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"I" ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
Subject:	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 (Payment Accounts Directive - PAD) - Approval of the final compromise text

I. INTRODUCTION

1. On 13 May 2013, the Commission transmitted to the Council its 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 (so-called Payment Accounts Directive (PAD)). The proposal aims at enhancing both the level of consumer protection and the integration of the single market as regard payment accounts, through measures improving the transparency and comparability of fee information relating to payment accounts, facilitating switching between payment accounts and providing access to a payment account with basic features within the EU.

2. The report of the European Parliament has been adopted on 19 November 2013 by the ECON Committee and further confirmed by the Plenary on 12 December 2013.
3. The European Economic and Social Committee and the European Central Bank adopted their opinions respectively on 18 September and 19 November 2013.
4. The Committee of Permanent Representatives agreed on a general approach on the above mentioned proposal on 20 December 2013¹.
5. Following intensive negotiations with the European Parliament, a provisional agreement was reached on 20 March 2014, which resulted in the final compromise text as set out in Annex.
6. Following a silence procedure within the framework of Working Party on Financial Services, which ended on Thursday, 27 March 2014, a very strong qualified majority could agree to the outcome of the negotiations.
7. Against this background the Permanent Representatives Committee (Part 2) is invited to:
 - a) approve the final compromise text regarding the Payment Accounts Directive;
 - b) confirm that the Presidency can indicate to the European Parliament that, should the European Parliament adopt its position at first reading as regards the Payment Accounts Directive as set out in Annex, subject, if necessary, to revision of that text by the legal linguists of both institutions, the Council would approve the European Parliament's position and the Act shall be adopted in the wording which corresponds to the European Parliament's position.

¹ Doc. 17511/1/13 REV 1

[...]PE-CONS XX/14-2013/0139 (COD)

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

**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 Committee²,

Having regard to the opinion of the *European Central Bank*³,

After consulting the European Data Protection Supervisor⁴,

Acting in accordance with the ordinary legislative procedure,

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ C , , p. .

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/EC⁵ ("Payment Services Directive") established basic transparency requirements for fees charged by payment service providers in relation to services offered on payment accounts. This has 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.

⁵ *OJ L 319, 5.12.2007, p. 1.*

- (3) *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. New legislation in this regard must be part of a smart economic strategy for the Union, which must effectively take into account the needs of more vulnerable consumers*
- (4) However, *as indicated by the European Parliament in its resolution of 4 July 2012 with recommendations to the Commission on Access to Basic Banking Services⁶, more must be done to improve and develop the **internal** market for retail banking. **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 **contributing to low competition in the retail banking sector. These problems must be tackled and high-quality standards must be achieved.***
- (5) 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.

⁶ *Texts Adopted, P7_TA(2012)0293.*

- (6) 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.

- (7) Moreover, since some prospective customers do not open *payment* 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.
- (8) 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 *payment* accounts offered by *banks* 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 *payment* 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 [...] ⁷ 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.

⁷ OJ L 190, 21.7.2011, p. 87.

- (9) *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 **incentivise** entry for **credit institutions and** 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 **payment** 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 to **the** further development **of the internal market**.*
- (10) *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 available, which may render the current model of payment accounts out of date, such as mobile banking services and stored value payment cards.*

- (11) *This Directive shall not preclude Member States from retaining or adopting more stringent provisions in order to protect consumers, provided that such provisions are consistent with their obligations under Union law and this Directive.*
- (12) *The provision concerning the comparability of fees and switching should apply to all payment service providers, as defined in the Payment Services Directive. The provisions concerning access to payment accounts with basic features should apply only to credit institutions. All provisions of this Directive concern payment accounts through which consumers are able to carry out the following transactions: place funds and withdraw cash, execute and receive payment transactions to and from third parties, including the execution of credit transfers. As a consequence, accounts with more limited functions are excluded. For example, accounts such as savings accounts, credit card accounts, where funds are usually paid in for the sole purpose of repaying a credit, current account mortgages or e-money accounts are in principle excluded from the scope of the Directive. However, should these accounts be used for day-to-day payment transactions and contain all of the functions listed above, they will be captured. Accounts held by businesses, even small or micro enterprises, unless held in a personal capacity, are outside the scope of this Directive. Member States may choose to extend the application of this Directive to other payment service providers and other payment accounts, e.g. those which offer more limited payments functions.*

- (13) *Since a payment account with basic features is a type of payment account for the purposes of this Directive, the provisions of transparency and switching should also apply to such accounts.*
- (14) The definitions contained in the Directive are aligned with those contained in other Union legislation *as far as possible*, 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 924/2009⁸.
- (15) 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 *payment* 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 targeted fee information *presented in a consistent format covering* the most representative payment services *linked to payment accounts*, can help consumers to both understand and compare fees.

⁸ OJ L 94, 30.3.2012, p. 22.

- (16) Consumers would benefit most from information that is concise, *standardised* and easy to compare between different payment service providers. The tools made available to consumers to compare payment account offers would not have a positive impact if the time invested in going through lengthy lists of fees for different offers outweighed the benefit of choosing the offer that represents the best value. ***These tools should be multi-fold and consumer testing should be conducted. At this stage, fee terminology should only be standardised for the most representative terms and definitions within Member States in order to avoid the risk of excessive information and facilitate swift implementation.***
- (17) The fee terminology should be determined by *Member States*, allowing for consideration of the specificities of local markets. To be considered representative, services should be subject to a fee at a minimum of one payment service provider in *a Member State*. In addition, where *the services are common to a majority of Member States, the terminology used to define such services* should be standardised at EU level, thus allowing for *better comparison of payment account offers* across the Union. ***In order to ensure sufficient homogeneity of the national lists, 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. For these purposes Member States should indicate to EBA and the Commission the appropriate authorities to which these guidelines should be addressed at the latest three months after the entry into force of this Directive.*

- (18) Once *Member States* have determined a provisional list of the most representative services subject to a fee at national level together with terms and definitions, the *EBA* should review them to identify, by means of *draft Regulatory Technical Standards*, the services that are common to the majority of Member States and propose standardised *Union* level terms and definitions for them *in all the official languages of the Union*. *The EBA should ensure that in any official language for each Member State, only one term be used for each service, in order to take into account national specificities, for example, where different terms are used for the same service in different Member States, using the same language. Member States should then integrate any applicable EU terms into their provisional lists and publish those final lists.*
- (19) In order to help consumers compare payment account fees throughout the single market easily, payment service providers should provide consumers with a *fee information document that states the fees* ■ *for all services contained in the list of the most representative services linked to a payment account at national level. 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 *payment service providers* competing in the payment account market. The fee information document should *not contain any other fees*.

Where a credit institution does not offer a service from the list of most representative services linked to a payment account, it should indicate this by e.g. marking the service as 'not offered' or 'not applicable'. Member States should be able to require key indicators such as a comprehensive cost indicator summarising the overall annual cost of the payment account for consumers to be provided with the fee information document.

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 fees and services contained in the *fee information document* 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 *credit institutions* to inform consumers, *free of charge and* at least annually, of all the fees charged on their *payment account including, if applicable, the overdraft interest rate and the credit interest rate. This is without prejudice to the provisions on overdraft services Directive 2008/48/EC of the European Parliament and the Council on credit agreements for consumers.* Ex-post information should be provided in a dedicated summary. It should provide *an* overview of *interest earned and all* the fees incurred *in relation to the use of the payment account* to enable a consumer to understand what fee expenditures relate to, and to assess the need to either modify consumption patterns or move to another provider. This benefit would be maximised by the ex-post fee information *presenting the most representative services in* the same *order* as the ex-ante *fee* information.

