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P7\_TA(2013)0587

## Payment accounts \*\*\*I

**Amendments adopted by the European Parliament on 12 December 2013 on the proposal for a directive of the European Parliament and of the Council on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (COM(2013)0266 — C7-0125/2013 — 2013/0139(COD))** <sup>(1)</sup>

(Ordinary legislative procedure: first reading)

(2016/C 468/81)

[Amendment No 1 unless otherwise stated]

AMENDMENTS BY THE EUROPEAN PARLIAMENT (\*)

to the Commission proposal

### DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the proposal for a directive of the European Parliament and of the Council on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

[...]

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In accordance with Article 26(2) TFEU the internal market is to comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured. Fragmentation of the internal market is detrimental to competitiveness, growth and job creation within the Union. Eliminating direct and indirect obstacles to the proper functioning of the internal market is essential for its completion. *Union* action with respect to the internal market in the retail financial services sector has already substantially contributed to developing cross-border activity of payment service providers, improving consumer choice and increasing the quality and transparency of the offers.
- (2) In this respect, 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 <sup>(2)</sup> ('Payment Services Directive') [...] established basic transparency requirements for fees charged by payment service providers in relation to services offered on payment accounts. This has

<sup>(1)</sup> The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0398/2013).

(\*) Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ▬.

<sup>(1)</sup> Not yet published in OJ.

<sup>(2)</sup> OJ L 319, 5.12.2007, p. 1.

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substantially facilitated the activity of payment service providers, creating uniform rules with respect to the provision of payment services and the information to be provided, reduced the administrative burden and generated cost savings for payment service providers.

- (2a) ***The smooth functioning of the internal market and the development of a modern, socially inclusive economy increasingly depends on the universal provision of payment services. Given that payment service providers, acting in accordance with market logic, tend to focus on commercially attractive consumers and effectively leave vulnerable consumers without the same choice of products, new legislation in this regard must be part of a smart economic strategy for the Union.***
- (3) However, ***as indicated by the European Parliament in its resolution of 4 July 2012 with recommendations to the Commission on Access to Basic Banking Services***<sup>(1)</sup>, more ***must*** be done to improve and develop the *internal market* for retail banking. ***Such developments should go hand in hand with making the financial sector in the Union serve businesses and consumers. Currently***, the lack of transparency and comparability of fees as well as the difficulties in switching payment accounts still pose barriers to the deployment of a fully integrated market. ***The problem of divergent product quality and low competition in retail banking must be tackled and high-quality standards must be achieved.***
- (4) The current conditions of the *internal market* may deter payments services providers from exercising their freedom to establish or to provide services within the Union because of the difficulty in attracting customers when entering a new market. Entering new markets often entails large investments. Such investments are only justified if the provider foresees sufficient opportunities and a corresponding demand from consumers. The low level of mobility of consumers with respect to retail financial services is to a large extent due to the lack of transparency and comparability as regards the fees and services on offer, as well as difficulties in relation to the switching of payment accounts. These factors also stifle demand. This is particularly true in the cross-border context.
- (5) Moreover, significant barriers to the completion of the *internal market* in the area of payment accounts may be created by the fragmentation of existing national regulatory frameworks. Existing provisions at national level with respect to payment accounts, and particularly with respect to the comparability of fees and payment account switching diverge. For switching, the lack of uniform binding measures at *Union* level has led to divergent practices and measures at national level. These differences are even more marked in the area of comparability of fees, where no measures, even of a self-regulatory nature, exist at *Union* level. Should these differences become more significant in the future, as banks tend to tailor their practices to national markets, this would raise the cost of operating cross-border relative to the costs faced by domestic providers and therefore make the pursuit of business cross-border less attractive. Cross-border activity in the *internal market* is hampered by obstacles to consumers opening a payment account abroad. Existing restrictive eligibility criteria may prevent *Union* citizens from moving freely within the Union. Providing all consumers with access to a payment account will permit their participation in the *internal market* and allow them to obtain the benefits of the *internal market*.
- (6) Moreover, since some prospective customers do not open accounts, either because they are denied them or because they are not offered adequate products the potential demand for payment account services in the *Union* is currently not fully exploited. Wider consumer participation in the *internal market* would further incentivise payment service providers to enter new markets. Also, creating the conditions to allow all consumers to access a payment account is a necessary means to foster their participation in the *internal market* and to allow them to reap the benefits the *internal market* has brought about.

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<sup>(1)</sup> ***Texts Adopted, P7\_TA(2012)0293.***

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- (7) Transparency and comparability of fees have been addressed in a self-regulatory initiative, initiated by the banking industry. However, no final agreement was found on these guidelines. As regards switching, the common principles established in 2008 by the European Banking Industry Committee provide a model mechanism for switching between bank accounts offered by payment service providers located in the same Member State. However, given their non-binding nature, these *common* principles have been applied in an inconsistent manner throughout the *Union* and with ineffective results. Moreover, the Common Principles only address bank account switching at national level and do not address cross-border switching. Finally, as regards access to a basic payment account, [...] Commission Recommendation 2011/442/EU [...] <sup>(1)</sup> invited Member States to take the necessary measures to ensure its application at the latest six months after its publication. To date, only few Member States comply with the main principles of the Recommendation.
- (8) ***In order to enable effective and smooth financial mobility in the long term***, it is vital to establish a uniform set of rules to tackle the issue of low customer mobility and in particular to improve comparison of payment account services and fees and to incentivise payment account switching as well as avoid that consumers who intend to purchase a payment account cross-border are discriminated on the basis of residency. Moreover, it is essential to adopt adequate measures to foster customers' participation in the payment accounts market. These measures will incentivize entry for payment service providers in the internal market and ensure a level playing field, thereby strengthening competition and the efficient allocation of resources within the *Union* financial retail market to the benefit of businesses and consumers. Also, transparent fee information and switching possibilities combined with the right of access to basic account services will allow *Union* citizens to move and shop around more easily within the *Union* and therefore benefit from a fully functioning internal market in the area of retail financial services and contribute ***the growth of e-commerce and to further development of the internal market***.
- (8a) ***It is also vital to ensure that this Directive does not hamper innovation in the area of retail financial services. Each year, new technologies become viable, which may render the current model of payment accounts out of date. In particular, mobile banking services, peer-to-peer services and stored value payment cards must be encouraged as alternatives to traditional banking services.***
- (9) This Directive applies to payment accounts held by consumers. Consequently, accounts held by businesses, even small or micro enterprises, unless held in a personal capacity, are outside its scope. Furthermore, this Directive does not cover savings accounts, which may have more limited payments functions. ***Also, this Directive does not cover credit cards, which are not central to achieving its objectives of enhancing financial inclusion and the functioning of the internal market.***
- (10) The definitions contained in the Directive are aligned with those contained in other Union legislation, and in particular those of Directive 2007/64/EC and those of Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 <sup>(2)</sup>.
- (11) It is vital for consumers to be able to understand fees so that they can compare offers from different payment service providers and make informed decisions as to which account is most suitable for their needs. Comparison between fees cannot be achieved where payment service providers use different terminology for the same services and provide information in different formats. Standardised terminology, coupled with fee information for the most representative services ***linked to payment accounts*** in a consistent format, can help consumers to both understand and compare fees.

<sup>(1)</sup> OJ L 190, 21.7.2011, p. 87.

<sup>(2)</sup> OJ L 94, 30.3.2012, p. 22.

