What's Behind the Bank Account? – Questions about Distinguishing Account Types

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The essay presents a classification of the types of accounts maintained by financial entities and their different legal definitions. The colloquial term "bank account" can in fact encompass a variety of account types, including payment, deposit, client or electronic money accounts, each of which is subject to distinct regulatory rationales and operating principles. The classification of accounts also determines the prudential measures applicable, the necessary authorisations, the requirements for IT systems and the responsibilities of service providers. The essay delineates the evolution of EU financial regulation, emphasising the significance of the Lamfalussy framework and the role of EU regulations in the development of the prevailing financial institutional system. Accurate accruals are of particular importance for financial sector actors. The type of account has a fundamental impact on the feasibility of the business model and regulatory compliance.

Journal of Economic Literature (JEL) codes: D45, G20, G28

Keywords: bank account, payment account, financial institutions, regulation

1. Introduction

Both for traditional financial players, such as credit institutions or financial enterprises, and for newer players emerging in the financial markets, e.g. FinTech companies, the provision of financial services is done through a register called an account. At the same time, it is not clear to most economists or lawyers that the accounts held by financial entities are not subject to a uniform legal regime and are therefore subject to different prudential requirements. It is generally clear to most experts and ordinary people that there is a difference between *an invoice*, a *general ledger account* and *a bank account.* However, it may not be clear to many

* The papers in this issue contain the views of the authors which are not necessarily the same as the official views of the Magyar Nemzeti Bank.

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The first version of the Hungarian manuscript was received on 2 February 2025.

DOI: https://doi.org/10.33893/FER.24.2.132

people that just because an account holds some kind of funds and is managed by a financial entity does not necessarily make it a bank account.

This means that, in the day-to-day practice of financial product development, legal opinions, or economic or financial analysis, even experts can be confused and draw wrong conclusions about accounts and their management. These misconceptions can have far-reaching consequences, as the legal classification of an account can affect the relevant licences (e.g. within the framework of which licensable activity can an account be managed), the IT system used to maintain the account, the "functionality" of the product (e.g. whether it should take five seconds to execute a payment order on the account or days), and the financial consequences (e.g. whether a financial entity can manage the account balance as its own or not). For example, in the case of a FinTech start-up, it is of particular importance whether the service the company intends to provide is a licensable activity and, if so, exactly what kind of authorisation it needs to obtain to start providing the service. Another critical issue for an incumbent service provider is the qualification of the account for the service, although typically not in relation to the licensing of the activity, but rather in relation to service or product development. For both FinTech and incumbent actors, regulatory compliance is of paramount importance, not only to avoid regulatory action, but also to strengthen trust in the financial system (*Müller – Kerényi 2019*).

This essay is intended to help colleagues in the financial sector navigate the services provided by each institution and the types of accounts they offer. Given that the types of accounts are related to the services provided by financial entities and that Hungarian law recognises around 30 different types of financial entities, i.e. institutions, it is important to examine the relationship between services and institutions. However, this relationship is difficult to understand without a historical context, as the developmental path of the institutional system and the related services cannot be seen. Due to limitations of this essay, it impossible to describe all the types of accounts and their characteristics known under current legislation, and accordingly this essay is limited to the most common accounts in practice, i.e. those most commonly encountered in daily banking, which are mainly of a payment services nature. Also, for the same reasons, it is not the aim of this essay to cover all institutions and services, but only to mention those which are essential for an understanding of the subject. The methodology used for this essay is based on an examination of relevant legal documents and literature.

The regulation of financial services is constantly evolving and becoming more complex, but the direction of development is not self-evident (*Müller – Kerényi 2021*). As a result, new solutions have emerged in the last decade alongside pre-existing systems for recording financial assets and liabilities, such as Distributed

Ledger Technology (DLT), which typically allows for the recording of cryptoassets and can be considered as a specific "bookkeeping". In other words, in practice, a centralised and a distributed model for financial liabilities and receivables has emerged. However, an analysis of these latter solutions is not the subject of this essay.[1] An elaboration of such could be the subject of a separate essay or paper.

2. Evolution of the structure of financial regulation

Considering that the current (prudential) regulation of financial entities originates primarily from the European Union (EU), it is essential to examine the development of EU law. Naturally, regulations other than EU law have also had an impact on Hungarian institutions, but to a lesser extent. The EU legislation relevant for this essay can basically be divided into two main periods: the period before the introduction of the euro, and the period after the introduction of the euro, including the economic crisis of 2008–2009 up to the present day. The pre-euro period is less relevant for the topic of this essay and will therefore not be discussed, however it should be noted that the Basel I Convention[2] (1988), which was not directly EU regulation but strongly influenced EU regulatory practice (*Barna et al. 2018*), had the biggest impact on the financial system.

The introduction of the single European currency and foreign exchange is a milestone that significantly changed financial regulation in the EU, including Hungary (*Győrffy 2013*). Following the introduction of the euro, the regulatory environment became much more centralised (*Pelle – Végh 2019*). As this essay does not aim to provide a comprehensive history of EU financial regulation, only those regulatory events that are relevant to the topic are presented.

The main driving forces behind the rules are the payment regulations to facilitate the practical use of the euro, and the Lamfalussy Report published in 2001 by the Council of Wise Men to initially support the stability of securities markets and thus the financial system, and the subsequent Lamfalussy procedure, which has affected the whole financial sector since December 2002. These legislative processes are significant because they include institutions providing financial services and financial services subject to authorisation or other acts of public authority.

[1] A good overview of the current crypto regulation can be found in *Halász* (*2024*).
[2] The Basel I Convention has become a cornerstone of EU regulation, harmonising the rules on capital requirements, thus contributing to the stability of the internal market. The Convention not only strengthened financial stability but also allowed for closer financial integration between Member States and provided a basis for even more complex regulation in the future.