- (20) 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 same format, order of items and headings should be followed for every fee information document and statement of fees in each Member State, allowing consumers to compare the two documents, thereby maximising understanding and use of the information. The fee information document and statement of fees should be clearly distinguishable from other communications. ***Further, when developing their formats, the EBA should also take into account that Member States may choose to provide the fee information document and the statement of fees together with information required pursuant to other national or Union law on payment accounts and related services.***

- (21) 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 *final* 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 their contractual, commercial and marketing information to consumers, as long as they clearly identify the applicable corresponding standardised term. Where they choose to use brand names in the fee information document or statement of fees, this should be secondary to the standardised terms, such as in brackets or of the smaller size.***
- (22) Comparison websites ***that are independent*** 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 ***should aim at including the broadest possible range of offers, so as to give a representative overview, while also covering a significant part of the market.*** ***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, Member States should inform the public of such websites.***

- (23) In order to obtain impartial information on **■** fees *charged and interest rates applied on payment accounts*, consumers should be able to *use publicly accessible* comparison websites which are operationally independent from *credit institutions, which means that any credit institution should not be given favourable treatment in search results*.
- Member States should therefore ensure that *consumers have free access to* at least one such website **■** in their respective territories. Such comparison websites may be operated by, *or on behalf of, the* competent authorities, other public authorities and/or *private operators. The function of comparing fees connected to payment accounts may be fulfilled also by existing websites comparing a broad range of financial or non-financial products. The website shall operate* in accordance with specified quality criteria *including the requirement to provide details of their owners, accurate and up-to-date information, state the last time of the update, set out clear, objective criteria on which the comparison will be based and include a broad range of payment account offers covering a significant part of the market. Member States may determine how often comparison websites should review and update the information they provide to consumers, taking into account the frequency with which credit institutions generally update their fee information.*

Member States should also determine what constitutes a broad range of payment account offers covering a significant part of the market by assessing for example, how many credit institutions exist and therefore whether a simple majority or less would be sufficient and/or market share and/or their geographic location. A comparison website should compare the fees of services contained in the list of most representative services linked to payment accounts, integrating Union level terminology. It is appropriate that Member States be able to require such websites to compare other information, e.g. information on determinants of the level of services provided by credit institutions, such as the number and location of branches or ATMs. Where there is only one website in a Member State and this website ceases to operate or ceases to comply with the quality criteria, the Member State should ensure that consumers have access to another comparison website at national level within a reasonable time.

- (24) It is current practice for payment service providers to offer a payment account in a package with **■** products or services *other than services linked to a payment account, such as insurance products or financial advice*. This practice can be a means for payment *services* 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 *payment* 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 *services provider* offer packaged payment accounts consumers are provided with information on *whether it is possible to buy* the payment account *separately and if so, provide separate information regarding the applicable costs and fees associated with* each *of the* other *products or services* included in the package *that can be purchased* separately.

- (25) *The process for switching payment accounts should be harmonised across the EU. At present, existing measures at national level are extremely diversified and do not guarantee an adequate level of protection of consumers in all Member States. The provision of legislative measures establishing the main principles to be followed by payment service providers when providing such service in every state of the Union would improve the functioning of the internal market for both consumers and payment service providers. On the one hand, it will guarantee a level-playing field for consumers who may be interested in opening a payment account in a different Member State, as it will ensure that an equivalent level of protection is offered. On the other hand, it will reduce the differences between the regulatory measures in place at national level and will therefore reduce the administrative burden for payment service providers which intend to offer their services cross-border. As a consequence, the measures on switching will facilitate the provision of services related to payment accounts within the internal market.*
- (26) *Switching should not imply the transfer of the contract from the transferring payment provider to the receiving payment service provider*

- (27) Consumers **■** only *have an incentive* to switch *payment* accounts if the process does not entail an excessive administrative and financial burden. *Therefore*, payment service providers should *offer to consumers a clear, quick and safe procedure to switch payment accounts, including payment accounts with basic features. Such procedure should be guaranteed when consumers want to switch from one payment service provider to another but also when consumers want to switch between different payment accounts within the same payment service provider. This will allow consumers to benefit from the most convenient offers on the market and easily change from their existing payment account to other potentially more suitable ones, irrespective of whether this occurs within the same payment service provider or between different payment service providers. If fees are* charged by payment service providers in relation to the switching service, *they* should be *reasonable and inline* with the actual cost incurred by payment service provider.
- (28) *Member States should be allowed, with regard to switching where both* payment service providers *are located in their territory, to establish or maintain arrangements that differ from those provided for in this Directive if this is clearly in the interests of the consumer.*

- (29) 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. *Member States may use additional means, such as a technical solution, when establishing the switching service. Such additional means may exceed the requirements of this Directive, for example, the switching service may be provided in a shorter timeframe or payment service providers may be required to ensure, upon a consumer's request, the automated or manual routing of credit transfers received on the former account to the new account for a set limited period starting from the authorisation. Such additional means may also be used by payment services providers on a voluntary basis even where not required by a Member State.*

- (30) Consumers should be allowed to ask the receiving payment service provider to perform the switch of all or part of the *incoming credit transfers, standing orders for credit transfers or the direct debit mandates*, ideally within a single meeting with the receiving payment service provider. To this end, consumers should be able to sign one authorisation giving consent to *each of the mentioned tasks. Member States could require that the authorisation from the consumer is in writing, but could also choose to accept equivalent means where appropriate, for example where an automated system for switching is in place*. Before giving the authorisation the consumer should be informed of all the steps of the procedure necessary to complete the switch. *For example the authorisation could include all the tasks required for the switching service with the possibility for the client to choose amongst those.*
- (31) The co-operation of the transferring payment service provider is necessary for the switch to be successful. The receiving payment service provider should be provided by the transferring payment service provider with all the information necessary to reinstate the payments on the *other* payment account. However, such information should not exceed what is necessary to carry out the switch .

(32) *In order to facilitate cross-border account opening, the consumer should be allowed to ask the new payment service provider to set up on the new account all or part of standing orders for credit transfers, accept the direct debits from the date specified by the consumer, and provide the consumer with information providing details of the new bank account, preferably within a single meeting with the new payment service provider.*

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(33) *Consumers should not be subject to financial losses, including charges and interest caused by any mistakes made by either of the payment service providers involved in the switching process. In particular, consumers should not bear any financial loss deriving from the payment of additional fees, interest or other charges as well as fines, penalties or any other type of financial detriment due to the delay in the execution of the payment.*

- (34) 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 *credit institutions* 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. ***Therefore the provisions of Directive 2005/60/EC alone should not be used as a ground for rejecting commercially less attractive consumers.***
- (35) 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.***

- (36) *Consumers who are legally resident in the Union and who do not hold a payment account in a certain Member State should be in a position to open and use a payment account with basic features in that Member State. The concept of ‘legally resident in the Union’ should cover both EU citizens and third country nationals who already benefit from rights conferred upon them by Community acts such as Regulation (EEC) No 1408/71 (on the application of social security schemes to employed persons and their families moving within the Community), Council Directive 2003/109/EC of 25 November 2003 concerning the status of third country nationals who are long-term residents, Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 (also for social security) to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality and Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. It should also include people seeking asylum under the Geneva Convention of 28 July 1951 and Protocol of 31 January 1976 relating to the status of the refugees and other relevant international treaties. Furthermore, Member States may extend the concept of recipient to other third country nationals that are present within their territory.*

- (37) *Member States should be able, in full respect of the fundamental freedoms guaranteed by the Treaty, to require consumers who wish to open a payment account with basic features in their territory to show a genuine interest for doing so. Without prejudice to the Anti-Money Laundering requirements adopted in conformity with Directive 2005/60/EC, physical attendance at the premises of the credit institutions should not be required in order to show such a genuine interest.*
- (38) *Member States should ensure that the number of credit institutions offering payment accounts with basic features is sufficient to ensure the reach of all consumers, to avoid any kind of discrimination against them and to prevent distortions of competition. When determining the sufficient number of credit institutions, the factors to be taken into account should include, the coverage of the network of the credit institutions, the size of the territory of the Member state, the distribution of consumers on the territory, the market share of the credit institutions and whether basic payment accounts present only a small part of the payment accounts provided by the credit institution. In principle, payment accounts with basic features should be offered by as many credit institutions as possible, with a view to guarantee that consumers can open such accounts at premises of a bank that is within close reach of their place of residence and that consumers are in no way discriminated against when accessing such accounts and can use them effectively.*

In particular, Member States should ensure that there is no discrimination visible through, for example, a different appearance of the card, a different account or card number. However, it should be possible for a Member State to envisage that payment accounts with basic features are offered by a smaller number of credit institutions but this should be justified on the basis of the fact that, for example, those credit institutions have such a widespread presence on the territory of that Member State that they could serve all consumers without forcing them to travel too far away from their home to reach them. Moreover, consumers accessing payment accounts with basic features should not be stigmatised in any way, and this objective can be better achieved if a larger number of credit institutions are designated.