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- (12) Consumers would benefit most from information that is **as concise as possible, standardised** and easy to compare between different payment service providers. The tools made available to consumers to compare payment account offers **should be multi-fold and consumer testing must be conducted. At this stage**, fee terminology should be standardised **only** for the most representative terms and definitions within Member States in order to **facilitate swift implementation**.
- (13) The fee terminology should be determined by national competent authorities, allowing for consideration of the specificities of local markets. Where possible, fee terminology should be standardised at *Union* level, thus allowing for comparison across the Union. The European Supervisory Authority (*European Banking Authority*) ('EBA') should establish guidelines to assist Member States to determine the services **which are most commonly used and cause the highest cost to consumers** at national level. **In order to achieve the effective application of standardised terminology, such definitions should be sufficiently broad.**
- (14) Once national competent authorities have determined a provisional list of the most representative services **linked to payment accounts** at national level together with terms and definitions, the Commission should review them to identify, by means of delegated acts, the services that are common to the majority of Member States and propose standardised *Union* level terms .
- (15) In order to help consumers compare payment account fees throughout the *internal* market easily, payment service providers should provide consumers with a **comprehensive fee information document that states the fees for all services linked to the payment account contained in the list of the most representative services and any further fees that can be applied to the account. The fee information document should use the standardised terms and definitions established at Union level, where possible.** This would also contribute towards establishing a level playing field between credit institutions competing in the payment account market. In order to help consumers understand the fees they have to pay for their payment account, a glossary providing **clear, non-technical and unambiguous** explanations for at least the services **linked to the payment account and the related definitions and explanations** should be made available to them. The glossary should serve as a useful tool to encourage a better understanding of the meaning of fees, contributing towards empowering consumers to choose from a wider choice of payment account offers. An obligation should also be introduced for payment service providers to inform consumers, **free of charge and at least annually**, of all **fees and the interest applied to** on their account. Ex-post information should be provided in a dedicated summary. It should provide a complete overview of **interest earned, fees incurred and pre-notifications of modifications to fees or interest rates. The consumer should be given the information necessary** to understand what fee expenditures **and interests** relate to, and to assess the need to either modify consumption patterns or move to another provider.
- (16) To meet the needs of consumers, it is necessary to ensure that fee information on payment accounts is accurate, clear and comparable. **EBA** should therefore, **after consulting national authorities and after consumer testing, develop draft implementing technical standards regarding a standardised presentation format** for the fee information document and the statement of fees **and the common symbols**, in order to ensure that they are understandable and comparable for consumers. The fee information document and statement of fees should be clearly distinguishable from other communications.
- (17) In order to ensure [...]consistent use of applicable *Union* level terminology across the Union, Member States should establish an obligation for payment service providers to use the applicable *Union* level terminology together with the remaining national standardised terminology identified in the provisional list when communicating with consumers, including in the fee information document and the statement of fees. **Payment service providers should be able to use brand names** in the fee information document **or the statement of fees to designate their services or payment accounts provided that this is additional to the standardised terminology and as a secondary designation of the services or account offered.**

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- (18) **Independent** comparison websites **are** an effective means for consumers to assess the merits of different payment account offers in a single space. **Such websites** can provide the right balance between the need for information to be clear and concise, yet complete and comprehensive, by enabling users to obtain more detailed information where this is of interest to them. They can also reduce search costs as consumers will not need to collect information separately from payment service providers. **It is crucial that the information given on such websites is trustworthy, impartial and transparent and that consumers are informed of their availability. In this regard, competent authorities should actively inform the public of such websites.**
- (19) In order to obtain impartial information on **fees charged and interest rates applied on payment accounts**, consumers should be able to access comparison websites which are **publicly accessible and** independent from payment service providers. Member States should therefore ensure that **consumers have free access to** at least one **independent and publicly accessible** website **in** their respective territories. Such comparison websites may be operated by, **or on behalf of, the** competent authorities, other public authorities and/or accredited private operators. **In order to increase consumer trust in further available comparison websites**, Member States should establish a voluntary accreditation scheme allowing private operators of comparison websites to apply for accreditation in accordance with specified quality criteria. A comparison website operated by, **or on behalf of,** a competent authority or other public authority should be established where a privately operated website has not been accredited. Such websites should also comply with the quality criteria.
- (20) It is current practice for payment service providers to offer a payment account in a package with other financial products or services. This practice can be a means for payment service providers to diversify their offer and to compete against each other, and in the end it can be beneficial for consumers. However the Commission study on tying practices in the financial sector conducted in 2009 as well as relevant consultations and consumer complaints have showed that payment service providers may offer bank accounts packaged with products not requested by consumers and which are not essential for payment accounts, such as household insurance. Moreover, it has been observed that these practices may reduce transparency and comparability of prices, limit purchasing options for consumers and negatively impact upon their mobility. Therefore, Member States should ensure that when payment service providers offer packaged payment accounts consumers are provided with information on **whether it is possible to buy the** payment account **separately and if so on** the applicable **cost and fees associated with each of the** other financial **products or** services included in the package. **█**
- (21) Consumers [...] *only have an incentive* to switch accounts if the process does not entail an excessive administrative and financial burden. The procedure for switching payment accounts to another payment service provider should be clear, quick **and safe**. **If fees are** charged by payment service providers in relation to the switching service, **they** should be **reasonable and in accordance with Article 45(2) of Directive 2007/64/EC**. In order to have a positive impact on competition, switching should also be facilitated at cross-border level. Given that switching cross-border could be more complex than the switching at national level and may require payment service providers to adapt and refine their internal procedures, **longer transitional periods should be provided with regard to a switching service between payment service providers located in different Member States.**
- (21a) **Member States should be allowed, with regard to switching where both payment service providers are located in their territory establish or maintain arrangements that differ from those provided for in this Directive if this is clearly in the interests of the consumer.**
- (22) The switching process should be as straightforward as possible for the consumer. Accordingly Member States should ensure that the receiving payment service provider is responsible for initiating and managing the process on behalf of the consumer.

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- (23) **As a general rule and provided that the consumer has provided consent**, the receiving payment service provider **should** perform, **on behalf of the consumer, the switch of** the recurring payments, as well as transfer **any** remaining **positive** balance, ideally within a single meeting with the receiving payment service provider. To this end, consumers should be able to sign one authorisation **to provide or withhold** consent to the mentioned tasks. Before giving the authorisation the consumer should be informed of all the steps of the procedure necessary to complete the switch.
- (24) The co-operation of the transferring payment service provider is necessary for the switch to be successful. The receiving payment service provider should be **able to ask either the consumer or, where necessary, the** transferring payment service provider **to provide** the information it considers necessary to reinstate the recurrent payments on the new payment account. However, such information should not exceed what is necessary to carry out the switch and the receiving payment service provider should not ask for superfluous information.
- (25) Consumers should not be subject to penalties or any other financial detriment caused by the misdirection of incoming credit transfers or direct debits. This is particularly important for certain categories of payer and payee, such as utilities companies, which use electronic means (e.g. databases) to store information on consumers' account details and perform numerous periodical transactions involving large numbers of consumers.
- (26) Member States should guarantee that consumers who intend to open a payment account are not discriminated against on the basis of their nationality or place of residence. While it is important for payment service providers to ensure that their customers are not using the financial system for illegal purposes such as fraud, money laundering or terrorism financing, they should not impose barriers to consumers who want to benefit from the advantages of the *internal* market by purchasing payment accounts cross-border.
- (27) Consumers who are legally resident in the Union should **not be discriminated against by reason of their nationality or place of residence, or on any other ground referred to in Article 21 of the Charter of Fundamental rights of the European Union when applying for, or accessing, a** payment account **within the Union. Furthermore, access to** payment accounts with basic features **should be ensured by Member States irrespective of the consumer's** financial circumstances, **such as their employment status, level of income, credit history** or personal bankruptcy.
- (28) Member States should ensure that **payment accounts with basic features as referred to in this Directive are offered to consumers by all** payment service providers **that operate in general retail payment services and offer payment accounts as an integral part of their regular business.** Access should not be overly difficult and should not entail excessive costs for consumers. **The right to access a payment account with basic features in any Member State should be granted in accordance with Directive 2005/60/EC of the European Parliament and of the Council <sup>(1)</sup>, in particular with regard to customer due diligence procedures. At the same time, the provisions of that Directive alone should not be used as a ground for rejecting commercially less attractive consumers. A mechanism should be in place to assist consumers with no fixed address asylum seekers and consumers who are not granted a residence permit but whose expulsion is impossible for legal reasons to meet the requirements of Chapter II of Directive 2005/60/EC.**
- (28a) **In order for users of payment accounts with basic features to be serviced in an appropriate way, Member States should require providers to ensure that relevant staff are adequately trained and that potential conflicts of interest do not affect those customers negatively.**

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<sup>(1)</sup> Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p. 15).

