

## **FMA Guidance 2019/9 – Prudential assessment of qualifying holdings for payment institutions under the Payment Services Act (PSA)**

Guidance on the prudential assessment of the acquisition, increase or disposal of qualifying holdings in a payment institution

Reference:	FMA-G 2019/9
Addressees:	<ul style="list-style-type: none"><li>• Proposed direct and indirect acquirers of qualifying holdings in a payment institution under Article 17 of the Payment Services Act (PSA) of 6 June 2019;</li><li>• Payment institutions under Article 17 of the Payment Services Act (PSA) of 6 June 2019 and Payment Services Ordinance (PSO) of 17 September 2019</li></ul>
Entry into force:	1 October 2019
Date of publication:	1 October 2019
Last amended on:	1 October 2019
Legal basis:	<ul style="list-style-type: none"><li>• Liechtenstein Payment Services Act of 6 June 2019 (PSA)</li><li>• FMA Guidance 2017/20: Guidance on the prudential assessment of the acquisition, increase or disposal of qualifying holdings in a bank or investment firm, in asset management companies and in insurance companies</li></ul>



## 1. General Information

Under Article 17(1) PSA, every proposed direct or indirect acquisition and every proposed direct or indirect disposal of a qualifying holding as defined in Article 4(1)(36) of Regulation (EU) No 575/2013 (CRR) in a payment institution must be notified in writing to the FMA without delay by the person or persons proposed for the acquisition and the disposal. Every proposed direct or indirect increase or every proposed direct or indirect reduction of a qualifying holding in a payment institution must also be notified if, as a consequence of the increase or reduction, the thresholds of 20%, 30% or 50% of the capital or voting rights of the payment institution were to be reached, exceeded or fallen below, or so that the payment institution would become the subsidiary of an acquirer, or the payment institution would cease to be a subsidiary of the person disposing of the qualifying holding. Articles 25, 26, 27 and 31 of the Law of 23 October 2008 on the Disclosure of Information on Issuers of Securities (Disclosure Act, OffG) apply for the purpose of determining voting rights.

A proposed acquisition or a proposed increase of a holding that does not reach 10% of the capital or voting rights of the target entity must also be notified to the FMA in advance so that it can prudentially assess whether such a holding would enable the proposed acquirer to exert a considerable influence on the management of the target entity, irrespective of whether this influence is actually exerted or not. To assess whether a considerable influence can be exerted, the FMA takes account of several factors, including the shareholder structure of the target entity and the current level of involvement of the proposed acquirer in the management of the target entity .

The proposed acquirer of a qualifying holding must supply to the FMA information indicating the size of the intended holding and relevant information referred to in Article 23(4) of Directive 2013/36/EU.

If a natural or legal person fails to provide the information required under Article 17(1) PSA or fails to do so in a timely manner, the FMA shall take appropriate measures (Article 17(3) PSA).

Pursuant to Article 17(4) PSA, the FMA shall express its opposition to the acquisition or take other appropriate measures where an intended qualifying holding is likely to operate to the detriment of the prudent and sound management of a payment institution.

Any exercise of voting rights of holdings acquired despite the opposition of the FMA is null and void (Article 14(5) PSA).

## 2. Procedure and documents to be submitted<sup>1</sup>

The procedure and the documents to be submitted for assessment purposes are set out in [FMA Guidance 2017/20](#), which applies *mutatis mutandis*.

Assessment checklists are provided by the FMA. The use of checklists is required. A separate checklist must be used for each natural person or legal person with a direct or indirect qualifying holding.

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<sup>1</sup> Please refer to EBA/GL/2017/09 regarding documents to be submitted as part of the licensing procedure in respect of qualifying holdings.



### **3. Final provisions**

#### **3.1 Entry into force**

This Guidance enters into force on 1 October 2019.