- (39) *Member States may put in place mechanisms 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 or factual reasons to fully benefit from the provisions of this directive.*

- (40) *When allowing credit institutions to provide, upon consumer's request, an overdraft facility in relation to a payment account with basic features, Member States may define a maximum amount and duration of any such overdraft. Member States should also ensure that any related fees are communicated to consumers in a transparent manner. Finally, credit institutions should comply with the provisions of Directive 2008/48/EC when offering overdraft facilities in conjunction with a payment account with basic features.*
- (41) *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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- (42) *Credit institutions may be allowed to refuse the opening of a payment account with basic features to consumers who already hold an active and at least equivalent payment account in the same Member State. In order to verify whether or not a consumer already holds a payment account, credit institutions may rely on a declaration of honour provided by the consumer.*
- (43) *Member States should ensure that credit institutions process applications for a payment account with basic features 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 the refusal unless such disclosure would be contrary to national security, public policy or Directive 2005/60/EC.*
- (44) Consumers should be guaranteed access to a range of basic payment services¹. 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.

Member States should ensure that, with respect to the services related to opening, operating and closing the account as well as placing and withdrawing money and payment transactions with payment cards, with the exclusion of credit cards, 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. With respect to the execution of credit transfers and direct debits, as well as transactions made through a credit card, linked to the basic payment account, Member States should be able to determine a minimum number of operations, which will be provided to the consumer under the specific pricing rules laid down in this Directive, provided that these services are for the personal use of the consumer. In determining what should be considered as personal use, Member States should take into account existing consumer behaviour and common commercial practice. The fees charged for operations above the minimum number of operations should never be higher than the usual pricing policy of the provider.

(45) *When identifying the services to be offered with a payment account with basic features and a minimum number of operations to be included, national specificities should be taken into account. In particular, certain services may be considered essential to guarantee full use of a payment account in a certain Member State, due to their widespread use at the national level. For example, in some Member States consumers still widely use cheques, while this means of payment is very rarely used in other Member States. The present Directive should therefore allow Member States to identify additional services that are considered essential at national level and should be provided with a payment account with basic features in that country. Also, Member States should ensure that the fees charged by credit institutions for the offer of such additional services in relation to a payment account with basic features are reasonable.*

(46) 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. *To encourage unbanked vulnerable consumers to participate in the retail banking market, Member States may provide that payment accounts with basic features are offered to these consumers at particularly advantageous conditions, such as free of charge. Member States should be free to define the mechanism to identify the consumers that can benefit from basic payment accounts at more advantageous conditions, provided that the system ensures that vulnerable consumers can access a payment account with basic features. In any event, such approach shall be without prejudice to the right of all consumers, including non-vulnerable ones, to access payment accounts with basic features at least at a reasonable fee.* Furthermore, any additional charges to the consumer for non-compliance with the terms laid down in the contract should be reasonable. Member States should establish what constitutes a reasonable charge according to national circumstances.■

- (47) The *credit institution* should refuse to open or should terminate a contract for a payment account with basic features only in specific circumstances, such as 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. ***However, there may be cases where a consumer may abuse his right to access payment accounts with basic features. For example, a Member State may allow that a credit institution takes measures against a consumer who committed a crime, such as a serious fraud against a credit institution, with a view to avoid that such occurrences happen again. Such measures may include, for example, limiting access of that consumer to a payment account with basic features for a certain period of time. Besides, there may be cases for which the previous refusal of a payment account may be necessary to identify consumers who could benefit from a payment account in more advantageous conditions. In this case, the credit institution shall inform the consumer that he may use the specific mechanism under Article 25 to obtain access to a payment account. Both additional cases should however be limited, specific and based on precisely identified provisions of national law.***

- (48) *When identifying additional cases where credit institutions can refuse to offer payment accounts to consumers, Member States may include, amongst others, reasons of public security or public policy.*
- (49) Clear and comprehensible information on the right to a *payment* account with basic features should be provided by Member States and *credit institutions to consumers*. *Member States should ensure that communication measures are well-targeted in particular reaching out to unbanked, vulnerable and mobile consumers. Credit institutions 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 their 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.

- (50) *Member States should promote measures that support the education of the most vulnerable customers providing them with guidance and assistance in the responsible management of their finances. Information regarding the guidance that consumer organisations and national authorities may provide to consumers, is also necessary. Furthermore, Member States should encourage initiatives by credit institutions seeking to combine provision of a payment account with basic features and independent financial education services.*
- (51) *In order to facilitate the ability of credit institutions and payment service providers to provide their services on a cross-border basis, for the purposes of cooperation, information exchange and dispute resolution between competent authorities, the competent authorities responsible for the enforcement of this Directive should be those acting under the auspices of the European Supervisory Authority (European Banking Authority) (EBA), as set out in Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority) (2) or other national authorities provided that they cooperate with the authorities acting under the auspices of EBA in order to carry out their duties under this Directive.*

(52) Member States should designate competent authorities **■** empowered to ensure enforcement of this Directive and *ensure* that *they* are granted investigation and enforcement powers *and* adequate resources *necessary* for the performance of their duties. *Competent authorities could act for certain aspects of this Directive by application to courts competent to grant a legal decision, including, where appropriate, by appeal. This could enable Member States, in particular where provisions of this Directive were transposed into civil law, to leave the enforcement of these provisions to the abovementioned bodies and the courts.* Member States should be able to designate different competent authorities in order to enforce the wide ranging obligations laid down in this Directive. *For instance, for some provisions, Member States could designate competent authorities responsible for the enforcement of consumer protection, while for others, they could decide to designate prudential supervisors. The option to designate different competent authorities should not affect the obligations for ongoing supervision and cooperation between the competent authorities, as provided for in this Directive.*

(53) Consumers should have access to effective and efficient out-of-court redress procedures for the settlement of disputes arising out of rights and obligations established under this Directive. Such access is already ensured by Directive 2013/11/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. ***This Directive therefore provides that consumers should have access to out-of-court redress procedures for the settlement of disputes concerning rights and obligations established by this Directive, without distinguishing between contractual and pre-contractual disputes. Such out-of-court redress procedures and the entities offering them should comply with the quality requirements established by Directive 2013/11/EU.*** 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 data⁹. The present Directive should therefore comply with the rules established in Directive 95/46/EC and the national laws implementing them.

⁹ OJ L 281, 23.11.1995, p. 31.