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- (29) **Member States should be able to require that payment service providers verify whether the consumer already holds an active and equivalent payment account in the same territory and require the consumer to sign a declaration of honour to that effect. Payment services providers should not be able to refuse an application for access to a payment account with basic features except in the cases specifically identified in this Directive.**
- (29a) **Member States should ensure that payment service providers process applications within the deadlines laid down in this Directive and that in case of refusal the payment service providers inform the consumer of the specific reasons for it unless such disclosure would be contrary to the objectives of national security or financial crimes.**
- (30) Consumers should be guaranteed access to a range of basic payment services. **Member States should ensure that, provided that a payment account with basic features is operated by the consumer for personal use, there are no limits to the number of operations which will be provided to the consumer under the specific pricing rules laid down in this Directive. In determining what should be considered as personal use, Member States should take into account existing consumer behaviour and common commercial practice.** Services linked to basic payment accounts should include the facility to **place** and withdraw money. Consumers should be able to undertake essential payment transactions such as receiving income or benefits, paying bills or taxes and purchasing goods and services, including via direct debit, credit transfer and the use of a payment card. Such services should allow the purchase of goods and services online and should give consumers the opportunity to initiate payment orders via the payment service provider's online banking facility, where available. However, a payment account with basic features should not be restricted to online usage as this would create an obstacle for consumers without internet access. Consumers should not be given access to an overdraft facility with a payment account with basic features. However, Member States may allow payment services providers to offer **overdraft facilities and other credit products as clearly separated services to basic payment account customers, provided that the access to, or use of, the payment account with basic features is not restricted by, or made conditional on, the purchase of such credit services. Any fees charged for those services should be transparent and at least as favourable as the usual pricing policy of the provider.**
- (31) In order to ensure that basic payment accounts are available to the widest possible range of consumers, they should be offered free of charge or for a reasonable fee. **Member States should require payment service providers to ensure that the payment account with basic features is always the payment account with the lowest fee for the provision of the minimum package of payment services specified within the Member State.** Furthermore, any additional **fees charged** to the consumer for non-compliance with the terms laid down in the contract should be reasonable **and never higher than the usual pricing policy of the provider.**
- (32) The payment service provider should refuse to open or should terminate a contract for a payment account with basic features only in specific circumstances, **for example in the event of** non-compliance with the legislation on money laundering and terrorist financing or on the prevention and investigation of crimes. Even in these cases, a refusal can only be justified where the consumer does not comply with the provisions of that legislation and not because the procedure to check compliance with the legislation is too burdensome or costly.
- (33) **Member States should ensure that adequate measures are in place to raise awareness about the availability of payment accounts with basic features and the procedures and conditions for their use as laid down in this Directive. Member States should ensure that communication measures are sufficient and well-targeted in particular reaching out to unbanked, vulnerable and mobile consumers. Payment service providers should actively make available to consumers accessible information and adequate assistance about the specific features of the payment account with basic features on offer, their associated fees and the conditions of use and also the steps consumers should follow to exercise their right to open a payment account with basic features. In particular, consumers should be informed that the purchase of additional services is not compulsory in order to access a payment account with basic features. In order to minimise the risk that consumers become financially excluded,**

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**Member States should improve financial education, including at school, and combat over-indebtedness. Furthermore, Member States should promote initiatives of payment service providers in order to facilitate the combination of providing payment accounts with basic features and independent financial education.**

- (34) Member States should designate competent authorities that are empowered to ensure enforcement of this Directive and that are granted investigation and enforcement powers. Designated competent authorities **should be independent from payment service providers and should** have adequate resources for the performance of their duties. Member States should be able to designate different competent authorities in order to enforce the wide ranging obligations laid down in this Directive.
- (35) Consumers should have access to effective and efficient out-of-court **complaint and** redress procedures for the settlement of disputes arising out of rights and obligations established under this Directive. **Access to alternative dispute resolution procedures should be easy and the competent bodies should fulfil a number of criteria such as equal representation of providers and users.** Such access is already ensured by Directive 2013/.../EU insofar as relevant contractual disputes are concerned. However, consumers should also have access to out-of-court redress procedures in the event of -pre-contractual disputes concerning rights and obligations established by this Directive, e.g. when they are denied access to a payment account with basic features. Compliance with the provisions laid down in this Directive requires the processing of consumers' personal data. Such processing is governed by Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data <sup>(1)</sup>. This Directive should therefore comply with the rules established in Directive 95/46/EC and the national laws implementing them.
- (36) In order to attain the objectives *laid down* in this Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of identifying the standardised terminology at Union level for payment services common to a number of Member States and the related definitions for these terms
- I**
- (38) **On an annual basis, and for the first time** within three years from entry into force of this Directive, Member States should obtain reliable annual statistics on the functioning of the measures introduced by the present Directive. They should use any relevant sources of information and communicate that information to the Commission. **The Commission should provide an annual report on the basis of the information received.**
- (39) A review of this Directive should be carried out **four** years after its entry into force in order to take account of market developments, such as the emergence of new types of payment accounts and payment services, as well as developments in other areas of Union law and the experiences of Member States. The review should assess whether the measures introduced have improved consumer understanding of payment account fees, the comparability of payment accounts and the ease of switching accounts. It should also determine how many basic payment accounts have been opened including by previously unbanked consumers, **the periods for which such accounts are held, the number of refusals to open basic payment accounts and the number of closures of such accounts and the reasons for them, as well as the associated charges.** It should also assess whether extended deadlines for payment service providers performing cross-border switching are to be maintained for a longer period. Also, it should assess whether the provisions on the information to be provided by payment service providers when offering packaged products are sufficient or whether additional measures are needed. The Commission should submit a report to the European Parliament and the Council accompanied, if appropriate, by legislative proposals.
- (40) This Directive respects fundamental rights and observes the principles recognised by the Charter of the Fundamental Rights of the European Union in accordance with Article 6(1) of the Treaty on European Union.

<sup>(1)</sup> OJ L 281, 23.11.1995, p. 31.



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- (41) In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a Directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,
- (41a) ***A Member State should be able to decide, subject to the approval of the Commission, to exempt payment service providers from offering a payment account with basic features. The Commission should approve the exemptions only where a level playing field among all payment service providers is guaranteed, the right of access for consumers is not undermined and basic account customers do not face the risk of stigmatisation. The approval shall not result in a situation where only a single payment service provider would offer this payment account with basic features in a Member State. [Am. 3]***

HAVE ADOPTED THIS DIRECTIVE:

## CHAPTER I

### SUBJECT MATTER, SCOPE AND DEFINITIONS

#### Article 1

##### Subject matter and scope

1. This Directive lays down rules concerning the transparency and comparability of fees charged to consumers on their payment accounts held within the European Union and provided by payment service providers located in the Union and rules concerning the switching of payment accounts within the Union.
  2. This Directive also defines a framework for the rules and conditions according to which Member States shall guarantee a right for consumers to open and use payment accounts with basic features in the Union.
  3. The opening and use of a payment account with basic features, pursuant to this Directive shall be in conformity with the provisions of Chapter II of Directive 2005/60/EC.
- 3a. *Without prejudice to Articles 15 to 19, a payment account with basic features shall be considered to be a payment account for the purposes of this Directive.***
4. This Directive shall apply to payment service providers located in the Union.