2.1. The payment regulation

On 1 January 1999, the euro was born, also establishing a single monetary policy and the Trans-European Automated Real-time Gross settlement Express Transfer (TARGET) system for central clearing and settlement. On 1 January 2002, euro banknotes were introduced in cash circulation, but different payment systems were in operation in each Member State using the euro (*Kovács 2010*). These systems used different standards with different practical solutions, as national payment regulations differed, reflecting the different payment habits and financial awareness levels of each country. At the same time, payment service providers were not interested in solving the problems, given the significant costs that would have been involved in developing payment service providers' and payment system operators' IT systems, and the fact that payments were typically made within Member States (*Dávid 2008a*).

In response to these problems, the Single Euro Payments Area (SEPA) was born. The SEPA initiative consisted of several components, including the development of common technical standards and the harmonisation of payment methods. However, the original idea was that SEPA would not be introduced through regulation, but organically on a market basis (*Dávid 2008b*). Nevertheless, market "consolidation" did not take place. The reason given by the European legislator for the lack of consolidation was the absence of a uniform and technology-neutral payments regime. Therefore, following the previous regulation cross border euro payments that regulated the minimum fees,[3] the EU harmonised payment services in 2007 with the adoption of the Payment Services Directive (PSD).[4] Among other things, the Directive regulated the content of the framework contract between payment service providers and their customers, liability issues related to certain fraud practices and the detailed rules for the execution of payment transactions, and also reformed the scope of institutions eligible to provide payment services. Most importantly, the Directive defined a list of activities that are considered to be payment services. At the same time, the Directive regulating electronic money institutions[5] (the second Electronic Money Directive, EMD2) was also renewed. These institutions mainly provided services based on payment cards (so-called prepaid cards) that could be topped up (*Dávid et al. 2018*).

The further development of payment regulation is not relevant to the topic of this essay, but it is worth noting that the standard introduced as part of the SEPA initiative was eventually made mandatory by the EU. Thus, from 2014 onwards, all euro payments are to be made via SEPA payment methods under the so-called SEPA End Date Regulation (*MNB 2024*).

[3] Regulation (EC) No 2560/2001 of the European Parliament and of the Council
[4] Directive 2007/64/EC of the European Parliament and of the Council
[5] Directive 2009/110/EC of the European Parliament and of the Council

2.2. The EU financial regulatory system in the light of the Lamfalussy Report

The Council of Wise Men, chaired by Alexandre Lamfalussy, drew up a set of proposals that became the basis for the regulatory hierarchy and structure that currently exists in the EU. This is significant because the system that emerged from the Lamfalussy Report also provides a framework for interpretation. In the framework proposed by the Lamfalussy Report, the EU was to introduce a four-tier regulatory hierarchy. The first level consisted of harmonised or uniform European Parliament and Council directives and regulations resulting from the EU's ordinary legislative procedure. The second level consisted of the establishment of an EU-level Securities and Markets Committee, which would be responsible for developing detailed rules. The third level was for coordination between national supervisory authorities, while the fourth level was for more effective enforcement of EU law (*Lamfalussy et al. 2001*). In the wake of the global economic crisis of 2008–2009, the Lamfalussy framework was revised, resulting in the system we know today. This system has created the European Systemic Risk Board (ESRB), which has been given responsibilities for the design and implementation of macro-prudential policy, and the three European Supervisory Authorities: European Banking Authority (EBA), European Securities and Markets Authority (ESMA) and European Insurance and Occupational Pensions Authority (EIOPA). The European Supervisory Authorities are informally referred to collectively as the ESAs (*DG-FISMA 2019*). The role of the ESAs includes making recommendations to the European Commission on the exercise of its powers[6] and promoting the harmonisation of supervisory practices. Although the ESAs are referred to as authorities in their founding regulations, their actual supervisory function is limited, not including the ESAs' IT-related oversight tasks. By contrast, the European Central Bank (ECB), together with the national competent authorities of the Member States, performs supervisory functions for the largest European financial groups under the Single Supervisory Mechanism (SSM).

[6] Articles 290 and 291 of the Lisbon Treaty give the European Commission the power to adopt delegated and implementing acts under the ordinary legislative procedure. These legislative acts may be either Regulatory Technical Standards (RTS) or Implementing Technical Standards (ITS), depending on their content. The terms RTS and ITS refer *not to the legal form but to the content of the legislation.* For more details, see Articles 10 and 15 of the ESA Regulations (Regulations (EU) No 1093/2010, (EU) No 1094/2010, (EU) No 1095/2010) and the aforementioned articles of the Lisbon Treaty.