(54) *This Directive should be without prejudice to Directive 95/46/EC.*

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(55) *On an biennial basis, and for the first time within 4 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 a report on the basis of the information received for the first time after 4 years and thereafter on a biennial basis.***

- (56) A review of this Directive should be carried out 5 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 *analyse the infringements for incorrect or incomplete implementation of this Directive. It should also include an assessment of the average fee levels in Member States for payment accounts falling within the scope of this Directive, of whether the measures introduced have improved consumer understanding of payment account fees, the comparability of payment accounts and the ease of switching accounts and of the number of account holders who switched accounts since the transposition of this Directive.* It should also *analyse the number of providers offering basic payment accounts and the number of such accounts that have been opened including by previously unbanked consumers, examples of best practices among Member States for reducing consumer exclusion from access to payment services as well as the average annual fees levied for basic payment accounts*

It should also assess the costs and benefits of implementing union-wide portability of payment accounts, the feasibility of framework for ensuring automated redirection of payments redirection of payments from one payment account to another within the same Member State combined with automated notifications to payees or payers when their transfers are redirected and of extending the switching services where the receiving and transferring payment service provider are located in different Member States

It should also include an assessment of the effectiveness of existing measures and the need for additional measures to increase financial inclusion and to assist vulnerable members of society in relation to over-indebtedness. 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. *It should also assess the need of additional measures with regard to comparison websites and the need for an accreditation of comparison websites.* The Commission should submit a report to the European Parliament and the Council accompanied, if appropriate, by legislative proposals.

- (57) 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*.
- (58) In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents¹, 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.

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 *Union*, rules concerning the switching of payment accounts within *a Member State and facilitation of cross-border account opening for consumers*.
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. *Chapters II and III shall apply to payment services providers as defined in Article 4(9) of Directive 2007/64/EC.*

4. *Chapter IV shall apply to credit institutions as defined in Article 4(1)(1) of Regulation 575/2013.*

Member States may decide to apply Chapter IV to payment service providers as defined in Article 4(9) of Directive 2007/64/EC other than credit institutions.

5. *Member States may decide not to apply all or part of the provisions in this Directive to the institutions referred to in Article 2(5) of Directive 2013/36/EU.*

6. *This Directive shall apply to payment accounts through which consumers are able at least to:*

(a) place funds on a payment account;

(b) withdraw cash from a payment account ;

(c) execute and receive payment transactions, including credit transfers, to and from a third party.

Member States may decide to apply all or part of the provisions of this Directive to payment accounts other than those referred to in the first subparagraph.

7. The opening and use of a payment account with basic features, pursuant to this Directive shall be in conformity with the provisions of Directive 2005/60/EC.

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;
- (b) *'legally resident in the Union' means a natural person who has the right to reside in a Member State by virtue of Community Acts or national laws, including consumers with no fixed address and 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;*

- (c) 'payment account' means an account held in the name of one or more *consumers* which is used for the execution of payment transactions;
- (d) 'payment service' means a payment service as defined in Article 4(3) of Directive 2007/64/EC;
- (e) *'services linked to the payment account' mean all services related to the opening, operating and closing of a payment account, including payment services and payment transactions within the scope of point (g) of Article 3 of Directive 2007/64/EC and overdraft facilities and overrunning;*
- (f) '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;
- (g) 'payment service provider' means a payment service provider as defined in Article 4(9) of Directive 2007/64/EC;

- (h) *'credit institution'* means a credit institution as defined in Article 4(1)(1) of Regulation 575/2013;
- (i) 'payment instrument' means a payment instrument as defined in Article 4(23) of Directive 2007/64/EC;
- (j) 'transferring payment service provider' means the payment service provider' from which the information *required to perform the switching* is transferred;
- (k) 'receiving payment service provider' means the payment service provider to which the information *required to perform the switching* is transferred;
- (l) '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;
- (m) 'payee' means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction;

- (n) 'fees' means *all* charges *and penalties*, if any, payable by the consumer to the payment service provider *or credit institution for or in relation to services linked to a payment account*.
- (o) '*credit interest rate*' means any interest rate paid to the consumer in relation to holding *funds* on a payment account;
- (p) 'durable medium' means any instrument which enables the consumer ■ 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;
- (q) 'switching' means, upon a consumer's request, transferring from one payment service provider to another *either* the information about all or some standing orders for credit transfers, recurring direct debits and recurring incoming credit transfers executed on a payment account, ■ or ■ transferring *any* positive account balance from one payment account to the other, or *both, with or without* closing the former account;

- (r) 'direct debit' means a ***national or cross-border*** payment service ***for*** debiting a payer's payment account, where a payment transaction is initiated by the payee ***on the basis of*** the payer's consent;
- (s) 'credit transfer' means a national or cross-border 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;
- (t) 'standing order' means ***an instruction given by the payer to*** the payment service provider which holds the payer's payment account ***to execute credit transfers at regular intervals or at predetermined dates;***
- (u) 'funds' means banknotes ***and*** coins, scriptural money ***and*** electronic money as defined in Article 2(2) of Directive 2009/110/EC¹⁰;

¹⁰ OJ L 267, 10.10.2009, p. 7.

- (v) 'framework contract' means *a* 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;
- (w) *'business day' means a day on which the relevant credit institution or the payment service provider of the payer or of the payee involved in the execution of a payment transaction is open for business as required for the execution of a payment transaction;*
- (x) *'overdraft facility' means an explicit credit agreement whereby a payment service provider or credit institution makes available to a consumer funds which exceed the current balance in the consumer's payment account;*
- (y) *'overrunning' means a tacitly accepted overdraft whereby a payment service provider or a credit institution makes available to a consumer funds which exceed the current balance in the consumer's payment account or the agreed overdraft facility;*
- (z) *'competent authority' means an authority designated as competent by a Member State in accordance with Article 21.*

CHAPTER II

COMPARABILITY OF FEES CONNECTED WITH PAYMENT ACCOUNTS

Article 3

*List of the most representative █ services **linked to a payment account and** subject to a fee at national level and standardised terminology*

1. Member States shall █ determine a provisional list of at least **10 and up to 20** █ of the most representative █ services **linked to a payment account and** subject to a fee **in at least one payment services provider** at national level. The list 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 **Member States** 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*;

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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 by ... [6 months after the entry into force of this Directive].*

3. Member States shall notify to the Commission *and EBA* the provisional lists referred to in paragraph 1 *by ...* [12 months after the 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. ***On the basis of the provisional lists submitted pursuant to paragraph 1, EBA shall develop draft regulatory technical standards setting out the Union standardised terminology for those services that are common to at least a majority of Member States. The Union standardised terminology shall include common terms and definitions for the common services and shall be made available in the official languages of the Union. In any official language for each Member State, only one term shall be used for each service.***

EBA shall submit those draft regulatory technical standards to the Commission within ...* [24 months after the entry into force of this Directive].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) N° 1093/2010.

5. ***Member States shall integrate the Union standardised terminology established under paragraph 4 into the provisional list referred to in paragraph 1 and shall publish this final list without delay and at the latest within 3 months after the delegated act referred to in paragraph 4 has entered into force.***

6. *Member States shall assess and where appropriate update the list of most representative services determined pursuant to paragraphs 1 and 2 every 4 years. They shall notify to the Commission and the EBA the outcome of their assessment and where applicable the updated list of most representative services. EBA shall review and where necessary update the Union standardised terminology, using the process set out in paragraph 4. Upon update of the Union standardised terminology Member States shall update and publish their final list as referred to in paragraph 5 and shall ensure that payment service providers use the updated terms and definitions.*

Article 4

Fee information document and glossary

1. *Without prejudice to Article 42(3) of Directive 2007/64/EC and Chapter II of Directive 2008/48/EC Member States shall ensure that **in good time** before entering into a contract for a payment account with a consumer, payment **services** providers provide the consumer with a fee information document **on paper or other durable medium** containing the **standardised terms in the final** list of the most representative services **linked to a payment account** referred to in **Article 3(5) and, where this service is offered by a payment services provider**, the corresponding fees for each service.*

2. *The fee information document shall:*

- (a) *be a short and stand-alone document;*
- (b) *be presented and laid out in a way that is clear and easy to read, using characters of readable size;*
- (c) *not be less comprehensible in the event that it is printed or photocopied in black and white, where it is originally produced in colour;*
- (d) *be written in the official language of the Member State where the payment account is offered or, if agreed by the consumer and the payment services provider, in another language;*
- (e) *be accurate, not misleading and expressed in the currency of the payment account or, if agreed by the consumer and the payment services provider, in another currency of the Union;*
- (f) *contain the title "fee information document" at the top of the first page next to a common symbol to distinguish the document from other documentation;*

- (g) *include a statement that it contains fees for the most representative services related to the payment account and that complete pre-contractual and contractual information on all the services is provided in other documents.*

Member States may determine that for the purposes of paragraph 1 the fee information document shall be provided together with information required pursuant to other national or EU legislation on payment accounts and related services as long as all the requirements of subparagraphs (a) to (g) are met.

