Notification of the Use of the Electronic Communications Exclusion

under Regulation 46 of the European Union (Payment Services) Regulations 2018

May 2018

**IMPORTANT INFORMATION TO BE READ BEFORE COMPLETING THIS NOTIFICATION FORM**

**Terms used in this Notification Form:**

**Central Bank** – The Central Bank of Ireland

**CRO** – Irish Companies Registration Office

**EBA** – European Banking Authority

**Electronic Communications Exclusion** refers to the provisions of Regulation 4(l) of European Union (Payment Services) Regulations 2018

**PSR** – The European Union (Payment Services) Regulations 2018

**Service Provider** refers to the business or entity notifying the Central Bank that it is providing services of a type falling within the scope of the electronic communications exclusion

**Background**

Regulation 4(l) of the PSR provides for an ‘electronic communications exclusion’ that applies to ‘*payment transactions by a provider of electronic communications networks or services provided in addition to electronic communications services for a subscriber to the network or service-*

*(i) for purchase of digital content and voice-based services, regardless of the device used for the purchase or consumption of the digital content and charged to the related bill; or*

*(ii) performed from or via an electronic device and charged to the related bill within the framework of a charitable activity or for the purchase of tickets;*

*provided that the value of any single payment transaction referred to in points (i) and (ii) does not exceed €50 and:*

*— the cumulative value of payment transactions for an individual subscriber does not exceed €300 per month, or*

*— where a subscriber pre-funds its account with the provider of the electronic communications network or service, the cumulative value of payment transactions does not exceed €300 per month’*.

Regulation 46(3) of the PSR provides that “w*here a service provider has, in a financial year of the service provider, provided services in respect of which a notification has been sent under paragraph (1), the service provider shall, within such period after the end of that financial year as the* [Central] *Bank may direct, provide an audit opinion in respect of that financial year to the effect that the transactions in respect of which the services were provided comply with the limits set out in paragraph (l) of Regulation 4”*.

This Notification Form should be submitted to the Central Bank by a Service Provider that is providing, or is intending to provide, services for payment transactions falling within the scope of Regulation 4(l) of the PSR. It is being made available to facilitate Service Providers seeking to fulfil their initial notification obligations as set out in Regulation 46 of the PSR.

**Note: The onus is on firms to both satisfy themselves that:**

1. **they fall within the scope of the electronic communications exclusion both at the time of notification and on an on-going basis thereafter; and**
2. **they comply with the notification and provision of an annual audit opinion obligations under the PSR.**

**Firms are advised to seek legal advice if they are unsure as to whether their activities or proposed activities fall within the scope of the electronic communications exclusion or if they are unsure as to how they should comply with their on-going obligations under the PSR. Firms providing payment services that exceed the thresholds set out in Regulation 4(l) of the PSR should ensure that they have an appropriate authorisation from the Central Bank to do so.**

**What Information Must be Provided?**

An electronic communications network or service provider providing a service falling within the scope of the electronic communications exclusion must submit the following information to the Central Bank:

1. A notification including a description of that service; and thereafter
2. An annual audit opinion testifying that the payment transactions for which the service is provided comply with the financial limits set out in Regulation 46(3) of the PSR (Annual Audit Opinion).

The Central Bank expects the application of the financial limits set out in Regulation 4(l) of the PSR to be based on treating individual telephone numbers or SIM cards, rather than account holders, as separate ‘subscribers’.

**When is a Notification Required?**

**Persons providing a service before 13 January 2018 that would fall within the scope of the electronic communications exclusion and who continue to do so afterwards:**

A Service Provider who provides a service falling within the scope of the electronic communications exclusion prior to 13 January 2018 must submit a Notification to the Central Bank no later than 3 months after 13 January 2018. If a Service Provider wishes to submit a Notification before this deadline then the Service Provider may do so.

**Persons providing a service falling within the scope of the electronic communications exclusion only on or after 13 January 2018:**

If a Service Provider intends to begin providing a service falling within the scope of the electronic communications exclusion on or after 13 January 2018 then the Service Provider should submit a Notification to the Central Bank before it commences providing the service.

**Annual Audit Opinion**

A Service Provider must also submit an Annual Audit Opinion to the Central Bank testifying that the payment transactions for which the service is provided comply with the financial limits set out in Regulation 4(l) of the PSR.

**Other Information**

Provisions in this Notification Form should not be deleted or amended in any manner. The Service Provider should ensure that the information provided in this Notification Form is accurate and complete and that all relevant information is disclosed. If it does not, the Service Provider may be committing a criminal offence.

The Central Bank may disclose information in the performance of its statutory functions or otherwise as may be specifically authorised by law.

All responses to the information requested in this Notification Form must be typed, except where a signature is required.

The information provided in this Notification Form will form the basis of the entry of the notifying Service Provider on the Central Bank Register maintained in line with Regulation 25 of the PSR. It will also form the basis of a notification in respect of the Service Provider to the EBA in line with Regulation 46(5) of the PSR and the entry of the notifying Service Provider on the EBA Register maintained in line with Regulation 26 of the PSR.