Figure 1
Levels of financial regulation

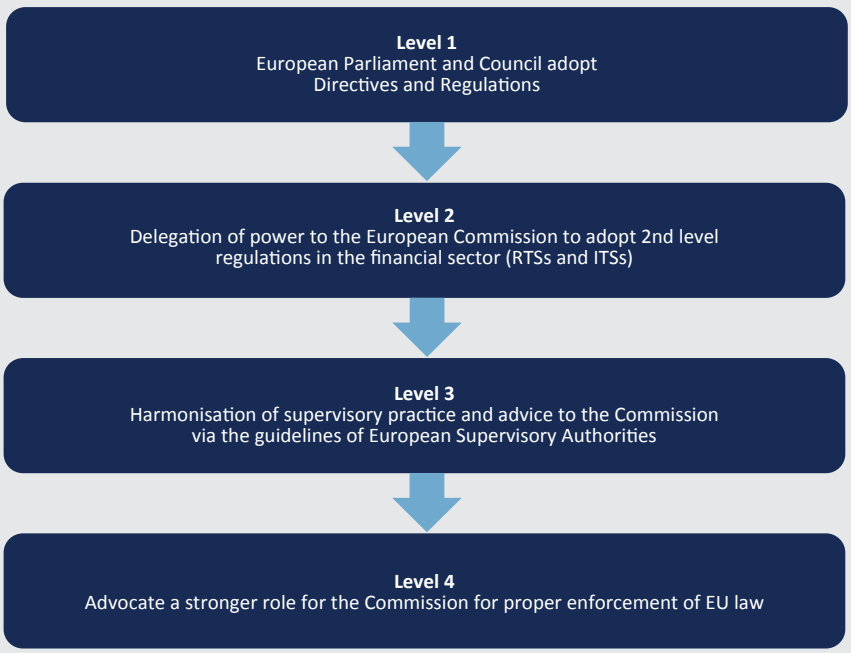

Figure 1 illustrates the levels of regulation, showing that a segment of financial markets has been assigned to a single European supervisory authority, which is responsible for facilitating coordination between national authorities. In other words, they are responsible for fostering regulatory convergence and preparing the Level 2 rules. As a consequence, the European regulatory system follows the traditional financial division: money market, capital market and insurance/pension fund market. It is also important to highlight that, in addition to EU regulation, national regulation has been retained in cases where the EU has not exercised its regulatory competence (*Seregdi 2019*).

It can therefore be said that financial regulation within the EU is multi-level, both at the EU and the Hungarian level. Regulatory measures can be well categorised into the three markets mentioned above, as a kind of framework. The catalyst for regulation has been primarily the introduction of the euro and related infrastructure development, and naturally financial crises and, more recently, digital innovations. Beyond this, national legislation can still be found in financial law (*Müller 2019*).

3. Financial service providers and the services they provide

After reviewing the evolution of regulation, it is worth looking at what service providers have been defined in the framework described above and what (financial) services they can provide.

3.1. Institutions providing financial services

EU financial law recognises so-called institutions. The term "institution" is used in this case as an abstract concept to define a service provider that can be authorised to carry out certain activities or that is obliged to carry out certain activities. EU legislation itself, as well as national law, i.e. Hungarian law, contains provisions governing these institutions. It follows that an expert who is examining, for example, capital requirements, liquidity requirements or rules on executing payment transactions, needs to be familiar with the specific requirements applicable to these service providers. The number of institutions covered by the legislation is constantly changing, but the Digital Operational Resilience Act – DORA[7] – lists some 21 different institutions, which naturally does not include providers as defined solely by Hungarian law. Hungarian law recognises roughly another five different institutions.

In the system that emerged from the Lamfalussy Report, institutions can be divided into three categories. The most important types of institutions include:

- money market institutions: credit institutions, payment institutions, electronic money institutions, cryptoasset providers, financial enterprises;
- capital market institutions: investment firms, central securities depositories, central counterparties, trading venues, stock exchanges;
- insurance and pension fund market: insurance companies, reinsurance companies, institutions for occupational retirement provision, voluntary mutual funds, private pension funds.

[7] Regulation (EU) 2022/2554 of the European Parliament and of the Council

Some institutions may be further subdivided into sub-types, e.g. a credit institution[8] may be a bank,[9] a specialised credit institution or a credit institution set up as a cooperative society (Article 8(3) of Credit Institutions and Financial Enterprises Act, CIFE[10]). Some legislation uses collective terms, e.g. Act on the Pursuit of the Business of Payment Services, PSA[11]. Payment service provider is an umbrella term under the PSD, which includes credit institutions, electronic money institutions, post office giro institution,[12] payment institutions, the Central Bank of Hungary (Magyar Nemzeti Bank, MNB) and the Treasury[13] (Article 2(22) of PSA). Another example of an umbrella term is financial institution, which is a collective term for financial enterprise and credit institutions (Article 7(1) of CIFE). Since the term "financial entity" is not used in current legislation, as opposed to the terms bank, financial institution, payment service provider, etc., it may be appropriate to include all institutions supervised by the MNB under this definition.

3.2. Services provided by the institutional system

The Treaty on the Functioning of the European Union established a common European passport relatively early on to allow the free movement of capital and services (*Lehofer 2024*). However, for the passport to work in practice, it was necessary for certain (financial) activities to be subject to authorisation and, where appropriate, notification. This meant that the scope of these activities or services themselves had to be defined. The regulation of these activities and services was further complicated by the fact that they had to be integrated into the private law of the Member States, in Hungary the Civil Code.[14]

[8] It has to be noted that the term 'money institution' is not recognised in the legislation and is now considered an obsolete concept, as the Act on Money Institutions and activities of Money Institutions was abolished by the 1996 Act on the Law on Credit Institutions and Financial Enterprises.
[9] It has to be pointed out that the Civil Code uses the term bank to mean a person or undertaking authorised to collect deposits and maintain a payment account, but this definition is not in line with EU or Hungarian financial legislation. The Civil Code may be justified in keeping the text compact and simple, but it might have been more appropriate to find a purely private law concept when codifying the new Civil Code. Nevertheless, in practice the use of the Civil Code's definition does not pose any particular problems.
[10] Act CCXXXVII of 2013
[11] Act LXXXV of 2009
[12] In Hungary, under the Postal Services Act it is Magyar Posta Zrt.
[13] The Hungarian State Treasury performs the functions of the treasury by law.
[14] Act V of 2013

Table 1
Examples of services that can be provided by each financial entity

Title	Money market institutions				Capital market institutions			Insurance and pension market institutions	
	Credit institution	Payment institution	Electronic money institution	Financial enterprise	Investment firm	Managers Investment fund	Central securities depository	Insurance undertaking	Reinsurance undertaking
Taking deposits	X						X		
Lending and opening credit lines	X	X	X	X			X		
Financial leasing	X			X					
Issuing electronic money	X		X						
Payment services	X	X	X				X		
Investment services such as portfolio management or investment advice	X				X		X		
Investment fund management						X			
Central securities depository services							X		
Insurance services								X	
Reinsurance services									X

Note: The table does not indicate if an institution is restricted in the provision of a service, e.g. a central securities depository may grant credit or disburse loans if the provision of banking-type services is directly linked to core or ancillary services.