3. Where one or more **■** services **■** is offered as part of a package of **■** services *linked to a payment account*, the fee information document shall disclose *the fee for the entire package*, the services **■** included in the package *and their quantity, and the additional* fee for any service that **■** *exceeds the quantity covered by the package fee.*

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4. Member States shall establish an obligation for payment *services providers to make available to consumers a glossary of at least the standardised terms in the final list of the most representative services linked to a payment account referred to in Article 3(5) and the related definitions. Member States shall ensure that the glossary provided pursuant to the first subparagraph, including other definitions, if any, are* drafted in clear, unambiguous and non-technical language *and that it is not misleading.*
5. The fee information document and the glossary shall be made available *to consumers at any time* by payment *services providers* ■ . *They shall be provided in an easily accessible manner, including to non-customers, where* available in electronic form on their websites, *in the premises of credit institutions accessible to consumers and shall be provided on paper or other durable medium free of charge upon request by a consumer.*
6. *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 ... [24 months after the 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.

7. *Following the update of the Union standardised terminology, pursuant to Article 3(6), where necessary, EBA shall review and update the standardised presentation format of the fee information document and its common symbol, using the process set out in paragraph 6.*

Article 5

Statement of fees

1. ***Without prejudice to Articles 47 and 48 of Directive 2007/64/EC and Article 12 of Directive 2008/48/EC*** Member States shall ensure that payment *services* providers provide the consumer ***free of charge*** with a statement of all fees incurred, ***as well as, where applicable, the interest rates referred to in points (c) and (d) of paragraph 2, for services linked to a*** payment account at least annually. ***Where applicable they shall use the standardised terms in the final list of the most representative services linked to a payment account referred to in Article 3(5).***

The communication channel used to provide the statement of fees shall be agreed with the consumer. It shall be made available on paper at least upon the request of the consumer.

2. The statement referred to in paragraph 1 shall specify *at least* the following information:
- (a) the unit fee charged for each service *and* the number of times the service was used during the relevant period, *and where the services are combined in a package, the fee charged for the package as a whole, the number of times the package fee was charged during the relevant period and the additional fee charged for any service that exceeds the quantity covered by the package fee;*
 - (b) the total amount of fees incurred ■ during the relevant period *for each service, each package of services provided and services that exceed the quantity covered by the package fee;*
 - (c) *where applicable, the overdraft interest rate applied to the account and the total amount of interest charged relating to the overdraft during the relevant period;*
 - (d) *where applicable, the credit interest rate applied to the account and the total amount of interest earned during the relevant period;*
 - (e) the total amount of fees incurred for all services provided during the relevant period.

3. The *statement of fees shall be:*

- (a) *presented and laid out in a way that is clear and easy to read, using characters of readable size;*
- (b) *accurate, not misleading and expressed in the currency of the payment account or, if agreed by the consumer and the payment services provider, in another currency;*
- (c) *containing the title "statement of fees" at the top of the first page of the statement next to a common symbol to distinguish the document from other documentation;*
- (d) *be written in the official language of the Member State where the payment account is offered or, if agreed by the consumer and the payment services provider, in another language.*

Member States may determine that the statement of fees shall be provided together with information required pursuant to other national or EU legislation on payment accounts and related services as long as all the requirements of subparagraphs (a) to (d) are met.

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.

EBA shall submit those draft implementing technical standards to the Commission by ...* [24 months after 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.

5. ***Following the update of the Union standardised terminology, pursuant to Article 3(6), where necessary, EBA shall review and update the standardised presentation format of the statement of fees and its common symbol, using the process set out in paragraph 4.***

Article 6

Information for consumers

1. Member States shall ensure that in their contractual **■**, commercial *and marketing* information *to consumers*, payment service providers use, where *applicable*, the *standardised* terms **■** in the *final* list of the most representative *services linked to a payment account referred to in Article 3(5)*. *Payment service providers may use brand names in the fee information document and in the statement of fees, provided this is in addition to standardised terms in the list referred to in Article 3(5) as a secondary designation of those services.*
2. Payment service providers may use brand names to designate their services in their, contractual **■**, commercial *and marketing* information *to consumers*, *provided* that they *clearly* identify, where *applicable*, the corresponding *standardised terms from the final* list referred to in Article 3(5). **■**

Article 7

Comparison websites

1. Member States shall ensure that consumers have access, **free of charge**, to at least one website comparing fees charged by payment service providers for **at least the** services **included in the list referred to in Article 3(5) at national level**.

Comparison websites may either be operated by a private operator or by a public authority.

2. **Member States may require the comparison websites referred to in paragraph 1 to include further comparative determinants on the level of service offered by the payment service provider.**

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3. *The comparison websites established in accordance with paragraph 1 shall:*
- (a) be operationally independent *by ensuring that* payment service *providers are given equal treatment in search results;*
 - (b) *clearly disclose their owners;*
 - (c) *set out clear, objective criteria on which the comparison will be based;*
 - (d) use plain *and unambiguous* language and, where *applicable*, the *standardised* terms *in the list* referred to in Article 3(5);
 - (e) provide *accurate and* up-to-date information *and state the time of the last update;*
 - (f) *include a broad range of payment account offers covering a significant part of the market and, where the presented information is not a complete overview of the market, a clear statement to that effect, before displaying results;*
 - (g) *provide* an effective procedure *to report incorrect information on published fees.*

4. Member States shall ensure that **■** information **■** is *made* available *online about the availability of* websites *that comply with this Article*.

Article 8

Payments accounts packaged with another service or product

■ Member States shall ensure that when a payment account is offered *as part of a package* together with another service or product *other than services linked to a payment account* 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* products and services offered in *that* package *that can be purchased separately*.

■

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 ***between payment accounts held in the same currency*** to any consumer who ***opens or*** holds a payment account with a payment service provider located in ***their territory***.

Article 10

The switching service

1. Member States shall ensure that the switching service is initiated by the receiving payment service provider ***at the request of the consumer***. ***The switching service shall at least comply*** with the ***provisions*** in paragraphs 2 to 6.

Member States may establish or maintain measures alternative to those outlined in paragraphs 2 to 6, provided that this is clearly in the interest of the consumer, there is no additional burden for them and the switching is completed within as a maximum the same overall timeframe indicated in paragraphs 2 to 6.

2. *The receiving payment service provider shall perform the switching service upon receipt of the authorisation from the consumer. In the case of two or more holders of the account, authorisation shall be obtained from each of them.*

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 specific consent to the transferring payment service provider to perform each of the tasks indicated in *paragraph 3* and to provide specific consent to the receiving payment service provider to perform each of the tasks indicated in *paragraph 5*.

The authorisation shall allow the consumer to specifically *identify the incoming credit transfers, standing orders for credit transfers and the direct debit mandates that shall be switched*. The authorisation shall also *allow consumers to* specify the date from which *standing orders for credit transfers and direct debits* are to be *executed* from the *payment* account opened *or held* with the receiving payment service provider.

