

BANK OF GREECE
THE GOVERNOR

ACT OF THE GOVERNOR No. 2536/4.2.2004

Re: Requirements for granting authorisation to, and rules for the supervision of, money transfer intermediaries by the Bank of Greece (Bank of Greece Governor's Act 2536/4.2.2004)

The Governor of the Bank of Greece, having regard to:

- a) the Statute of the Bank of Greece, in particular Article 55A thereof, as currently in force;
- b) Article 1 of Law 1266/1982 "Authorities responsible for the conduct of monetary, credit and exchange rate policies, and other provisions";
- c) Article 18 of Law 3148/2003 "Money transfer intermediaries";
- d) Law 2331/1995 "Prevention and suppression of money laundering and other provisions", as currently in force, the recommendations of the Financial Action Task Force (FATF) on the obligations of money transfer intermediaries, and the relevant circulars of the Bank of Greece Department for the Supervision of Credit and Financial Institutions (latest circular: 654/22 July 2003);
- e) Presidential Decree 33/2000 on cross-border credit transfers, in conjunction with Regulation (EC) 2560/2001 of the European Parliament and the Council on cross-border payments in euro;
- f) Bank of Greece Governor's Act 2501/31 October 2002 "Informing credit institutions' customers on the terms and conditions applying to their transactions";
- g) the need to establish a regulatory framework for money transfer intermediaries;

has decided the following:

I. TERMS AND CONDITIONS FOR AUTHORISATION

A. The Bank of Greece can authorise sociétés anonymes to operate as money transfer intermediaries, on the following terms and conditions:

1. a) The applicant société anonyme has a minimum initial share capital of one hundred and fifty thousand euro (€150,000) fully paid-in in cash and deposited with a credit institution operating in Greece. This amount shall remain in deposit until the société anonyme has been officially incorporated.

The own funds of undertakings which convert into sociétés anonymes for the purpose of operating as money transfer intermediaries may not fall below the current minimum amount.

b) Throughout the operation of the above mentioned sociétés anonymes, their own funds may not fall below the above minimum amount.

2. The application submitted to the Bank of Greece shall contain the following information along with the necessary supporting documents:

a) The registered name and the location of the société anonyme.

b) Identification of the natural or legal persons which hold, directly or indirectly, at least 10% of the capital or voting rights of the money transfer intermediary.

c) Information on the main shareholders referred to in the preceding indent shall include:

(i) complete curricula vitae;

(ii) copy of type A criminal record (for shareholders that are natural persons);

(iii) non-bankruptcy certificate;

(iv) declaration stating the sources of the funds with which they will acquire their shares;

(v) in the event that any of the main shareholders is a legal person, identification of the natural persons who directly or indirectly control it.

d) Identification of the person in charge of the company's operation, as well as the person responsible for the company's compliance with anti-money laundering legislation (Article 4, paragraph 10, of Law 2331/1995, as applicable). For these persons, the following documents shall be submitted to the Bank of Greece, at the latest by the intermediary's start of operation:

(i) the documents referred to in paragraph 2 (i) to (iii). Curricula vitae shall include information on the above persons' professional background and previous experience.

(ii) two letters of recommendation for each person; these must not come from shareholders, prospective Board members or (prospective or current) executives of the applicant (under establishment or existing) company.

e) Identification of the company's Board members along with the supporting documents referred to in paragraph 2 (i) to (iii).

f) For companies under establishment, Draft Articles of Association; for existing companies, copy of the Articles of Association incorporating all amendments up to

date or amendments envisaged considering the operation of these companies as money transfer intermediaries.

g) Detailed organisational and administrative structure of the company as well as number of personnel.

h) Description of the accounting system, the IT system and the management information system, as well as the procedures for conducting money transfer transactions.

i) The société anonyme's internal audit procedures aimed at monitoring compliance with this Act, Law 2331/1995, as currently in force, the relevant circulars of the Bank of Greece and the provisions of law governing the société anonyme's specific area of activity.

j) An estimate of the amount of funds to be transferred within the next six months.

k) Name and postal address of the company/companies with which the applicant has contracted for the purpose of transferring money.

l) The selection criteria for the company's associates (natural and legal persons).

3. The Bank of Greece reserves the right to request additional information and data before granting authorisation.

In the event that any data or information provided in compliance with this Act are inaccurate or misleading, the Bank of Greece reserves the right to revoke authorisation.

B. The authorisation granted to a money transfer intermediary shall be valid for a period of six (6) months from the communication of the relevant decision of the Bank of Greece to the applicant, unless a different period is specified in the decision.

To this end, said intermediaries shall notify the Bank of Greece (Department for the Supervision of Credit and Financial Institutions) of their start of operation within fifteen (15) days from such start, providing full addresses of their headquarters and branches (including the name and address of any agents), along with a list of the credit institutions with which they will hold accounts for clearing their transactions related to money transfers.