#### Article 2

##### Definitions

For the purposes of this Directive, the following definitions [...] apply:

- (a) 'consumer' means any natural person who is acting for purposes which are outside his trade, business, craft or profession;
- (aa) ***'legally resident' refers to the status of a citizen of the Union or third-country national who is legally residing in the territory of the Union, including persons seeking asylum under the Geneva Convention of 28 July 1951 relating to the status of the refugees, the Protocol of 31 January 1967 thereto and other relevant international treaties;***
- (b) '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;
- (c) 'payment service' means a payment service as defined in Article 4(3) of Directive 2007/64/EC;
- (ca) ***'services linked to the payment account' mean all services linked to the operation of a payment account, including payment services and payment transactions within the scope of point (g) of Article 3 of Directive 2007/64/EC;***

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- (d) '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;
- (e) 'payment service provider' means a payment service provider as defined in Article 4(9) of Directive 2007/64/EC **save for the purposes of Chapter IV, where it means all payment service providers located in the territory of the Member States which operate in general retail payment services and that offer payment accounts as an integral part of their regular business;**
- (f) 'payment instrument' means a payment instrument as defined in Article 4(23) of Directive 2007/64/EC;
- (g) 'transferring payment service provider' means the payment service provider from which the information on all or some recurrent payments is transferred;
- (h) 'receiving payment service provider' means the payment service provider to which the information on all or some recurrent payments is transferred;
- (i) '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 payer's payment account, a natural or legal person who makes a payment order to a payee's payment account;
- (j) 'payee' means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction;
- (k) 'fees' means **all charges and penalties**, if any, payable by the consumer to the payment service provider for **or in relation to services linked** to the payment **account**;
- (ka) **'credit interest rate' means any interest rate paid to the consumer in relation to holding funds on a payment account;**
- (l) 'durable medium' means any instrument which enables the consumer or the payment services provider to store information addressed personally to *that consumer* in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;
- (m) 'switching' means, upon a consumer's request, transferring from one payment service provider to another the information about all or some standing orders for credit transfers, recurring direct debits and recurring incoming credit transfers executed on a payment account, with or without transferring the positive account balance from one payment account to the other or closing the former account. **Switching does not imply the transfer of the contract from the transferring payment provider to the receiving payment service provider;**
- (n) 'direct debit' means a payment service debiting a payer's payment account, where a payment transaction is initiated by the payee with the payer's consent;
- (o) 'credit transfer' means a payment service for crediting a payee's payment account with a payment transaction or a series of payment transactions from a payer's payment account by the payment service provider which holds the payer's payment account, based on an instruction given by the payer;
- (p) 'standing order' means a service, crediting at regular intervals a payee's payment account with a series of payment transactions from a payer's payment account, executed by the payment service provider which holds the payer's payment account on the basis of an instruction given by the payer;
- (q) '*funds*' means banknotes, coins and scriptural money as well as electronic money as defined in Article 2(2) of Directive 2009/110/EC;
- (r) '*framework contract*' means payment service contract which governs the future execution of individual and successive payment transactions and which may contain the obligation and conditions for setting up a payment account;
- (ra) **'business day' means a business day as defined in Article 4(27) of Directive 2007/64/EC.**

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### Article 3

#### **Standardised terminology linked to payment accounts**

1. Member States shall ensure that the competent authorities referred to in Article 20, determine a provisional list of **the most representative services linked to payment accounts at national level. The list shall cover at least the 10 most representative services available** at national level. **It shall** contain terms and definitions for each of the services identified, **whereby in any official language of the Member State only one term shall be used for each service.**
2. For the purposes of paragraph 1, the competent authorities shall have regard to the services *that*:
  - (a) are most commonly used by consumers in relation to their payment account;
  - (b) generate the highest cost for consumers, **both overall as well as per unit**;

**In order to ensure the sound application of those criteria for the purposes of paragraph 1**, EBA shall develop guidelines pursuant to Article 16 of Regulation (EU) No 1093/2010 to assist the competent authorities.

3. Member States shall notify to the Commission the provisional lists referred to in paragraph 1 by ... **[12 months after the date of entry into force of this Directive]. On request, Member States shall provide the Commission with complementary information concerning the data on the basis of which they have compiled those lists with regard to the criteria referred to in paragraph 2.**
4. The Commission shall be empowered to adopt delegated acts, in accordance with Article 24, **■** setting out, on the basis of the provisional lists submitted pursuant to paragraph 3, of *Union* standardised terminology for **the services linked to payment accounts which** are common to at least a majority of Member States. The *Union* standardised terminology **shall be clear and concise and shall** include common terms and definitions for the common services. **In any official language for each Member State, only one term shall be used for each service.**
5. After [...] publication in the Official Journal of the European Union of the delegated acts referred to in paragraph 4, each Member State shall without delay **and in any event within one month** integrate the *Union* standardised terminology adopted pursuant to paragraph 4 into the provisional list referred to in paragraph 1 and shall publish this list.

### Article 4

#### Fee information document and glossary

1. Member States shall ensure that **in good time** before entering into a contract for a payment account with a consumer, payment service providers provide the consumer with a **comprehensive** fee information document. **The fee information document shall state all available services linked to the payment account which are contained in** the list of the most representative services referred to in Article 3(5) and the corresponding fees for **any** service. **It shall also contain any further fees and interest rates that can be applied to the account. In order to distinguish the fee information document from commercial or contractual documentation, it shall include a common symbol at the top of the first page. Member States shall ensure that payment service providers inform consumers about any modifications of fees and make available to the consumer an updated fee information document, where appropriate.**

**Where the fee for a service is valid only for certain communication channels, such as online or through a branch, or where the fee varies according to the channel used, this shall be clearly indicated in the fee information document.**

**1a. Member States shall ensure that payment service providers do not levy any fees not listed in the fee information document.**

2. Where one or more payment services **■** is offered as part of a package of **payment** services, the fee information document shall disclose **the fee for the entire package**, the services included in the package **and their number**, and the fee for any service that is not **covered by the package fee. ■**

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5. Member States shall establish an obligation for payment service providers to **make available to consumers a glossary of all services referred to in paragraph 1 and the related definitions and explanations.**

**Member States shall ensure that the glossary provided pursuant to the first subparagraph is drafted in clear, unambiguous and non-technical language and that it is not misleading.**

6. The fee information document and the glossary shall be made **permanently** available to **consumers and prospective consumers** by payment service providers **in electronic form** on their websites **where it shall be easily accessible including to non-customers. The fee information document shall be made available** free of charge **by payment service providers** on a durable medium at premises accessible to consumers **and the glossary shall be made available in a durable medium on request.**

7. **EBA shall, after consulting national authorities and after consumer testing, develop draft implementing technical standards regarding a standardised presentation** format of the fee information document **and** its common symbol.

**EBA shall submit those draft implementing technical standards to the Commission by ... [12 months after the date of entry into force of this Directive].**

**Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.**

#### Article 5

##### Statement of fees

1. Member States shall ensure that payment service providers provide **consumers, free of charge and at least annually,** with a statement **of all fees and the interest rates applied to** their payment account.

**The communication channel to be used to provide the consumer with the statement of fees shall be agreed among the contracting parties. The statement shall be made available in paper format upon the request of a consumer.**

2. The statement referred to in paragraph 1 shall specify the following information:

(a) the unit fee charged for each service **and** the number of times the service was used during the relevant period **or where services are combined in a package, the fee charged for the package as a whole;**

(b) the total amount of fees incurred for each service provided during the relevant period, **where appropriate taking into account the specific fee structures related to packages of services;**

(ba) **the overdraft interest rate applied to the account, the number of days the account was overdrawn and the total amount of interest charged relating to the overdraft during the relevant period;**

(bb) **the credit interest rate applied to the account, the average balance and the total amount of interest earned during the relevant period;**

(c) the total **balance (positive or negative) after deduction of all fees and application of the interest earned in connection with the use of the account** during the relevant period;

(ca) **pre-notifications regarding intended modifications of fees and interest rates in the following period.**

4. **EBA shall, after consulting national authorities and after consumer testing, develop implementing technical standards regarding a standardised presentation** format of the statement of fees **and** its common symbol.