That date shall be at least six business days after the date on which the receiving payment service provider receives the documents transferred from the transferring payment service provider pursuant to Article 10(4). Member States may require that the authorisation from the consumer shall be in writing and a copy of the authorisation is provided to the consumer.

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 *if provided for in the consumer's authorisation*:
 - (a) transmit to the receiving payment service provider and, if specifically requested by the consumer **■**, to the consumer, a list of *the* existing standing orders for credit transfers and **■** *available information on* direct debit mandates *that are being switched*;

(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 *payment* account in the previous 13 months;

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(c) 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;

(d) *cancel standing orders from the date specified in the authorisation;*

(e) ■ transfer any remaining positive balance to the *payment* account opened or held with the receiving payment service provider on the date specified by the consumer; and

(f) **█** close the *payment* account held with the transferring payment service provider on the date specified by the consumer.

4. *Upon receipt of a request from the receiving payment service provider, the transferring payment service provider shall carry out the following tasks, if provided for in the consumer's authorisation:*

(a) *send the receiving payment service provider the information indicated in points (a) and (b) of paragraph 3 within 5 business days;*

(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 payment account held or opened by the consumer with the receiving payment service provider, stop accepting incoming credit transfers and direct debits on the payment account from the date specified in the authorisation. Member States may require the transferring payment service provider to inform the payer or the payee of the reason for not accepting the payment transaction;*

- (c) *cancel standing orders from the date specified in the authorisation;*
- (d) *transfer any remaining positive balance from the payment account to the payment account opened or held with the receiving payment service provider on the date specified in the authorisation;*
- (e) *without prejudice to Article 45(1) and 45(6) of Directive 2007/64/EC close the payment account on the date specified in the authorisation if the consumer has no outstanding obligations on this payment account and provided that the actions in points (a), (b) and (d) have been completed. The payment service provider shall immediately inform the consumer where such outstanding obligations prevent his payment account from being closed.*

5. ***Within five business days of 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 as and if provided for in the authorisation and to the extent that the information provided by the transferring payment service provider or the consumer enables the receiving payment service provider to do so:***

- (a) ***set up*** ■ *the standing orders for credit transfers requested by the consumer and execute them from the date specified in the authorisation;*

- (b) *make any necessary preparations to* accept direct debits *and accept them* from the date specified in the authorisation;
- (c) *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;*

■

- (d) inform payers *specified in the authorisation and* making *incoming* credit transfers into a consumer's payment account of the details of the consumer's *payment* account with the receiving payment *service* provider *and transmit to the payers a copy of the consumer's authorisation*. If the receiving payment service provider does not have all the information it needs to inform the payer, it shall ask the consumer or the transferring payment service provider to provide the missing information;
- (e) ■ inform payees *specified in the authorisation and* using a direct debit to collect funds from the consumer's *payment* account of the details of the consumer's *payment* account with the receiving payment service provider and the date from which direct debits shall be collected from that *payment account and transmit to the payees a copy of the consumer's authorisation*. If the receiving payment service provider does not have all the information it needs to inform the payee, it shall ask the consumer or the transferring payment service provider to provide the missing information;

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Where the consumer chooses to personally provide the information indicated in points (d) and (e) *to the payers or payees rather than providing specific consent in accordance with paragraph 2 to the receiving payment service provider to do so, the receiving payment service provider shall* provide the consumer with standard letters providing details of the *payment* account and the starting date indicated in the authorisation *within the deadline referred to in paragraph 5 first subparagraph.*

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6. Without prejudice to Article 55(2) of Directive 2007/64/EC, the transferring payment service provider shall not block payment instruments before the date *specified in the consumer's authorisation so that the provision of payment services to the consumer is not interrupted during the switching process.*

Article 11

Facilitation of consumers on cross-border account opening

Member States shall ensure that where a consumer indicates to his payment service provider that he wishes to open an account with a payment service provider located in another Member State, the payment service provider, in which a consumer holds a payment account shall on receipt of such request provide the following assistance to the consumer:

- (a) provide the consumer free of charge with a list of all the currently active standing orders for credit transfers and debtor driven direct debit mandates where available and of recurrent incoming credit transfers and creditor driven direct debits executed on the consumer's account in the previous 13 months. This list shall not bring any obligation for the new payment service provider to set up services that it does not provide;*

- (b) *transfer any positive balance remaining on the account held by the consumer to the payment account opened or held by the consumer with the new payment service provider, provided that the request includes full details regarding identification of the new payment service provider and of the consumer's account;*
- (c) *close the account held by the consumer;*

Without prejudice to Articles 45(1) and 45(6) of Directive 2007/64/EC and if the consumer has no outstanding obligations on this payment account, the payment service provider, in which a consumer holds a payment account shall conclude the steps under (a), (b) and (c) on the date specified by the consumer which shall be at least six days after this payment service provider receives the consumer's request unless otherwise agreed between the parties. The payment service provider shall immediately inform the consumer where outstanding obligations prevent his payment account from being closed.

Article 12

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 4 (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), **(4) and (6)** 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** and in line with the actual costs of that payment service provider.

Article 13

Financial loss for consumers

1. Member States shall ensure that any financial loss, ***including charges and interest***, incurred by the consumer ***and*** resulting ***directly*** from the non-compliance of a payment service provider involved in the switching process with its obligations under Article 10 is refunded by that payment service provider ***without delay***.
2. ***Liability under paragraph 1 shall not apply in cases of abnormal and unforeseeable circumstances beyond the control of the party pleading for the application of those circumstances, the consequences of which would have been unavoidable despite all efforts to the contrary, or where a payment service provider is bound by other legal obligations covered by national or Community legislation.***
3. ***Member States shall ensure that liability with respect to paragraphs 1 and 2 is established in accordance with the legal requirements applicable at national level.***

Article 14

Information about the switching service

1. Member States shall ensure that payment service **provider** make available to consumers the following information about the switching service:
 - (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 24

Member States may require that payment services providers, also make available other information, including, where applicable, the information necessary for the identification of the Deposit Guarantee Scheme of which the payment service provider is a member of within the Union.

2. The information shall be *made available* free of charge on *paper or another* durable medium at all *premises* of the payment service *provider* accessible to consumers and be available in electronic form on their websites at all times *and shall be provided to consumers on request*.

CHAPTER IV

ACCESS TO PAYMENT ACCOUNTS

Article 15

Non-discrimination

Member States shall ensure that *credit institutions do not discriminate against* consumers legally resident in the Union ■ 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.*

Article 16

Right of access to a payment account with basic features

1. Member States shall ensure that ***payment accounts with basic features are offered to consumers by all credit institutions or a sufficient number of credit institutions to guarantee access for all consumers in that Member State, and to prevent distortions of competition.*** Member States shall ensure that payment accounts with basic features are not only offered by ***credit institutions*** that provide the ***payment accounts with*** solely **■** online banking facilities.
2. Member States shall ensure that consumers legally resident in the Union, ***including consumers with no fixed address and asylum seekers, and consumers who are not granted a residence permit but whose expulsion is impossible for legal or factual reasons*** have the right to open and use a payment account with basic features with ***credit institutions located in their territory.*** Such a right shall apply irrespective of the consumer's place of residence.

Member States may, in full respect of the fundamental freedoms guaranteed by the Treaty, require consumers who wish to open a payment account with basic features in their territory to show a genuine interest for doing so.

Member States shall ensure that the exercise of the right is not made **too** difficult or burdensome for the consumer. **█**

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3. *Member States shall ensure that credit institutions offering payment accounts with basic features refuse a consumer's application for access to a payment account with basic features or opens the payment account with basic features without undue delay and at the latest within 10 business days after receiving a complete application.*
 4. *Member States shall ensure that credit institutions refuse an application for access to a payment account with basic features where opening such an account would result in a violation of the provision on the prevention of money laundering and the countering of terrorist financing as established by Directive 2005/60/EC.*
 5. *Member States may permit credit institutions that offer payment accounts with basic features to refuse an application for access to such an account where a consumer already holds a payment account with a credit institution located in their territory, which allows him to make use of the payment services listed in Article 17(1), unless when a consumer declares that he has received notice that a payment account will be closed.*

In such cases before opening a payment account with basic features, the credit institution may verify whether the consumer holds or does not hold a payment account with a credit institution located in the same Member State which enables consumers to make use of the services in Article 17(1). Credit institutions may rely on a declaration of honour signed by consumers for this purpose.