Table 1 provides an overview of the logic of the system, but it is important to stress that it is only an example and that neither the list of institutions[15] nor the list of activities is exhaustive. Furthermore, certain activities have been merged for the sake of transparency (e.g. investment services activities are regulated in several points by Article 5(1)(2) of Act on Investment Firms and Commodity Dealers, and

[15] Of course, not all institutions can be clearly categorised as money, capital or insurance/pension markets, but for the sake of clarity, this not too significant inconsistency can be disregarded.

on the Regulations Governing their Activities, IRA).[16] Some activities/services have been made subject to authorisation or notification by EU or national law, in this case Hungarian law: either by the transposition of EU directives or by legislation adopted under national competence. Subsequently, these services have been mapped with certain institutions. Naturally, the table is only intended to point out the logic, because for each institution the legislation may define separately the actual conditions for the provision of a given service. Thus, for example, a payment institution may open a credit line for its customers, from which a money loan may be granted, but subject to restrictions on, inter alia, the purpose of the loan, its duration and the source of the loan (Article 6(1)(2) of Payment Service Providers Act, PSPA[17]) However, the same restrictions or additional conditions may apply to other institutions as well. For example, a central securities depository may only collect deposits in connection with its central securities depository services and, if it provides such services, it is subject to prudential requirements equivalent to those of credit institutions in relation to the activity (Central Securities Depository Regulation, CSDR[18] Articles 54–60). Certain activities are prohibited for certain service providers. An example is that a financial enterprise may not provide payment services and also may not collect deposits (Article 9(1) of CIFE). Within each service, the specific type of account to which the activity licenced can be interpreted. For example, in the context of payment services, payment accounts, deposit-taking and the acceptance of other repayable funds from the public are managed as deposit accounts, electronic money is issued and redeemed, and electronic money is managed as an electronic money account in relation to electronic transactions.

4. Accounts for certain services frequently encountered in practice

As shown above, the current financial system is extremely complex. On the one hand, this is because there are a large number of financial entities defined by regulation and because these entities can, within certain limits, provide a significant number of services. At the same time, it is inherent in finance that the ultimate object of transactions is money, i.e. a debt which must be recorded in some form. These records are called accounts. Although accounts are no longer kept on paper in books, but in IT systems in the age of digitalisation (*Kovács 2024*), this does not change the legal and financial/economic perception of accounts.

The study of money as an economic concept is not the subject of this essay, but *Szabó – Kollarik* (*2017*) and *Kolozsi et al.* (*2024*) can be used as a guide to this topic. It should be noted however, that according to current legislation, money is defined as banknotes, coins, scriptural money and electronic money (Article 2(19) of PSA).

[16] Act CXXXVIII of 2007
[17] Act CCXXXV of 2013
[18] Regulation (EU) No 909/2014

Since it is of critical importance for the legal operation of financial institutions to know exactly which activity is subject to licensing, and since financial institutions provide most of their services using accounts, it is very important to examine the regulation under which two very similar accounts fall. Therefore, in the next part of the essay, the most commonly used account types in practice are presented, highlighting their characteristics that can be used as criteria for differentiation. Of course, there are many other account types that institutions use, but due to space limitations, it is not possible to present them all. For this reason, as explained in the introduction, the accounts used in the management of daily financial affairs, typically related to cash flow, are presented.

4.1. Payment accounts

The most commonly used type of account in economics and in everyday language is the *bank account* (*Dávid – Kovács 2019*). The main feature of this account is that the "money on it" can be used by the account holder to meet daily expenses. Indeed, before the first Payment Services Directive, only credit institutions were allowed to maintain such accounts (here we also refer to the fact that a bank is a subtype of a credit institution), but the PSD introduced payment institutions, and the predecessor of EMD2 introduced electronic money institutions. The main purpose of the introduction of these institutions was to increase competition in the payments market, i.e. to ensure that payments services (simply put, any remittance service, such as credit transfers, direct debits or card payments) should not be provided exclusively by credit institutions. This led the legislator to create the concept of a *payment account*. According to the current legislation, a payment account is an account, including a bank account, held in the name of one or more payment services users for executing payment transactions (Article 2(8) of PSA). The legislator has added the phrase 'including a bank account' to the definition in order to ensure legal continuity, i.e. legislation, contracts, etc. which previously referred to a bank account should be considered as a payment account.

But why does it matter whether an account is a payment account or not? The answer is simple: if the account is a payment account, the entire payment regulation regime will apply. This includes, for example, the execution times set out in the MNB Decree on the execution of payment transactions,[19] including the rules on instant payments. These payment orders under 20 million forints must be executed within 5 seconds every calendar day of the year. This is an IT development and operational challenge that justifies an examination of the legal nature of the account. For example, the mandatory interfaces (in common phrase "PSD2 APIs[20]") required by the Second Payment Services Directive[21] (PSD2) for open banking do not need to be

[19] Decree No. 35/2017. (XII.14.) of the Governor of the Magyar Nemzeti Bank on Execution of Payment Transactions
[20] Application Programming Interfaces
[21] Directive (EU) 2015/2366

provided for accounts that are not payment accounts (Articles 38/A, 38/B and 38/C of PSA). Another important aspect of payment accounts is the associated contractual framework. If an account is a payment account, the PSA specifies the mandatory content of the framework contract and the way and deadline for amending the contract.[22] These provisions do not allow for any derogation for customers who are consumers and micro-enterprises, i.e. they are *jus cogens*. One of the biggest risks for payment service providers (i.e. credit institutions or payment institutions) in relation to payment accounts is fraud, as the payment regulation imposes a de facto objectified liability on payment service providers for payment transactions not authorised by the customer.[23] In other words, if the payment transaction is not authorised by the customer, the payment service provider is liable for the amount of the payment transaction unless it proves that the damage caused by the unauthorised payment transaction was caused by the payer either by fraudulent conduct or by a deliberate or grossly negligent breach of his contractual obligations (*Biró – Kiss 2024*).

