notify the competent authorities of the home Member State of these activities by 25 December 2009. Furthermore, this notification shall include the information demonstrating that they have complied with Article 5(a), (d), (g) to (i), (k) and (l) of this Directive. Where the competent authorities are satisfied that those requirements are complied with, the financial institutions concerned shall be registered in accordance with Article 13 of this Directive. Member States may allow their competent authorities to exempt those financial institutions from the requirements under Article 5.	Art. 10 and Art. 4 of DL 317/2009	Art. 10 Transitional provision 1 - Currency exchange offices (bureaux de change) and companies issuing or managing credit cards which, before 25 December 2007, were authorised and registered to provide in Portugal payment services within the meaning of this Decree Law, may continue their activity in Portugal until 30 April 2011 without the authorisation provided for in Article 10 of the law which governs access to the activity of payment institutions and the provision of payment services, approved in Annex I to this Decree Law. 2 – During the transitional period, companies issuing or managing credit cards shall continue to be regarded as financial companies and to be governed by the provisions of the RGICSF and the specific legislation which is applicable to them. 3 – At the end of the period laid down in paragraph 1, the companies which have not obtained authorisation shall be prohibited from providing payment services. Art. 4 (addition to RGICSF) Art. 117-B Relevant companies for the payment services 1- The Bank of Portugal can submit to its supervision the entities which aim to or	CONFORM Article 10 of DL 317/2009 seems to be more conformed to paragraph (2) than to paragraph (1) of Article 88 of the Directive. In fact, Article 88(2) is referring specifically to financial institutions. Taking into consideration that Article 10(1) of the Directive excludes from the requirement of authorisation the credit institutions, the electronic money institutions, the post office giro institutions, the European Central Bank and national central banks, and the Member States or their regional or local authorities, DL 317/2009 merely addresses its Article 10 to currency exchange offices and companies issuing or managing credit cards. Therefore, it can be concluded that the only payment institutions existing before 2007 were the currency exchange offices and companies issuing or managing credit cards. It is important to mention Article 4 of DL 317/2009 since it adds to the RGICSF a new provision stating that the Bank of Portugal can submit to its supervision the entities which aim to or effectively exercise an activity especially relevant for the functioning of the payment systems. Those companies shall present specific information to the Bank of Portugal.

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			effectively exercise an activity especially relevant for the functioning of the payment systems, specifying the rules and obligations which are applicable to them, amongst the ones provided for in this decree law for the financial companies. 2 – The entities which exercise any activity in the scope of payment systems shall communicate that fact to the Bank of Portugal and provide it all the information requested by that Bank. 3 – For the purposes of paragraph (1), what shall be considered especially relevant for the payment systems, is in particular, the activity of management of the electronic network through which the payments are made.	
Art. 88(3)	3. Member States may provide that legal persons referred to in paragraph 1 shall be automatically granted authorisation and entered into the register provided for in Article 13 if the competent authorities already have evidence that the requirements laid down in Articles 5 and 10 are complied with. The competent authorities shall inform the entities concerned before the authorisation is granted.	N/A	N/A	Article 88(3) sets out an option. Owing to this option, Portugal did not adopt the Directive provision. However, the working documents of the EC state the contrary. Therefore, there might be a need for the EC to seek clarifications on the situation of transposition from Portugal.
Art. 88(4)	4. Without prejudice to Directive 2005/60/EC or other relevant Community legislation, Member States may allow natural or legal persons who have commenced the activities of payment institutions within the meaning of this Directive, in accordance with the national	N/A	N/A	Article 88(4) sets out an option. Owing to this option, Portugal does not seem to have chosen to apply the Directive provision.

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	law in force before 25 December 2007 and who are eligible for waiver under Article 26 to continue those activities within the Member State concerned for a transitional period not longer than 3 years without being waived in accordance with Article 26 and entered into the register provided for in Article 13. Any such persons who are not waived within this period shall be prohibited in accordance with Article 29 to provide payment services.			