Electronic Communications Exclusion Forms can be sent electronically to [applications@centralbank.ie](mailto:applications@centralbank.ie).

**If a Service Provider has ceased to provide services in respect of which it relies on the electronic communications exclusion, it should advise the Central Bank of this in writing (to *Consumer Protection - Policy and Authorisations Division, Central Bank of Ireland, PO Box 559, Dublin 1*) within one month of the date from which the conditions were no longer met.**

**The Central Bank may process personal data provided by you in order to fulfil its statutory functions or to facilitate its business operations. Any personal data will be processed in accordance with the requirements of data protection legislation. Any queries concerning the processing of personal data by the Central Bank may be directed to** [**dataprotection@centralbank.ie**](mailto:dataprotection@centralbank.ie)**. A copy of the Central Bank’s Data Protection Notice is available at** [**www.centralbank.ie/fns/privacy-statement**](http://www.centralbank.ie/fns/privacy-statement)**.**

1. **Service Provider Details**
   1. **Full Legal Name of Service Provider:**

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* 1. **Registered Office or Head Office Address:**

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| Choose an item. |

* 1. **Does the Service Provider use any other trading names?**

**If yes, please provide details:**

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* 1. **Place of Incorporation or Formation:**

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| Choose an item. |

* 1. **Does the Service Provider have a CRO registration number?**

**If yes, please provide details. (If registered outside of Ireland, please provide equivalent reference.)**

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| Choose an item. |

* 1. **Is the Service Provider authorised and regulated by the Central Bank or another regulatory authority to provide payment / electronic money services or other financial services?**

**If yes, please provide details.**

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| Choose an item. |

* 1. **Has the Service Provider previously submitted a notification of the use of the electronic communications exclusion to a competent authority in another Member State?**

**If yes, please provide details.**

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| Date Submitted: |  |
| Member State: |  |
| Competent Authority: |  |

1. **Description of Electronic Communication Service(s)**

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| Choose an item. |

* 1. **Please select the type of service(s) that the Service Provider provides**

**If other, please provide details:**

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* 1. **Name of the service(s) that results in the payment transactions that are considered to fall within the scope of the electronic communications exclusion**

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| Choose an item. |

* 1. **Are the payment transactions to which this notification relates for the purchase of digital content and voice-based services, regardless of the device used for the purchase or consumption of the digital content, and charged to the related bill?**

**If yes, please provide a description of what those goods or services are under the relevant headings.**

**Digital Content**

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**Voice-based Services**

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| Choose an item. |

* 1. **Are the payment transactions to which this notification relates performed from or via an electronic device and charged to the related bill for the purchase of tickets or for donations to organisations which are registered or recognised as charities by public authorities, whether in Ireland or elsewhere?**

**If yes, please provide a brief description of what those goods or services are under the relevant headings.**

**Charitable activities**

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**Tickets**

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| Choose an item. |

* 1. **Is the Service Provider already providing the services?**

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| **Start date** |
| Click here to enter a date. |

**If no, please specify the date on which it expects to begin providing the services.**

* 1. **Please briefly set out the grounds on which the Service Provider is able to rely on the electronic communications exclusion (including details of the payment transactions that are carried out). This should also include confirmation that the €50 and €300 limits set out in Regulation 4(l) of the PSR are currently and will be met on an on-going basis.**

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1. **Declaration**

**[Insert full legal name of Service Provider]** hereby notifies the Central Bank that it is operating, or intends to operate, under the electronic communications exclusion as set out in Regulation 4(l) of the PSR on the basis of the information supplied with this Notification Form and any additional related information supplied to the Central Bank.

We/I acknowledge that the Central Bank may disclose information in the performance of its statutory functions or otherwise as may be specifically authorised by law.

We/I warrant that we/I have truthfully and fully answered the relevant questions in this Notification Form and disclosed any other information that might reasonably be considered relevant for the purpose of this notification.

We/I warrant that we/I will promptly notify the Central Bank of any changes in the information we/I have provided for the purposes of this notification and we/I are aware of our on-going obligations to provide the Central Bank with an Annual Audit Opinion in order to continue to operate under the electronic communications exclusion or to notify the Central Bank if this is no longer the case. We/I also confirm that **[insert full legal name of Service Provider]** has in place and will maintain appropriate systems, controls and governance arrangements to ensure it can meet its on-going obligations and to confirm its on-going qualification for the electronic communications exclusion.

We/I warrant that we/I are authorised to make this notification for the use of the electronic communications exclusion.

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| **For and on behalf of:** | **[insert full legal name of Service Provider]** |
| **Name (Printed):**  **Title (director or equivalent):**  **Signature (original signature required):**  **Date:** |  |
| **Name (Printed):**  **Title (director or equivalent):**  **Signature (original signature required):**  **Date:** |  |



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