It is worth pointing out that the term "current account" is still commonly used colloquially for payment accounts. However, the current Hungarian private law does not use the term current account as a synonym but rather defines its relationship with the payment account as a partial relationship. The new Civil Code continues to use the term current account, which is a general term, in the context of the recording of mutually offsettable claims. Thus, for example, a current account relationship may be a (current) account that is used for settlement between a utility supplier and its customer. The Civil Code defines a payment account as a sub-type of this account. However, the Civil Code is not very detailed, leaving the detailed regulation of the use of accounts to sectoral public law provisions (*Kovács 2018*).

In connection with payment accounts, it is also worth mentioning the so-called client account. A client account is a restricted account for keeping records of client funds, which is used exclusively for transactions related to investment services, ancillary investments services or commodity exchange services provided by the account manager [Article 5(1)(130) of Capital Market Act (CMA)[24]]. Since the purpose of a client account is to withdraw and deposit money, and not to settle daily payments (e.g. groceries or utility charges), but rather to settle the cash leg of securities transactions, as a general rule it cannot be considered as a payment account. Therefore, the payment regulations do not apply to these accounts.

[22] As the Curia pointed out in judgment Pfv.I.20.685/2024/5, both favourable and unfavourable amendments to a framework payment agreement unilaterally initiated by the payment service provider may be initiated at least two months before the amendment. While this restriction indeed provides a high degree of protection for consumers and micro-enterprises, it nevertheless significantly limits the ability of payment service providers to react to market changes.

[23] Among other things, the judgment of the Curia of Appeal (Pfv.20685/2024/5) interprets the rules on liability for payment transactions.

[24] Act CXX of 2001.

However, under the current legislation, a credit institution providing investment services may, on the basis of the client's explicit request, also settle the cash flows relating to the investment services provided by the client on the client's bank account (Article 148 of CMA). This rule shows that the concept of bank account has not changed since the codification of the Act in 2001, i.e. under the current regulatory regime it is understood as a payment account. Thus, a payment account may also qualify as a client account if the account holder is a credit institution that provides payment services and also provides investment services (rather than acting as an intermediary for the services of a separate payment service provider) and the customer has explicitly agreed to this.

4.2. Deposit accounts

In its legal and economic content, a deposit account is much closer to the common concept of a bank account, since the Civil Code provides that "under a deposit agreement, the depositor is entitled to pay the bank a certain sum of money, the bank is obliged to accept the sum of money offered by the depositor, to repay the same sum of money at a later date and to pay interest" (Article 6:390(1) of Civil Code). As *Gárdos* (*2016: p. 7*) explains, "in everyday language, phrases such as 'I deposit my money in the bank', 'I keep my money in a bank account', 'my money is in a deposit account' are common. Contrary to the perception reflected in this wording, the account holder does not actually have money in the bank. [...] the sums deposited by the account holder or by other persons for the account holder's benefit become the property of the bank or, if the deposit is not made in cash, as is customary, and therefore there is no question of ownership, they constitute the bank's assets. The depositor loses the ownership of his money when he 'deposits' it, i.e. when he pays the deposit to the bank; the depositor, or account holder in general, has no claim on the bank as a property right, but only as a claim on the amount credited to the account. The items credited to the account reflect the account holder's claim against the bank." The high risk inherent in the transfer of the title of the money is the reason why only a small number of types of institutions are allowed to carry out deposit-taking activities under the strictest prudential standards. Put simply, a deposit account becomes a deposit account if it holds a claim for the purpose of transferring title of the money so that the depositor can later get more money (increased by interest payment) back. This transfer of ownership also justifies existence of deposit insurance schemes. Since a non-credit institution payment service provider cannot treat the funds it receives as deposits, deposit insurance (e.g. the protection of the National Deposit Insurance Fund (Országos Betétbiztosítási Alap, OBA) in Hungary) is not meaningful for these service providers. A "bank run" in the traditional sense cannot happen, against which the protection of deposit insurance could be justified (*Kallóné Csaba – Katona 2018*). Thus, deposit accounts are also linked to the basis of the stock covered by the

OBA, which is the amount registered in the deposit accounts of credit institutions (Article 212 and 213 of CIFE).

Whether an account qualifies as a deposit account is of particular importance. Because if the answer to the question is yes, there are a number of strict rules that the institution collecting the deposit must comply with. For example, with some exceptions, it can only operate as a credit institution and is subject to strict capital and liquidity requirements (e.g. the rules of the CIFE or the CRR[25]). In addition, deposit-taking institutions are the MNB's monetary policy counterparties[26] and can therefore use the MNB's monetary policy instruments, but they must also comply with obligations (e.g. reserve requirements). This is also economically very important, as endogenous monetary theory is based on the ability of a financial institution to accept deposits, while of course simultaneously lending money (*Ábel et al. 2016*). In other words, a credit institution is the financial institution that is exclusively entitled to accept deposits and simultaneously lend money in the current legal environment, i.e. it is able to create *commercial banking money.*

But why do people call a payment account and a deposit account simply "bank accounts"? The most obvious answer is that for a long time only credit institutions provided payment services and collected deposits. In addition, credit institutions have used, and still use, a single account structure for payment transactions and deposit taking. This is possible because the credit institution is allowed to treat the positive balance of a payment account as a deposit (Article 6(1)(8) of the CIFE). Therefore, both the rules governing payment services and the rules governing deposits apply to accounts opened in this way. However, the fact that it is possible to transfer money to or withdraw money from a deposit account does not necessarily make it a payment account, since the purpose of using the account is not necessarily to conduct the day-to-day financial transactions of the account holder. When in doubt, it is always necessary to examine the purpose of the account and its use. Such investigations can even lead to litigation, as illustrated by Court of Justice of the European Union (CJEU) case C-191/17, in which the CJEU ruled on the difference between payment accounts and savings accounts. In the case, the CJEU examined whether an account that is used exclusively for savings purposes can also be a payment account, i.e. whether such accounts must also comply with payment legislation. In its judgment, the CJEU explained that, as a general rule, there is a difference between the two accounts and gave criteria for determining the differences.