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**EBA shall submit those draft implementing technical standards to the Commission by ... [12 months after the date of entry into force of this Directive].**

**Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.**

#### Article 6

##### **Communications using standardised terminology**

1. Member States shall ensure that in **all communications to consumers, including** contractual and **marketing communications**, payment service providers use, where **applicable, the standardised terminology** contained in the list of the most representative services **linked to a payment account referred** to in Article 3(5).
2. Payment service providers may use brand names **to designate their services or payment accounts** in their **marketing communications to clients, provided** that they **clearly** identify, where **applicable**, the corresponding term **using the standardised terminology as integrated** in the **complete** list referred to in Article 3(5). Payment service providers **may use such** brand names in the fee information document **or** the statement of fees **provided that this is in addition to the standardised terminology and as a secondary designation of the services or account offered.**

#### Article 7

##### **Comparison websites at national level**

1. Member States shall ensure that consumers have access, **free of charge**, to at least one website **established in accordance with paragraph 2 or 3, which shall include at least the following:**
  - (a) **comparison of interest paid or charged to the payment account**, fees charged by payment service providers for services offered on payment accounts at national level **■**;
  - (b) **comparison of determinants of the level of service provided by the payment service provider, including factors such as the number and location of branches and the number of automated teller machines through which services can be assessed;**
  - (c) **provision of complementary information on Union standardised terminology, access to payment accounts including to payment accounts with basic features and on switching procedures available at Union and national level. Such information may be provided via links to external websites.**
2. Member States shall establish a voluntary accreditation scheme for websites comparing **the elements for comparison as described in Article 7(1)(a) and (b)** offered on payment accounts operated by private operators. In order to be granted accreditation, comparison websites operated by private operators shall:
  - (a) be **legally, financially and** operationally independent of any payment service provider;
    - (aa) **clearly disclose their owners and funding;**
    - (ab) **set out clear, objective criteria on which the comparison will be based;**
    - (ac) **be impartial insofar as advertisements from payment service providers, their agents, affiliates or brands shall not be displayed on the home page or on the price comparison pages;**
  - (b) use plain **and unambiguous** language and, **as applicable, the Union standardised terminology** referred to in Article 3(5);
  - (c) provide **accurate and updated** information **and state the time of the last update;**
  - (d) provide **users with objective and exhaustive results taking full account of any search criteria selected by users and, where the presented information is not a complete overview of the market, a clear statement to that effect, before displaying results;**

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*(da) accept requests for inclusion in the site by any payment service provider in the Member State concerned;*

(e) operate an effective enquiry and complaints handling procedure.

**Where payment service providers are charged for listing on such sites, the charges shall be non-discriminatory and published on the website.**

3. Where no website is accredited pursuant to paragraph 2, Member States shall ensure that a website operated by, **or on behalf of**, the competent authority referred to in Article 20 or any other competent public authority is established. Where a website has been accredited pursuant to paragraph 2, Member States may decide to establish an additional website operated by the competent authority referred to in Article 20 or any other competent public authority. Websites operated by a competent authority pursuant to paragraph 1 shall comply with paragraph 2 (a) to (e).

4. Member States shall **■** refuse or withdraw accreditation from private operators in the event of **recurrent or persistent** failure to comply with the obligations in paragraph 2.

**4a. Payments services providers shall not be liable for incorrect or outdated information regarding them or their services, contained on accredited or non-accredited comparison website, where the website provider has not corrected such information on the request of the payment service provider.**

**4b. Member States shall ensure that consumers are informed about the availability of websites referred to in paragraph 1 and about accredited websites in accordance with paragraph 2 or 3.**

**■**

#### Article 7a

##### Union comparison website

1. Member States shall notify EBA of the comparison websites operating in accordance with Article 7(1), (2) and (3).

2. By ... [three years after the date of entry into force of this Directive], EBA shall provide a publicly accessible Union comparison website that enables consumers to compare payment accounts offered within the internal market. In order to complement that information, the Union comparison website shall provide to consumers a glossary containing the Union standardised terminology adopted in accordance with Article 3(5) and practical guidelines about cross-border switching of payment accounts.

#### Article 8

##### Packaged accounts

**Without prejudice to Article 4(2)** Member States shall ensure that when a payment account is offered together with another **financial** service or product as part of a package the payment service provider informs the consumer of whether it is possible to buy the payment account separately and, **if so**, provides separate information regarding the costs and fees associated with each of the **other financial** products and services offered in the package.

**■**

### CHAPTER III

#### SWITCHING

#### Article 9

##### Provision of the switching service

Member States shall ensure that payment service providers provide a switching service as described in Article 10 to any consumer who holds a payment account with **another** payment service provider located in the Union **and who has arranged for the opening of a new payment account with the receiving payment service provider.**

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**Member States may, with regard to switching where both payment service providers are located in their territory, establish or maintain arrangements that differ from those outlined in Article 10 if this is clearly in the interest of the consumer and the switching is completed within as a maximum the same overall timescales as described in Article 10.**

#### Article 10

##### The switching service

1. Member States shall ensure that the switching service is initiated by the receiving payment service provider and provided in accordance with the rules *laid down* in paragraphs 2 to 7.

2. The switching service shall be initiated by the receiving payment service provider. **In order to do so**, the receiving payment service provider shall **obtain** written authorisation from the consumer to perform the switching service. **In the case of joint accounts, written authorisation shall be obtained from all holders of the account.**

**The authorisation shall be drawn up in an official language of the Member State where the switching service is being initiated or in any other language agreed between the parties.**

The authorisation shall allow the consumer to provide **or withhold** specific consent to the transferring payment service provider to perform each of the tasks indicated in *paragraph 3(e) and [...] (f)* and to provide **or withhold** specific consent to the receiving payment service provider to perform each of the tasks indicated in *paragraph 4(c) and (d) and paragraph 5*. The authorisation shall allow the consumer to specifically request the transmission by the transferring payment service provider of the information indicated in *paragraph 3(a) and [...] (b)*.

The authorisation shall also specify the date from which recurrent payments are to be operated from the account opened with the receiving payment service provider. **That date shall be at least seven business days after the date on which the transferring payment service provider receives the request to perform the switch from the receiving payment service provider pursuant to Article 10(6).**

3. Within **two** business **days** from the receipt of the *authorisation* referred to in paragraph 2, the receiving payment service provider shall request the transferring payment service provider to carry out the following tasks:

- (a) transmit to the receiving payment service provider and, if specifically requested by the consumer pursuant to paragraph 2, to the consumer a list of all existing standing orders for credit transfers and debtor driven direct debit mandates, **where available**;
- (b) transmit to the receiving payment service provider and, if specifically requested by the consumer pursuant to paragraph 2, to the consumer the available information about incoming credit transfers and creditor driven direct debits executed on the consumer's account in the previous 13 months;
- (c) transmit to the receiving payment service provider **such** additional information **as is necessary for** the receiving payment service provider to perform the switch;
- (d) where the transferring payment service provider does not provide a system for automated redirection of the **incoming credit transfers** and direct debits to the account held by the consumer with the receiving payment service provider, **stop accepting direct debits and incoming credit transfers from** the date specified in the authorisation;
- (e) where the consumer gave specific consent pursuant to paragraph 2, transfer any remaining positive balance to the account opened or held with the receiving payment service provider on the date specified by the consumer; **stop accepting direct debits and incoming credit transfers from** the date specified by the consumer;
- (f) where the consumer gave specific consent pursuant to paragraph 2, close the account held with the transferring payment service provider on the date specified by the consumer;

**(fa) cancel standing orders and credit transfers with an execution date from the date specified in the authorisation.**

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4. Upon receipt of the information requested from the transferring payment service provider referred to in paragraph 3, the receiving payment service provider shall carry out the following tasks:

- (a) set up within seven **business** days the standing orders for credit transfers requested by the consumer and execute them from the date specified in the authorisation;
- (b) accept direct debits from the date specified in the authorisation;
- (ba) where relevant, inform consumers of their rights in relation to SEPA direct debits pursuant to Article 5(3)(d) of Regulation (EU) No 260/2012;**
- (c) where the consumer gave specific consent pursuant to paragraph 2, inform payers making recurrent credit transfers into a consumer's payment account of the details of the consumer's account with the receiving payment provider. If the receiving payment service provider does not have all the information it needs to inform the payer, it shall, **within two days**, ask the consumer or, **where necessary and subject to the consumer's consent**, the transferring payment service provider to provide the missing information;
- (d) where the consumer gave specific consent pursuant to paragraph 2, inform payees using a direct debit to collect funds from the consumer's account of the details of the consumer's account with the receiving payment service provider and the date from which direct debits shall be collected from that account. If the receiving payment service provider does not have all the information it needs to inform the payee, it shall, **within two days**, ask **either** the consumer or, **where necessary and subject to the consumer's consent**, the transferring payment service provider to provide the missing information;
- (e) **where the consumer is asked to provide the missing information for the purposes of** points (c) and (d), provide the consumer with standard letters, **drawn up in an official language of the Member State where the switching service is being initiated or in any other language agreed between the parties**, providing details of the new account and the starting date indicated in the authorisation.