6. *Member States may identify limited and specific additional cases where credit institutions may be required or may choose to refuse a payment account with basic features. Such cases shall be based on provisions of national law applicable in their territory and shall be aimed either to facilitate access of the consumer to a basic account with basic features free of charge under the mechanism of Article 25 or to avoid abuses by consumers of their right to access payment accounts with basic features.*
7. Member States shall ensure that in the cases indicated in *paragraphs 4 to 6, after its decision, the credit institution* immediately informs the consumer of the refusal *and its specific reason*, in writing and free of charge, unless such disclosure would be contrary to the objectives of national security **■**, *public policy or Directive 2005/60/EC. In case of refusal, the credit institution shall advise consumers of the procedure to submit a complaint against the refusal, their right to contact the relevant competent authority within the meaning of Article 21 and designated alternative dispute resolution body with their contact details.*

8. Member States shall ensure that, in the cases indicated in paragraph 4, the *credit institution* adopts appropriate measures pursuant to Chapter III of Directive 2005/60/EC.
9. 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 credit institution, unless the latter is conditional for all customers of the credit institution.*
10. *Member States shall be deemed to comply with the obligations of Chapter IV where an existing binding framework ensures its full application in a sufficiently clear and precise manner so that the persons concerned can ascertain the full extent of their rights and rely on them before the national courts.*

Article 17

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 *funds* to be placed on a payment account;
 - (c) services enabling cash withdrawals within the Union from a payment account *at the bank counter or at automated teller machines during or outside the bank's opening hours*;
 - (d) execution of the following payment transactions within the Union:
 - (1) direct debit;

- (2) payment transactions through a payment card, including online payments;
- (3) credit transfers, *including standing orders, at, where available, terminals, counters and via the online facilities of the payment service provider.*

Services listed in points (a) to (d) should be offered by credit institutions to the extent that they already offer them to consumers holding payment accounts other than a payment account with basic features.

2. *Member States may establish the obligation for credit institutions established in their territory to provide additional services, which are considered essential for consumers based on common practice at the national level, with a payment account with basic features.*
3. *Member States shall ensure that payment accounts with basic features are offered by credit institutions established in their territory at least in the national currency of that Member State.*

4. Member States shall *ensure that with a payment account with basic features allows consumers to execute an unlimited number of operations* for ■ the services referred to in paragraph 1.
5. *With respect to the services referred to in paragraph 1(a), (b), (c) and 1(d)(2) excluding payment transactions through a credit card, Member States shall ensure that credit institutions do not charge any fees beyond the reasonable fees, if any, set up pursuant to Article 18, irrespective of the number of operations executed on the account.*
6. *With respect to the services referred to in paragraph 1(d)(1), 1(d)(2) only with reference to payment transactions through a credit card, and 1(d)(3), Member States may determine a minimum number of operations for which credit institutions can only charge the reasonable fees, if any, referred to in Article 18. Member States shall ensure that the minimum number of operations is sufficient to cover the personal use consumer, taking into account existing consumer behaviour and common commercial practices. The fees charged for operations above the minimum number of operations shall never be higher than the usual pricing policy of the provider.*

7. 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 credit institution's premises and/or via online* facilities, where available.
8. *Without prejudice to the requirements in Directive 2008/48/EC* Member States *may allow credit institutions to provide, upon consumer's request, an overdraft facility in relation to a payment account with basic features. Member State may define a maximum amount and duration of any such overdraft. 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.*

Article 18

Associated fees

1. Member States shall ensure that the services indicated in Article 17 are offered by *credit institutions* free of charge or for a reasonable fee.

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 .
3. Member States shall ensure that *reasonable fees are established taking into account at least* the following criteria:
 - (a) national income levels;
 - (b) average *fees charged by credit institutions* in that Member State *for services provided on payment accounts*.

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4. ***Without prejudice to the right contained in Article 16(2) and the obligation contained in paragraph 1 above, Member States may require credit institutions to implement various pricing schemes depending on the level of banking inclusion of the consumer, enabling in particular more advantageous conditions for unbanked vulnerable consumers. In such cases, Member States shall ensure that consumers are provided with guidance, as well as adequate information on the available options.***

Article 19

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 4.
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 *payment* account for more than **24** consecutive months;
- (c) the consumer **■** provided incorrect information in order to obtain the payment account with basic features where the correct information would have resulted in the absence of such *a* right;
- (d) the consumer is no longer legally resident in the Union or has subsequently opened a second payment account, *which allows him to make use of the payments services listed in Article 17(1)*, in the Member State where he already holds a payment account with basic features.

3. *Member States may identify additional limited and specific cases for unilateral terminating a framework contract for a payment account with basic features. Such cases shall be based on provisions of national law applicable in their territory and shall be aimed to avoid abuses by consumers of their right to access payment accounts with basic features.*

4. Member States shall ensure that where the *credit institution* terminates the contract of a payment account with basic features *on the grounds mentioned in points (b) and (d) of paragraph 2 and in paragraph 3*, it informs the consumer of the grounds and the justification for the termination at least 2 months before the termination enters into force, in writing and free of charge *unless such disclosure would be contrary to the objective of national security or public policy. Where the credit institution terminates the contract in accordance with points (a) and (c) of paragraph 2, it shall be terminated immediately.*
5. *The notification shall advise consumers of the procedure to submit a complaint against the refusal if any, their right to contact the competent authority within the meaning of Article 21 and designated alternative dispute resolution body with their contact details.*

Article 20

General information on payment accounts with basic features

1. Member States shall ensure that ***adequate*** measures are in place to raise awareness among the public about the availability of payment accounts with basic features, their ***general*** 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 ***credit institutions*** make available to consumers ***accessible*** information ***and assistance, free of charge*** 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 ***information makes clear*** that the purchase of additional services is not compulsory to access a payment account with basic features.

CHAPTER V
COMPETENT AUTHORITIES
AND ALTERNATIVE DISPUTE RESOLUTION

Article 21

Competent authorities

1. Member States shall designate *the national* competent authorities *empowered* to ensure *the application and enforcement of this Directive and shall ensure that they are granted investigating and enforcement powers and adequate resources necessary for the efficient and effective performance of their duties.*

The authorities referred to in the first subparagraph shall be either public authorities or bodies recognised by national law or by public authorities expressly empowered for that purpose by national law. They shall not be payments service providers, with the exception of national central banks.