[25] Capital Requirements Regulation (CRR) – Regulation (EU) No 575/2013
[26] See the terms and conditions of the MNB's monetary policy operations in the HUF and foreign exchange markets.

4.3. Electronic money account

In parallel with the spread of FinTech providers in the EU, the establishment of an electronic money institution for the provision of money transfer services has become increasingly popular. There are two main reasons for this. One reason is that the directive on the prevention of money laundering and terrorist financing[27] provides a kind of exception to these institutions, whereby simplified customer due diligence up to a certain amount is acceptable when establishing a new business relationship. Another reason is that electronic money can be held in a wallet. For the second reason it is worth looking at what electronic money is. The CIFE transposing the definition of EMD2 into Hungarian law provides a complicated definition, according to which electronic money is an electronically stored amount represented by a claim against the issuer of electronic money, which is issued against the receipt of funds for the purpose of making payment transactions and which is accepted by a party other than the issuer of the electronic money (Article 6(1)(16)of CIFE). If one examines the definition carefully, it largely resembles a payment account. This conceptual confusion stems from the fact that the differences between the scriptural money stored on a payment account and the IT devices and solutions for storing electronic money have disappeared due to technological progress. Previously, electronic money was actually stored on a physical device, and electronic money issued using these devices is called hardware-based electronic money. An example of this is the prepaid card mentioned earlier. In contrast, the value stored in a payment account was simply scriptural money. However, the need to ensure that prepaid cards could be topped up arose, so that behind the prepaid device there is an account, i.e. an electronic money account was created. The result was that it became virtually impossible to distinguish between the two types of accounts from an IT and financial point of view. As the EBA's FAQ 2022_6611[28] or the CJEU's case C-661/22 show, the answer to this question is far from trivial, given that neither interpretation points to a clear distinction between the two types of account. In the case of the EBA FAQ, the EBA does not provide any differentiation criteria for the questioner's questions on the difference between a payment account and an electronic money account and on whether a payment can be received into an electronic money account but only notes that a salary can be received to such account. In its judgment, the CJEU only states that if a payment institution does not use the funds received immediately to execute payment transactions but only credits them to an account held by it for the purpose of subsequent payments, this does not constitute the issuance of electronic money. Thus, the Court has still not provided clear guidance on the distinction between payment services and electronic money services, including accounts for the provision of those services.

[27] (EU) Directive 2015/849 and Act LIII of 2017 transposing it into national law
[28] See question and answer at https://eba.europa.eu/single-rule-book-qa/qna/view/publicId/2022_6611 (Downloaded: 2 February 2025.)

The MNB has taken an approach to distinguish between the two types of accounts by considering whether or not the account used to store electronic units (i.e. the wallet) can be directly topped up. In simple terms: whether or not it has its own payment account number or international bank account number (IBAN) (*Bárdits 2021*). Of course, this answer also has shortcomings, but it is nevertheless useful in practice. Unfortunately, the currently available draft regulations (the draft third Payment Services Directive and the draft Payment Services Regulation) do not solve this problem on the basis of the publicly available Commission proposal.[29]

The importance of the issue is that if the payment service in question is exclusively an electronic money issuance service, it can only be provided by a credit institution or an electronic money institution, not by a payment institution. In other words, the prudential framework in which the service must be provided by the service provider differs widely between credit institutions and payment or electronic money institutions. For these accounts, the previous statement is also true, i.e. for electronic money accounts that are not qualified as payment accounts, the payment services regime does not apply.

4.4. Other types of accounts frequently encountered in practice

The previous three subsections described the types of accounts most commonly used by FinTech and other service providers. However, it is appropriate to highlight three additional account types, as they are also commonly used, but their regulatory treatment is not self-evident.

An escrow service is a service under which funds are deposited and managed on behalf of the customer in a separate escrow account with or without interest, in accordance with the terms and conditions laid down by law (Article 6(1)(79) of CIFE). In this case, the statutory condition refers to the rules of the Civil Code on escrow contracts (Article 6:360 – 6:368 of Civil Code). In connection with the accounts opened as a result of escrow contracts, it should be pointed out that the money transferred by the depositor does not become the property of the depositary and cannot be disposed of by such. In other words, the most important difference between a deposit and an escrow is the motive of transfer of ownership. This is the reason why the money received in escrow by a credit institution does not become part of the liquidation assets in the event of insolvency of the credit institution (Article 57(4) of CIFE), since it is not the property of the credit institution. Therefore, the amount given to a credit institution cannot be invested either, it must be kept solely by the escrow account holder. The new Civil Code has introduced the legal institution of the so-called "irregular escrow" (Article 6:367 of Civil Code), which nevertheless allows the transfer of ownership of the object in the case of an escrow

[29] See https://finance.ec.europa.eu/publications/financial-data-access-and-payments-package_en for more details (Downloaded: 2 February 2025.)

contract in the case of fungibles. This legal instrument of the Civil Code raises the question of the difference between an escrow and a deposit. The MNB has pointed out in an opinion that the sectoral regulation of the CIFE treats an irregular escrow as a deposit, and therefore the collection of an irregular escrow is considered to be deposit collection, i.e. a credit institution activity (*MNB 2022*). In other words, the distinction between escrow and deposits is important, as the relevant question is whether or not the credit institution can dispose of the funds received as its own.