**4a. Member States shall ensure that deadlines are set at national level for payers and payees to take into account the new account details of the consumer transmitted by the receiving payment service provider. Member States shall also ensure that consumers are made aware of such deadlines and liabilities implied.**

5. Where the consumer gave specific consent pursuant to paragraph 2, the receiving payment service provider may carry out any additional tasks necessary for the performance of the switch.

6. Upon receipt of a request from the receiving payment service provider, the transferring payment service provider shall carry out the following tasks:

- (a) send the receiving payment service provider the information indicated in points (a), (b) and (c) of paragraph 3 within seven **business** days of receiving the request;
- (b) where the transferring payment service provider does not provide a system for automated redirection of the **incoming credit transfers** and direct debits to the account held by the consumer with the receiving payment service provider, stop **incoming credit transfers and stop** accepting direct debits on the payment account **from** the date requested by the receiving payment service provider;
- (c) transfer **any** remaining positive balance from the payment account to the account held with the receiving payment service provider;
- (d) **as soon as the steps listed in points (a), (b) and (c) have been carried out**, close the payment account;
- (e) carry out any additional tasks necessary for performing the switch, pursuant to paragraph 5.

**6a. The transferring payment service provider shall not be required to close the payment account in accordance with point (d) of paragraph 6 where the consumer has outstanding obligations to the payment service provider. The payment service provider shall immediately inform the consumer where such outstanding obligations prevent his payment account from being closed.**



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7. Without prejudice to Article 55(2) of Directive 2007/64/EC, the transferring payment service provider shall not block payment instruments before the date agreed with the receiving payment service provider **so that the provision of payment services to the consumer is not interrupted during the switching process.**

8. Member States shall ensure that **all** provisions contained in paragraphs 1 to 7 **except for those contained in paragraph 4(c) and (d)** also apply when the switching service is initiated by a payment service provider located in another Member State.

9. In the case indicated in paragraph 8, the deadlines indicated in paragraphs 3, 4 and 6 shall be doubled **except in relation to transactions falling within the scope of Article 1 of Regulation (EU) No 260/2012 where both the transferring and the receiving payment accounts are denominated in euro.** This provision shall be subject to review pursuant to Article 27.

#### Article 11

##### Fees connected with the switching service

1. Member States shall ensure that consumers are able to access their personal information regarding existing standing orders and direct debits held by either the transferring or the receiving payment service provider free of charge.

2. Member States shall ensure that the transferring payment service provider provides the information requested by the receiving payment service provider pursuant to paragraph 6 (a) of Article 10 without charging the consumer or the receiving payment service provider.

3. Member States shall ensure that fees, if any, applied by the transferring payment service provider to the consumer for the termination of the payment account held with it are determined in accordance with Article 45(2) of Directive 2007/64/EC.

4. Member States shall ensure that fees, if any, applied by the transferring or the receiving payment service provider to the consumer for any service provided under Article 10, other than those referred to in paragraphs 1, 2 and 3, **are reasonable.**

#### Article 11a

##### Automated redirection

**Unless after carrying out a regulatory impact assessment the Commission decides otherwise, Member States shall, by ... [six years after the date of entry into force of this Directive], ensure that a facility is established to provide automated redirection of payments from one payment account to another payment account within the same Member State combined with automated notifications to payees or payers when their transfers are redirected.**

#### Article 12

##### Financial loss for consumers

1. Member States shall ensure that any **fees or other** financial loss incurred by the consumer resulting from the non-compliance of a payment service provider involved in the switching process with its obligations under Article 10 **are** refunded by that payment service provider **within three business days of the non-compliance being established. The burden of proof shall be on the payment service provider to demonstrate that the conditions laid down in Article 10 have been complied with.**

2. Consumers shall not bear any financial loss resulting from mistakes or delays in updating their payment account details by a payer or payee. **Member States shall ensure that payers and payees are held liable where they do not meet the deadlines set up by Member States in accordance with Article 10(4a).**

#### Article 13

##### Information about the switching service

1. Member States shall ensure that payment service providers make available to consumers the following information about the switching service:

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- (a) the roles of the transferring and receiving payment service provider for each step of the switching process, as indicated in Article 10;
- (b) the timeframe for completion of the respective steps;
- (c) the fees, if any, charged for the switching process;
- (d) any information that the consumer will be asked to provide;
- (e) the alternative dispute resolution procedures scheme referred to in Article 21.

2. The information shall be provided free of charge on a durable medium at all branches of the payment service providers accessible to consumers and be available in electronic form on their websites at all times.

#### CHAPTER IV

#### ACCESS TO PAYMENT ACCOUNTS

##### Article 14

##### Non-discrimination

Member States shall ensure that consumers legally resident in the Union are not discriminated against by reason of their nationality or place of residence, **or by reason of any other ground as referred to in Article 21 of the Charter of Fundamental rights of the European Union**, when applying for or accessing a payment account within the Union. **The conditions applicable to holding a basic payment account shall be in no way discriminatory. Making any discrimination visible through, for example, a different appearance of the card, a different account or card number, shall be prohibited.**

##### Article 15

##### Right of access to a payment account with basic features

1. Member States shall ensure that **■** a payment account with basic features **is offered** to consumers **by all** payment service **providers that operate in general retail payment services and that offer payment accounts as an integral part of their regular business**. Member States shall ensure that payment accounts with basic features are not only offered by payment service providers that provide the account solely **through** online **■ facilities**.

**A Member State may decide to exempt payment service providers from the obligation referred to in the first subparagraph subject to the approval of the Commission. Any such exemption shall be based on objective and restrictive criteria. The Commission shall approve the exemptions where a level playing field among all payment service providers is guaranteed, the right of access for consumers is not undermined and the exemption does not lead to a situation in the Member State concerned where basic account customers face the risk of being stigmatised. [Ams. 4/rev and 5/rev]**

**1a. Member States may waive the obligation under paragraph 1 where the payment service providers:**

- (a) are listed in Article 2(5) of Directive 2013/36/EU of the European Parliament and of the Council <sup>(1)</sup>,**
- (b) operate on a non-profit basis;**
- (c) require membership on the basis of defined criteria, such as profession.**

**Any such a waiver shall be made without prejudice to the right of access by consumers to payment account with basic features.**

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<sup>(1)</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

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2. Member States shall ensure that **a system is in place within their territory to ensure the right of consumers to open and use a payment account with basic features as referred to in Article 14, subject to the following conditions:**

- (a) such right shall apply irrespective of the consumer's place of residence, **without prejudice to paragraph 2a;**
- (aa) **a mechanism shall be put in place to assist consumers with no fixed address, asylum seekers and consumers who are not granted a residence permit but whose expulsion is impossible for legal reasons to meet the requirements of Chapter II of Directive 2005/60/EC;**
- (b) the exercise of the right **shall not be** made excessively difficult or burdensome for the consumer;
- (ba) **a mechanism shall be put in place to ensure that unbanked, vulnerable consumers as well as mobile consumers are informed about the availability of payment accounts with basic features;**
- (bb) **the switching service provided for in Articles 10 and 11 of this Directive shall apply also where a consumer wishes to switch to a payment account with basic features from another payment account within the scope of the switching service.**

**2a. In order to exercise the right laid down in paragraph 2, Member States shall require consumers to have a genuine link to the Member State where they wish to open and use a payment account with basic features.**

Where the consumer is required to show such a link, Member States shall ensure that it is not burdensome for the consumer to do so. To that end, Member States shall ensure that competent authorities establish a list which lays down the form that such a link may take. That list shall include at least citizenship, family ties, centre of interests, place of work, internship or apprenticeship, pursuit of job opportunities or other professional links, place of study or vocational training, residence, property and any outstanding asylum or migration application.