2. **Member States shall ensure that *competent authorities, all persons who work or who have worked for the competent authorities, as well as auditors and experts instructed by the competent authorities, are bound by the obligation of professional secrecy. No confidential information which they may receive in the course of their duties may be divulged to any person or authority whatsoever, save in summary or aggregate form, without prejudice to cases covered by criminal law or by this Directive. This shall not, however, prevent the competent authorities from exchanging or transmitting confidential information in accordance with national and Union law.***
3. **Member States shall ensure that the authorities designated as competent for ensuring the application and enforcement of this Directive are either or both of the following:**
- (a) ***competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010;***
 - (b) ***authorities other than the competent authorities referred to in point (a) provided that national laws, regulations or administrative provisions require those authorities to cooperate with the competent authorities referred to in point (a) whenever necessary in order to carry out their duties under this Directive, including for the purposes of co-operating with the European Supervisory Authority (European Banking Authority) (EBA) as required under this Directive.***

4. Member States shall *inform the Commission and EBA* of the designated competent authorities **■** *and any changes thereto. The first such notification shall be made as soon as possible and at the latest on ...** [24 months after the date of entry into force of this Directive. **■**].
5. *The competent authorities shall exercise their powers in conformity with national law either:*
 - (a) *directly under their own authority or under the supervision of the judicial authorities; or*
 - (b) *by application to courts which are competent to grant the necessary decision, including, where appropriate, by appeal, if the application to grant the necessary decision is not successful.*
6. *Where there is more than one competent authority on their territory, Member States shall ensure that their respective duties are clearly defined and that those authorities collaborate closely so that they can discharge their respective duties effectively.*
7. *The Commission shall publish a list of the competent authorities in the Official Journal of the European Union at least once a year, and update it continuously on its website.*

Article 22

Obligation to cooperate

- 1. Competent authorities of different Member States shall cooperate with each other whenever necessary for the purpose of carrying out their duties under this Directive, making use of their powers, whether set out in this Directive or in national law.*

Competent authorities shall render assistance to competent authorities of the other Member States. In particular, they shall exchange information and cooperate in any investigation or supervisory activities.

In order to facilitate and accelerate cooperation, and more particularly the exchange of information, Member States shall designate one single competent authority as a contact point for the purposes of this Directive. Member States shall communicate to the Commission and to the other Member States the names of the authorities which are designated to receive requests for exchange of information or cooperation pursuant to this paragraph.

- 2. Member States shall take the necessary administrative and organisational measures to facilitate assistance provided for in paragraph 1.*

3. *Competent authorities of Member States having been designated as contact points for the purposes of this Directive in accordance with paragraph 1 shall without undue delay supply one another with the information required for the purposes of carrying out the duties of the competent authorities, designated in accordance with Article 21, set out in the measures adopted pursuant to this Directive.*

Competent authorities exchanging information with other competent authorities under this Directive may indicate at the time of communication that such information must not be disclosed without their express agreement, in which case such information may be exchanged solely for the purposes for which those authorities gave their agreement.

The competent authority having been designated as the contact point may transmit the information received to the other competent authorities, however it shall not transmit the information to other bodies or natural or legal persons without the express agreement of the competent authorities which disclosed it and solely for the purposes for which those authorities gave their agreement, except in duly justified circumstances in which case it shall immediately inform the contact point that supplied the information.

4. *A competent authority may refuse to act on a request for cooperation in carrying out an investigation or supervisory activity or to exchange information as provided for in paragraph 3 only where:*
- (a) *such an investigation, on-the-spot verification, supervisory activity or exchange of information might adversely affect the sovereignty, security or public policy of the Member State addressed;*
 - (b) *judicial proceedings have already been initiated in respect of the same actions and the same persons before the authorities of the Member State addressed;*
 - (c) *final judgement has already been delivered in the Member State addressed in respect of the same persons and the same actions.*

In the event of such a refusal, the competent authority shall notify the requesting competent authority accordingly, providing as detailed information as possible.

Article 23

Settlement of disagreements between competent authorities of different Member States

The competent authorities may refer the situation to EBA where a request for cooperation, in particular the exchange of information, has been rejected or has not been acted upon within a reasonable time, and request EBA's assistance in accordance with Article 19 of Regulation (EU) No 1093/2010. In such cases, EBA may act in accordance with the powers conferred on it by that Article and any binding decision made by EBA in accordance with that Article shall be binding on the competent authorities concerned regardless of whether those competent authorities are members of EBA or not.

Article 24

Alternative Dispute Resolution

Member States shall ensure that consumers have access to effective and efficient out-of-court redress procedures for the settlement of disputes concerning rights and obligations established under this Directive. *Such out-of-court redress procedures and the entities offering them shall comply with the quality requirements established by Directive 2013/11/EU.*

Article 25

Mechanism in case of refusal of payment account with basic features

Without prejudice to Article 16, Member States may set up a specific mechanism to ensure that consumers who do not have a payment account in their territory and have been denied access to a payment account for which a fee is charged by credit institutions will have effective access to a payment account with basic features, free of charge.

CHAPTER VI

SANCTIONS

Article 26

Sanctions

- 1.* Member States shall lay down ■ rules on ■ sanctions applicable to *infringements* of the national ■ *legislation* adopted pursuant to this Directive and shall take all necessary *measures* to ensure that they are implemented. Such ■ sanctions shall be effective, proportionate and dissuasive.

2. *Member States shall provide that the competent authority may disclose to the public any administrative sanction that will be imposed for infringement of the measures adopted in the transposition of this Directive, unless such disclosure would seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.*

CHAPTER VII

FINAL PROVISIONS

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Article 27

Evaluation

1. Member States shall provide the Commission with information on the following I for the first time within 4 years from entry into force of this Directive and every 2 years thereafter:
- (a) compliance by payment service providers with the provisions in Articles 4 to 6;

- (b) *compliance by Member States with the requirements to ensure the existence of* comparison websites pursuant to Article 7;
- (c) the number of payment accounts that have been switched *and the proportion of applications* to switch *payment accounts that have been refused*;
- (d) the number of *credit institutions offering* payment accounts with basic features, *the number of such accounts that have been* opened *and the proportion of applications to open basic payment accounts that have been refused*.

2. *The Commission shall provide for the first time within 4 years from entry into force of this Directive and every 2 years thereafter a report on the basis of the information received from Member States.*

Article 28

Review clause

1. The Commission shall present to the European Parliament and the Council, **by ...*** [five 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;***
- (b) ***an assessment of the average fee levels in Member States for payment accounts falling within the scope of this Directive;***

- (c) *an assessment of the feasibility of developing a framework for ensuring automated redirection of payments from one payment account to another within the same Member State combined with automated notifications to payees or payers when their transfers are redirected;*
- (d) *an assessment of the feasibility of extending the switching service provided for in Article 10 to cases where the receiving and transferring payment service provider are located in different Member States and of the feasibility of cross-border account opening under Article 11;*
- (e) *an assessment of the number of account holders who switched accounts since the transposition of the Directive based on the information provided by Member States pursuant to Article 27;*
- (f) *an assessment of the costs and benefits of an implementation of full Union-wide portability of payment account numbers;*
- (g) *an assessment of the number of providers offering basic payment accounts;*

- (h) an assessment of the number and, where anonymised information is made available, characteristics of the consumers who have opened payment accounts with basic features since the transposition of the Directive;*
- (i) an assessment of the average annual fees levied for basic payment accounts at Member States level;*
- (j) an assessment of the effectiveness of existing measures and the need for additional measures to increase financial inclusion and to assist vulnerable members of society in relation to over-indebtedness;*
- (k) examples of best practices among Member States for reducing consumer exclusion from access to payment services;*

2. The review shall assess, based also on the information received from Member States pursuant to Article 27, 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. *Regarding Article 7 it shall in particular assess the need for an accreditation of comparison websites.*

Article 29

Transposition

1. Member States shall adopt and publish, by ...* [24 months after entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.
2. They shall apply those provisions from ...* [24 months after entry into force of this Directive].

By way of derogation from the first subparagraph:

- (a) *Article 3 shall apply as of the date of entry into force of this Directive.*

- (b) *Member States shall apply Article 4(1) to (5), Article 5(1) to (3), Article 6(1) and (2) and Article 7 by 9 months after the entry into force of the delegated act referred to in Article 3(4).*
- (c) *Member States in which the equivalent of a fee information document at national level already exists, may choose to integrate the common format and its common symbol at the latest 18 months after the entry into force of the delegated act referred to in Article 3(4).*
- (d) *Member States in which the equivalent of a statement of fees at national level already exists, may choose to integrate the common format and its common symbol at the latest 18 months after the entry into force of the delegated act referred to in Article 3(4).*

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 30
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 31
Addressees

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President