It is also worth highlighting accounts related to credit lines and lending. For example, in contrast to the Accounting Act or everyday terminology, in the system of CIFE and the Civil Code credit is understood as a credit line opened for the customer, while a loan is understood as the amount of money actually disbursed (Article 6(1)(40) of CIFE). Considering that both credit and lending are a liability for the customer (consumer or business), while the payment account receivable is an asset, it is appropriate to separate the two accounts from each other in a legal sense (of course, this is also true for the balance sheet of a credit institution, only in reverse). The separation of credit and lending accounts from payment accounts may be significant. If the purpose of the legal relationship is not to enable the customer to handle its daily cash flow, but to finance an activity (e.g. the working capital of a business or the purchase of a home with the help of external funds), the account is not a payment account. For example, an account used to settle the mortgage debt of a consumer is not a payment account, and therefore no execution of instant payments to or from such an account is required, which means a significant IT development and operational burden. Another service that may be relevant for FinTech companies is the so-called Buy-Now-Pay-Later (BNPL) service, which is a form of lending. At the time of writing, however, Hungarian legislation does not contain explicit provisions for BNPL, and this will only change with the transposition of Directive (EU) 2023/2225. For this reason, only the MNB's legal practice is available[30] on BNPL service, which interprets it in the context of credit purchase activity. However, due to the limitations of this essay, a deeper analysis of the BNPL service is not possible.

5. Summary, conclusion

In conclusion, the current regulation of financial entities is complex, regulating both the institutional structure and the activities that make up the system, all in great detail. In order to understand financial institutions, it is necessary to place their development in a historical context, thus clarifying the evolutionary process that has resulted in today's complex and multi-level system. The introduction of the euro was one of the main sources of the development of the current system.

[30] For details, see the MNB's opinion at https://alk.mnb.hu/data/cms2627536/BNPLpublikalhatoaf.pdf (Downloaded: 16 May 2025).

The introduction of the single currency catalysed the development of infrastructure and institutions through, among other things, the payment services regime. In addition to the introduction of the euro, the structure developed by the Council of Wise Men, led by Alexandre Lamfalussy, has had a significant impact on the functioning of financial entities. The essay describes the current logic of regulation that defines institutions and types of activities. These activities are mapped to the service providers that perform them. The actual provision of services is carried out by means of accounts.

It can also be stated that the examination of accounts used in the provision of services is of paramount importance, as it is essential to know exactly which legal requirements must be complied with, both for prospective and incumbent service providers. This is because compliance with the legislation can incur significant costs. It is therefore not inconsequential, for example, whether or not an IT system must be operated on a 24/7 basis, or whether the service provider can use the customer's funds as its own, and what liability the provider has vis-à-vis the customer. The differentiation of services is not trivial in practice because the technology solutions that support them, and often their financial/economic content, are very similar.

The aim of this essay is to prepare a guide on the structure of the financial institution system, the services it provides and the accounts held within the framework of these services, which can help FinTech and traditional players to understand the logic of financial regulation and decide practical issues. As a result, we can conclude that the bank account used in everyday life is an outdated concept, and instead, the concept of a payment, deposit, escrow or loan settlement account, which can be derived for the purpose of an account agreement, can be used. These account products have specific properties that differ significantly from each other. Of course, there are also complex products, such as payment accounts, the positive balance of which can be treated as a deposit by the credit institution. It is also possible for the balance of the payment account to fall into the negative range, i.e. a loan can be disbursed against a credit line. In these cases, all of the regulations applicable to each account type apply simultaneously. Thus, it can be stated that just because we "keep money" in an account and it is maintained by a licensed service provider, the account does not become a bank account, as the issue is more complicated than that.

References

Ábel, I. – Lehmann, K. – Tapaszti, A. (2016): *The controversial treatment of money and banks in macroeconomics.* Financial and Economic Review, 15(2): 33–58. https://hitelintezetiszemle.mnb.hu/en/istvan-abel-kristof-lehmann-attila-tapaszti-en

Bárdits, Z.M. (2021): *Bankkártya, üzemanyagkártya, Revolut, Bitcoin – Mi számít elektronikus pénznek?* (*Bank card, fuel card, Revolut, Bitcoin – What is considered electronic money?*). Portfolio.hu, 27 February. https://www.portfolio.hu/bank/20210227/bankkartya-uzemenyagkartya-revolut-bitcoin-mi-szamit-elektronikus-penznek-471486. Downloaded: 2 February 2025.

Barna, P. – Becsei, A. – Bógyi, A. – Csányi, P. – Csordás, K. – Hermann, D. – Marsi, E. – Móra, M. – Pesuth, T. – Schenk, T. (2018): *A bankok működéséről* (*On the operation of banks*). In: Kovács, L. – Marsi, E. (eds.): Bankmenedzsment – Banküzemtan (Bank Management – Bank Operations). Magyar Bankszövetség, Budapest, pp. 11–31.

Biró, G. – Kiss, M. (2024): *Phishing and some possibilities of its prevention*. Economy and Finance, 11(4): 371–391. https://doi.org/10.33908/EF.2024.4.2

Bóka, J. (2019): *Az Európai Unió intézményrendszere* (*The institutional system of the European Union*). Dialóg Campus, Budapest.

Dávid, S. (2008a): *The Single Euro Payments Area*. MNB Bulletin, 2008(September): 11–19. https://www.mnb.hu/letoltes/mnb-bull-2008-09-sandor-david-en.pdf

Dávid, S. (2008b): *SEPA, az egységes euro pénzforgalmi térség* (*SEPA, the Single Euro Payments Area*). Conference presentation, November 25. https://www.mnb.hu/letoltes/david-sandor-sepa-081125.pdf. Downloaded: 1 January 2025.

Dávid, S. – Kovács, L. (2019): *The development of clearing services – paradigm shift*. Economy and Finance, 6(3): 296–310. https://doi.org/10.33908/EF.2019.3.4

Dávid, S. – Kovács, L. – Prágay, I. (2018): *Pénz- és fizetési forgalom, bankszámlavezetés* (*Money and payment transactions, bank account management*). In: Kovács, L. – Marsi, E. (eds.): Bankmenedzsment – Banküzemtan (Bank Management – Bank Operations). Magyar Bankszövetség, Budapest, pp. 264–294.