**EBA shall develop guidelines pursuant to Article 16 of Regulation (EU) No 1093/2010 to assist the competent authorities in implementing this paragraph.**

**Payment service providers shall take into account the information provided by the consumer and may require the consumer to be physically present or legally represented by a third person in the nearest available branch to open the account.**

**Member States shall ensure that it is possible for consumers to demonstrate the existence of a genuine link within one month after the account is opened remotely in advance. Prior to such verification, including personal attendance where needed, payment service providers shall be allowed to limit the use of the account.**

**2b. Before opening a payment account with basic features, Member States may require payment service providers to verify whether the consumer holds an active and equivalent payment account in the territory of that Member State and may require the consumer to sign a declaration of honour to that effect.**

3. Payment services providers may not refuse an application for access to a payment account with basic features except in the following cases:

- (a) where the **customer due diligence conducted in accordance with Chapter II of Directive 2005/60/EC identifies a significant risk that the account will be used in breach of Union law;**
- (b) **in cases where the Member State has exercised the option referred to in paragraph 2b of this Article, where a consumer holds a payment account, with a payment service provider located in their territory, which enables him to make use of the payment services listed in Article 16(1).**

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4. **Member States shall ensure that payment service providers process applications for access to a payment account with basic features within seven business days of receiving a complete application including proof of identity.** Member States shall ensure that, in the cases indicated in paragraph 3, the payment service provider immediately informs the consumer **■**, in writing and free of charge **of the refusal and the specific reasons for it**, unless such disclosure would be contrary to the objectives of national security **or financial crimes**. **Furthermore, the consumer shall be informed of at least one channel of appeal or consultation service available to him free of charge or at a reasonable fee and of available alternative dispute resolution mechanisms.**

5. Member States shall ensure that, in the cases indicated in paragraph 3(b), the payment service provider adopts appropriate measures pursuant to Chapter III of Directive 2005/60/EC.

6. Member States shall ensure that access to a payment account with basic features is not made conditional on the purchase of additional services **or of shares of the payment service provider**.

#### Article 16

##### Characteristics of a payment account with basic features

1. Member States shall ensure that a payment account with basic features includes the following **■** services:

(a) services enabling all the operations required for the opening, operating and closing of a payment account;

(b) services enabling **money** to be placed on a payment account;

(c) services enabling cash withdrawals within the Union from a payment account **at the bank counter and at automated teller machines during or outside the bank's opening hours**;

(d) execution of the following payment transactions within the Union:

(i) **SEPA and non-euro** direct debit;

(ii) **SEPA and non-euro** payment transactions through a payment **instrument (e.g., by way of payment card or software product)** including online payments;

(iii) **SEPA and non-euro** credit transfers, **including standing orders, at terminals, counters and via the online facilities of the payment service provider**.

2. Member States **shall ensure that, provided that a payment account with basic features is operated by the consumer for personal use, there are no limits to the number of operations which are provided to the consumer under the specific pricing rules laid down in Article 17. In determining what is to be considered to be personal use, Member States shall take into account existing consumer behaviour and common commercial practice.**

3. Member States shall ensure that the consumer is able to manage and initiate payment transactions from the consumer's payment account with basic features in the payment service provider's **branches or via online ■** facilities, where available.

4. Member States shall ensure that **a payment account with basic features does not include any overdraft facilities other than, where deemed to be appropriate, a temporary buffer facility for small amounts. Member States may allow payment service providers to offer overdraft facilities and other credit products as clearly separated services to basic payment account customers. Access to, or use of, the payment account with basic features shall not be restricted by, or made conditional on, the purchase of such credit services. The fees charged for those services shall be transparent and at least as favourable as the usual pricing policy of the provider.**

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**4a. The Commission shall be empowered to adopt delegated acts in accordance with Article 24 in order to update the list of services that are part of a payment account with basic features, having regard to the evolution of means of payment and technology.**

#### Article 17

##### Associated fees

1. Member States shall ensure that the services indicated in Article 16 are offered by payment service providers free of charge or for a reasonable fee. **Member States shall require payment service providers to ensure that among the products they offer, the payment account with basic features is always the payment account with the lowest fee for the provision of the minimum package of payment services specified within the Member State pursuant to Article 16(1) and (2).**

2. Member states shall ensure that the fees charged to the consumer for non-compliance with the consumer's commitments laid down in the framework contract are reasonable **and never higher than the usual pricing policy of the provider.**

■

#### Article 18

##### Framework contracts and termination

1. Framework contracts providing access to a payment account with basic features shall be subject to the provisions of Directive 2007/64/EC unless otherwise specified in paragraphs 2 and 3.

2. The payment service provider may unilaterally terminate a framework contract **only** where at least one of the following conditions is met:

- (a) the consumer deliberately used the account for **illegal purposes**;
- (b) there has been no transaction on the account for more than **24** consecutive months **and fees owing to the payment service provider have not been paid**;
- (c) the consumer knowingly provided incorrect information in order to obtain the payment account with basic features where the correct information would have resulted in the **refusal of the application**;
- (ca) **the consumer is unable to justify the existence of a genuine link to the Member State concerned, as referred to in Article 15(2a), within one month after the account has been opened remotely in advance**;
- (d) the consumer is no longer legally resident in the Union or has subsequently opened a second payment account in the Member State where he already holds a payment account with basic features.

3. Member States shall ensure that where the payment service provider terminates the contract of a payment account with basic features, it informs the consumer of the grounds and the justification for the termination, **of at least one channel of appeal or consultation service available to him free of charge or at a reasonable fee and of alternative dispute resolution mechanisms available**, at least **one month** before the termination enters into force, in writing and free of charge, **unless such disclosure would be contrary to the objectives of national security.**

#### Article 19

##### General information on payment accounts with basic features

1. Member States shall ensure that **adequate** measures are in place to raise awareness ■ about the availability of payment accounts with basic features, their pricing conditions, the procedures to be followed in order to exercise the right to access payment accounts with basic features and the methods for having access to alternative resolution for the settlement of disputes. **Member States shall ensure that communication measures are sufficient and well targeted, in particular reaching out to unbanked, vulnerable and mobile consumers.**

2. Member States shall ensure that payment service providers **actively** make available to consumers **accessible** information **and adequate assistance** about the specific features of the payment account with basic features on offer, their associated fees and **the** conditions of use. Member States shall also ensure that the consumer is informed that the purchase of additional services is not compulsory to access a payment account with basic features.

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2a. Member States shall require educational establishments and consultation services to develop services for the most vulnerable customers providing them with guidance and assistance in the responsible management of their finances. Member States shall encourage initiatives to achieve this and improve financial education at schools and elsewhere. The risk of financial exclusion shall be minimised for all consumers. Furthermore, Member States shall encourage initiatives by payment service providers seeking to combine provision of a payment account with basic features and independent financial education services.

2b. Member States shall ensure that payment service providers required to offer payment accounts with basic features publish, on an annual basis, data on the number of payment accounts with basic features applied for, rejected, opened, and closed during the relevant year. The relevant data shall be collected and published at branch and corporate level.

2c. Member States shall ensure that the competent authorities publish, including on their website, an audit of the performance of each payment service provider in terms of its compliance with the right of access requirement. To that end, relevant payment providers shall be independently rated according to their performance in the provision of payment accounts with basic features and a rating of the top ten banks by market share shall be published at an annual basis. All relevant data shall be submitted to the Commission and to EBA.

## CHAPTER V

### COMPETENT AUTHORITIES AND ALTERNATIVE DISPUTE RESOLUTION

#### Article 20

##### Competent authorities

1. Member States shall designate competent authorities to ensure and monitor effective compliance with this Directive. Those competent authorities shall take all necessary measures to ensure such compliance. They shall be independent from payment service providers. They shall be competent authorities within the meaning of Article 4(2) of Regulation (EU) No 1093/2010.