II. RULES OF OPERATION – CUSTOMER INFORMATION

1. Money transfers can be settled either on a one-to-one basis or on a netting basis, at regular intervals, through an account held by the intermediary with a credit institution operating in Greece. Entries in this account shall exclusively reflect respective flows under money transfer orders.

2. For the funds to be transferred, the procedures on statistical reporting to the Bank of Greece (Bank of Greece Governor's Act 2535/2004) shall be observed.

3. The intermediary shall forward its customer's money transfer order to its associate or agent on the same day it collects the corresponding amount from the originator.

4. For every transaction, the money transfer intermediary shall issue a transaction slip, delivered to its customer and including at least the following information:

- name and address of the originator,
- the transacted amount,
- name and address of the beneficiary,
- date of the transaction,
- place of payment.

The intermediary shall keep records of its operations for at least five (5) years.

5. a) Money transfer intermediaries shall provide their customers with the information referred to in Articles 2 and 4 of Presidential Decree 33/2000, irrespective of amount and currency, and shall establish procedures for the examination of customer complaints.

b) The provisions of this section shall be without prejudice to the rights and obligations of the persons involved that may arise from other legal provisions and/or regulatory decisions issued by other authorities within their fields of competence.

III. CAPITAL REQUIREMENTS – RULES FOR INVESTMENTS

1. In the event that the intermediaries' own funds are lower than the average daily balance of funds received during the preceding calendar half-year, the shortfall shall be covered by a letter of guarantee issued by a credit institution for securing fulfilment of the intermediary's obligations. In the case of newly established intermediaries, the calculation basis shall be the estimated amount of funds to be transferred within the first six months of operation, as reported to the Bank of Greece.

2. The intermediary shall at all times maintain sufficient liquidity, in the form of sight deposits, deposits with an agreed maturity of up to 3 months, and securities issued by central governments of EU Member States. The composition and amount of these liquid assets shall be determined by the Bank of Greece Department for the Supervision of Credit and Financial Institutions, mainly on the basis of the intermediary's turnover as well as the internal procedures it has put in place for securing the funds collected by its agents (e.g. adequate coverage by bank guarantees issued in favour of the intermediary at the agent's instruction).

IV. REPORTING TO THE BANK OF GREECE

Money transfer intermediaries shall notify the Bank of Greece (Department for the Supervision of Credit and Financial Institutions) in writing of any change in the data referred to in section I.A., paragraph 2, excluding indent (j), at least fifteen (15) days before the change. Specifically:

- a) If the change relates to the persons referred to in indents (d) and (e) of paragraph 2, Section I.A., the notification shall be accompanied by the documents referred to therein.

- b) In the event of transfer of a shareholding stake or voting rights which leads to a shareholder acquiring more than 10% of the intermediary's share capital, the party intending to acquire such holding shall submit to the Bank of Greece the documents set out in Section I.A., paragraph 2, indents (b) and (c). If the Bank of Greece does not communicate a negative response within forty-five (45) days from the above submission, this shall mean approval of the share transfer. The same obligation shall apply in the event of a shareholding stake increase leading to the assumption of the intermediary's control.

V. SANCTIONS

The Banking and Credit Committee shall impose as per the case the sanctions set out in Article 18 of Law 3148/2003.

Administrative fines shall be paid within one month from the communication of the relevant decision. Failure to pay such fine shall incur suspension or even revocation of authorisation.

VI. OTHER PROVISIONS

1. Money transfer intermediaries already operating at the time when this Act enters into force shall conform to the provisions of this Act; to this end, they shall submit to the Bank of Greece an application within four months from the Act's publication in the Government Gazette. The Bank of Greece shall determine within two months from this submission whether the requirements set herein are met and shall communicate its decision to the intermediaries concerned. In the event of non-authorisation, companies shall discontinue their money transfer intermediation activity immediately.

If the aforementioned application and the supporting documents referred to herein are submitted with a delay, the Bank of Greece shall impose the sanctions set out in paragraph 2, Article 18 of Law 3148/2003.

2. The provisions of Circular 654/22 July 2003 of the Bank of Greece Department for the Supervision of Credit and Financial Institutions on the prevention and suspension of money laundering (Law 2331/1995) shall apply to all money transfer intermediaries under this Act.

3. Mailing companies, which are subject to the legal framework governing the supply of mailing services and which, alongside their main activity, take up business in the field of money transfer intermediation, shall notify the Bank of Greece thereof, so that the latter can determine whether such companies fall within the scope of this Act; in any event, the provisions of paragraph 2 above shall apply.

4. The Bank of Greece Department for the Supervision of Credit and Financial Institutions is hereby authorised to provide clarifications and instructions for the implementation of this Act.