DG-FISMA (2019): *Regulatory process in financial services*. https://finance.ec.europa.eu/regulation-and-supervision/regulatory-process-financial-services_en. Downloaded: 26 January 2025.

Gárdos, I. (2016): *Folyószámla és fizetési számla* (*Current accounts and bank accounts*). Polgári Jog, 2016/6. https://gmtlegal.hu/upload/polgari_jog_2016-6-_-_tanulmany.pdf

Győrffy, D. (2013): *Institutional Trust and Economic Policy Lessons from the History of the Euro: Lessons from the History of the Euro*. Central European University Press, Budapest.

Halász, Z. (2024): *A MICA rendelet hatása az uniós kriptoszabályozásra – különös tekintettel a fogyasztók védelmére* (*The impact of the MICA regulation on EU crypto regulation – with a special focus on consumer protection*). In: Glavanits, J. – Szabó, T. (eds.): Kiszolgáltatott csoportok a digitális világban: A digitalizáció jogalkotói és jogalkalmazói kihívásai (Vulnerable groups in the digital world: Legislative and enforcement challenges of digitalisation). Universitas-Győr Nonprofit Kft., Győr, pp. 55–68.

Kallóné Csaba, K. – Katona, V. (2018): *Deposit insurance and financial stability*. Public Finance Quarterly, 2018(OBA Special issue): 3–8. https://www.bankszovetseg.hu/Public/gep/2018/2018%20K%C3%BCl%C3%B6nsz%C3%A1m%20(ENG)/03-08ig%20kallone.pdf

Kolozsi, P.P. – Horváth, L. – Szigeti, C. (2024): *Gondolatok a jövő pénzének karakteréről* (*Thoughts on the character of future money*). In: Kolozsi, P.P. (ed.): A pénz jövője, a jövő pénze I.: Pénzügyek történelmi perspektívában, zöld pénzügyi fordulat (*The future of money, the money of the future I.: Finance in a historical perspective, the green financial turnaround*). Budapesti Metropolitan Egyetem, Magyar Nemzeti Bank, Budapest, pp. 15–38.

Kovács, L. (2018): *Az új Ptk. hitel- és számlaszerződésekről szóló szabályainak lényege – III* (*The Essence of the New Hungarian Civil Code's Rules on Loan and Account Agreements – III*). Céghírnök, 2018(12): 9–12. https://szakcikkadatbazis.hu/doc/2196918

Kovács. L. (2010): *Az európai pénz- és elszámolásforgalom jövője* (*The Future of European Payments and Clearing Systems*). Miskolci Egyetem, Miskolc.

Kovács, L. (2024): *Az azonnali fizetés első fecskéje* (*The first forerunner of instant payment*). In: Pénzügy-Számvitel Füzetek VIII – A Fintelligence nemzetközi konferencia kiadványa, 20 March 2024, pp. 127–132. https://gtk.uni-miskolc.hu/files/18761/Penzugy_Szamvitel_8_3.pdf

Lámfalussy, A. – Rojo, L.A. – Ryden, B. – Spaventa, L. – Walter, N. – Wicks, N. (2001): *Final report of the Committee of Wise Men on the Regulation of European Securities Markets*. https://www.esma.europa.eu/sites/default/files/library/2015/11/lamfalussy_report.pdf. Downloaded: 26 January 2025.

Lehofer, W. (2024): *Free movement of capital*. https://www.europarl.europa.eu/factsheets/en/sheet/39/a-toke-szabad-mozgasa. Downloaded: 2 February 2025.

MNB (2022): *Pénzügyi vállalkozás szerezhet-e tulajdont a nála letétbe helyezett pénzen a rendhagyó letét szabályai szerint* (*Can a financial institution acquire ownership of money deposited with it under the rules of irregular deposits?*). https://alk.mnb.hu/data/cms2602667/216146afkozzeteteli.pdf. Downloaded: 2 February 2025.

MNB (2024): *Egységes Euró Fizetési Övezet (SEPA)* (*Single Euro Payments Area (SEPA)*). https://www.mnb.hu/fogyasztovedelem/bankszamlak/szolgaltatasok/mi-az-egyseges-euro-fizetesi-ovezet-sepa. Downloaded: 26 January 2025.

Müller, J. (2019): *The building of the European Union's financial system*. Economy and Finance, 6(4): 386–412. https://doi.org/10.33908/EF.2019.4.2

Müller, J. – Kerényi, Á. (2019): *The Need for Trust and Ethics in the Digital Age – Sunshine and Shadows in the FinTech World*. Financial and Economic Review, 18(4): 5–34. https://doi.org/10.33893/FER.18.4.534

Müller, J. – Kerényi, Á. (2021): *Searching for a Way Out of the Labyrinth of Digital Financial Innovations – The Trap of Regulatory Challenges in the Digital Financial System.* Financial and Economic Review, 20(1): 103–126. https://doi.org/10.33893/FER.20.1.103126

Pelle, A. – Végh, M.Z. (2019): *How has the Eurozone Changed Since its Inception?.* Public Finance Quarterly, 64(1): 128–148. https://unipub.lib.uni-corvinus.hu/8706/1/A_Pelle-Vegh_2019_1.pdf

Seregdi, L. (2019): *30 years of bank regulation in Hungary (1989–2019)*. Economy and Finance, 6(1): 126–138. https://doi.org/10.33908/EF.2019.1.6

Szabó, G. – Kollarik, A. (2017): *Mi is az a digitális jegybankpénz? (What is digital central bank money?).* Feature article, Magyar Nemzeti Bank. https://www.mnb.hu/letoltes/szabo-gergely-kollarik-andras-mi-is-az-a-digitalis-jegybankpenz-mnb-honlapra.pdf. Downloaded: 1 February 2025.