2. The authorities referred to in paragraph 1 shall **be independent from payment service providers and shall** possess all the powers **and resources** necessary for the performance of their duties. Where more than one competent authority is empowered to ensure and monitor effective compliance with this Directive, Member States shall ensure that those authorities collaborate closely so that they can discharge their respective duties effectively. **Those authorities shall closely cooperate with the competent authorities of other Member States to ensure the correct and full application of the measures established in this Directive.**

2a. **The authorities referred to in paragraph 1 shall regularly consult relevant stakeholders, including consumer representatives, to ensure and monitor effective compliance with this Directive, without prejudice to the requirement of independence referred to in paragraph 1.**

3. Member States shall notify the Commission of the designated competent authorities referred to in paragraph 1 by ... [one year after the date of entry into force of this Directive]. They shall inform the Commission of any division of duties of those authorities. They shall immediately notify the Commission of any subsequent change concerning the designation and respective competences of those authorities.

#### Article 21

##### Alternative Dispute Resolution

1. Member States shall **establish adequate and effective out-of-court complaint and** redress procedures for the settlement of disputes **between consumers and payment service providers** concerning rights and obligations established under this Directive. **For those purposes, Member States shall designate existing bodies and, where appropriate, set up new bodies.**

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**1a.** Member States shall ensure that payment service providers adhere to one or more alternative dispute resolution bodies that fulfil the following criteria:

- (a) the limitation period for bringing the dispute before a court is suspended for the duration of the procedure for alternative dispute resolution;
- (b) the procedure is free of charge or at moderate cost, as specified in national law;
- (c) electronic means are not the only means by which the parties can gain access to the procedure;
- (d) there is equal representation of providers, consumers and other users.

**1b.** Member States shall ensure that the payment account providers commit to one or more alternative dispute resolution bodies.

**1c.** Member States shall notify the Commission and EBA of the bodies referred to in paragraph 1 by ... [six months after the date of entry into force of this Directive]. They shall notify the Commission without delay of any subsequent change concerning those bodies.

**1d.** Member States shall ensure that payment service providers inform the consumer about the alternative dispute resolution entities by which they are covered and which are competent to deal with potential disputes between themselves and the consumer. They shall also specify whether or not they commit or are obliged to use those entities to resolve disputes with consumers.

**1e.** The information referred to in paragraph 1b shall be referred to in a clear, comprehensible and easily accessible manner on the providers' website where one exists and in the general terms and conditions of sales or service contracts between the provider and the consumer.

## CHAPTER VI

### SANCTIONS

#### Article 22

Administrative measures and **application of administrative penalties and other administrative measures**

**1.** Member States shall lay down the rules on administrative **penalties and other administrative** measures applicable to breach of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. Such administrative **penalties and other administrative** measures shall be effective, proportionate and dissuasive.

**Any pecuniary penalties shall be quantified at Union level to the extent possible, in order to ensure the effective implementation of the national provisions transposing this Directive.**

**2.** EBA shall issue guidelines addressed to competent authorities, in accordance with Article 16 of Regulation (EU) No 1093/2010, on types of administrative penalties and other administrative measures and the level of administrative pecuniary penalties.

**3.** Member States shall ensure that the competent authorities publish any penalty or other measure imposed for breach of the national provisions transposing this Directive without undue delay, including information on the type and nature of the breach.

Member States shall notify the Commission of the provisions relating to penalties by ... [18 months after the date of entry into force of this Directive] and of any subsequent amendment thereof.

## CHAPTER VII

### FINAL PROVISIONS

#### Article 23

##### Delegated acts

The Commission shall be empowered to adopt delegated acts in accordance with Article 24 concerning Article 3(4).

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## Article 24

## Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 23 shall be conferred for an indeterminate period of time from the date of entry into force of this Directive.
3. The delegation of powers referred to in Article 23 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 23 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **three** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by **three** months at the initiative of the European Parliament or the Council.

## Article 26

## Evaluation

1. **On an annual basis and for the first time by ... [3 years after the date of entry into force of this Directive], Member States shall provide the Commission with information on the following:**
  - (a) compliance by payment service providers with the provisions in Articles 3 to 6;
  - (b) the number of accredited comparison websites established pursuant to Article 7 **and best practices regarding to user satisfaction regarding comparison websites;**
  - (c) the number of payment accounts that have been switched, the average **time taken to complete the switching process, the average total** fee charged for switching, the number of refusals to switch, **the most common problems encountered by consumers during the switching process;**
  - (d) the number of payment accounts with basic features opened, **the length of time for which such accounts are held**, the number and grounds for refusal **and closure** and the associated charges;
  - (da) **the measures taken to assist vulnerable members of society with matters concerning budgeting and over-indebtedness.**
2. **The Commission shall provide an annual report on the basis of the information received from Member States.**

## Article 27

## Review clause

1. The Commission shall present to the European Parliament and the Council, by ... [**four** years after the date of entry into force of this Directive], a report on the application of this Directive accompanied, if appropriate, by a proposal.

**The report shall include:**

- (a) **a list of all infringement proceedings brought by the Commission for incorrect or incomplete implementation of this Directive;**



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- (b) *an assessment of the impact of this Directive on the harmonisation and integration of retail banking within the Union and on competition and average fee levels in Member States;*
- (c) *strategies to increase Union-wide quality transparency and comparability for payment service provision including transparency on business models and investment strategies and social corporate responsibility;*
- (d) *an assessment of the costs and benefits of an implementation of full Union-wide portability of payment account numbers including a roadmap with concrete steps necessary for such implementation;*
- (e) *an assessment of the characteristics of consumers who have opened payment accounts with basic features since the transposition of the Directive;*
- (f) *examples of best practices among Member States for reducing consumer exclusion from access to payment services;*
- (g) *an assessment of the charges levied for basic payment accounts, taking into account the criteria listed in Article 17 (3);*
- (h) *an assessment of options of establishing a Union-wide upper limit for the total annual fees relating to opening and using a payment account with basic features and ways how to adapt such a limit to national circumstances;*
- (i) *an assessment of the impact of the provision of payment accounts with basic features on the market for other payment accounts offering similar services.*

2. The review shall assess, based also on the information received from Member States pursuant to Article 26, whether to amend and update the list of services that are part of a payment account with basic features, having regard to the evolution of means of payment and technology.

3. The review shall also assess whether additional measures in addition to those adopted pursuant to Article 7 and 8 with respect to comparison websites and packaged offers are needed.

#### Article 28

#### Transposition

1. Member States shall adopt and publish, by ... [two years after the date of entry into force of this Directive] [...], the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

*Where the documents accompanying notification of transposition measures provided by the Member States are not sufficient to assess fully the compliance of those measures with certain provisions of this Directive, the Commission may, upon EBA's request and with a view to carrying out its tasks under Regulation (EU) No 1093/2010, or on its own initiative, require Member States to provide more detailed information regarding the transposition of this Directive and the implementation of those measures.*

2. They shall apply those provisions from one year after entry into force of this Directive.

*By way of derogation from the first subparagraph, Member States shall apply Chapter III from ... [18 months after the date of entry into force of this Directive] with regard to switching services between payment service providers located in the same Member State and, for payment accounts denominated in euro, between payment service providers located in the Union in relation to payment services denominated in euro.*

*By way of derogation from the first subparagraph and unless the Commission decides otherwise through a draft regulatory impact assessment, Member States shall apply the provisions of Chapter III from ... [48 months after the date of entry into force of this Directive] with regard to a switching service between payment service providers located in the Union for payment accounts denominated in a currency, other than the euro.*

*By way of derogation from the first subparagraph, Member States shall apply Article 4(1) to (6), Article 5(1) and (2), and Article 6(1) and (2) within 18 months of the date of publication of the list referred to in Article 3(5).*

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***By way of derogation from the first subparagraph, Member States which have, by 1 January 2014, a national legislative system in place which guarantees access to payment accounts with basic features to consumers legally resident in their territory, shall apply the provisions of Chapter IV from ... [24 months after the date of entry into force of this Directive].***

3. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

4. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

#### Article 29

##### Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

#### Article 30

##### Addressees

This Directive is addressed to the Member States in accordance with the Treaties.

Done at [...],

For the European Parliament  
The President

For the Council  
The President

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