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THE EUROPEAN UNION**

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**NOTE**

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From:	Presidency
To:	Delegations
No. prev. doc.:	15403/13 EF 205 ECOFIN 938 CONSOM 180 CODEC 2394
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 <i>- Presidency compromise</i>

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Delegations will find below a new Presidency compromise text on the above Commission proposal, to be discussed at the 3 December meeting.

With respect to the previous compromise, additions and changes are denoted by bold underlining and deletions by strikethroughs.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**On the comparability of fees related to payment accounts,  
payment account switching  
and access to payment accounts with basic features**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

After consulting the European Data Protection Supervisor<sup>3</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> OJ C xx, xx.xx.xxx, p. .

- (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. EU action with respect to the internal market in the retail financial services sector has already substantially contributed to developing cross-border activity of payment service providers, improving consumer choice and increasing the quality and transparency of the offers.
- (2) In this respect, Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC, and 2006/48/EC and repealing Directive 97/5/EC ("Payment Services Directive") has 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.
- (3) However, more can be done to improve and develop the single market for retail banking. In particular, 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.

- (4) The current conditions of the Single Market may deter payments services providers from exercising their freedom to establish or to provide services within the Union because of the difficulty in attracting customers when entering a new market. Entering new markets often entails large investments. Such investments are only justified if the provider foresees sufficient opportunities and a corresponding demand from consumers. The low level of mobility of consumers with respect to retail financial services is to a large extent due to the lack of transparency and comparability as regards the fees and services on offer, as well as difficulties in relation to the switching of payment accounts. These factors also stifle demand. This is particularly true in the cross-border context.
- (5) Moreover, significant barriers to the completion of the single 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 EU 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 EU 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 European 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 single market.

- (6) Moreover, since some prospective customers do not open accounts, either because they are denied them or because they are not offered adequate products the potential demand for payment account services in the EU 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 Single Market has brought about.
- (7) Transparency and comparability of fees have been addressed in a self-regulatory initiative, initiated by the banking industry. However, no final agreement was found on these guidelines. As regards switching, the common principles established in 2008 by the European Banking Industry Committee provide a model mechanism for switching between ~~bank~~ **payment** accounts offered by ~~payment service providers~~ **credit institutions** located in the same Member State. However, given their non-binding nature, these principles have been applied in an inconsistent manner throughout the EU and with ineffective results. Moreover, the Common Principles only address ~~bank~~ **payment** account switching at national level and do not address cross-border switching. Finally, as regards access to a basic payment account, the Commission Recommendation 2011/442/EU of 18 July 2011 invited Member States to take the necessary measures to ensure its application at the latest six months after its publication. To date, only few Member States comply with the main principles of the Recommendation.

- (8) It is vital, therefore, to establish a uniform set of rules to tackle the issue of low customer mobility and in particular to improve comparison of payment account services and fees and to incentivise payment account switching as well as avoid that consumers who intend to purchase a payment account cross-border are discriminated on the basis of residency. Moreover, it is essential to adopt adequate measures to foster customers' participation in the payment accounts market. These measures will incentivize entry for ~~payment service providers~~ **credit institutions** in the internal market and ensure a level playing field, thereby strengthening competition and the efficient allocation of resources within the EU financial retail market to the benefit of businesses and consumers. Also, transparent fee information and switching possibilities combined with the right of access to basic account services will allow EU 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 its further development.
- (9) This Directive applies to **credit institutions and** payment accounts held by **through which** consumers **are able to carry out the following transactions: place and withdraw cash, execute and receive payment transactions to and from third parties, including the execution of credit transfers. As a consequence, accounts such as savings accounts or e-money accounts should in principle be excluded from the scope of the Directive. However, should these accounts contain all of the functions listed above, they will be captured.** Consequently, ~~a~~ accounts held by businesses, even small or micro enterprises, unless held in a personal capacity, are outside its scope. ~~Furthermore, this Directive does not cover savings accounts, which may have more limited payments functions.~~ **Member States may choose to extend the application of this Directive to other payment service providers and payment accounts which offer more limited payments functions.**

- (10) 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 924/2009<sup>4</sup>.
- (11) It is vital for consumers to be able to understand fees so that they can compare offers from different ~~payment service providers~~ **credit institutions** and make informed decisions as to which account is most suitable for their needs. Comparison between fees cannot be achieved where ~~payment service providers~~ **credit institutions** 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** ~~for the most~~ representative ~~payment services and related services~~ **linked to a payment account** ~~in a consistent format~~, can help consumers to both understand and compare fees.
- (12) Consumers would benefit most from information that is concise and easy to compare between different ~~payment service providers~~ **credit institutions**. 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. Accordingly, 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.

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<sup>4</sup> OJ L 94, 30.3.2012, p. 22.

- (13) The fee terminology should be determined by national competent authorities, 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~~ **credit institution** in a Member States. In addition, where **the services are common to a majority of Member States** possible, fee ~~the~~ terminology **used to define such services and the related fees** should be standardised at EU level, thus allowing for **better** comparison **of payment account offers** across the Union. The European Banking Authority (EBA) should **provide the Commission with an opinion** establish guidelines to assist **on the criteria** Member States **should apply when** to determining **the** the most representative ~~payment services and related services~~ **linked to a payment account and** subject to a fee at national level. **The Commission will thereafter communicate the final criteria to Member States.**
- (14) Once ~~national competent authorities~~ **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 Commission should review them to identify, by means of delegated acts, the services that are common to the majority of Member States and propose standardised EU level terms and definitions for them **in all the official languages of the Union. The Commission may designate more than one EU level term to a common 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 lists.**



(15) In order to help consumers compare payment account fees throughout the single market easily, ~~payment service providers~~ **credit institutions** should provide consumers with a list of fees charged for the services listed in the national list ~~incorporating~~ **integrating the applicable EU level** ~~the standardised~~ terminology. This would also contribute towards establishing a level playing field between ~~payment service providers~~ **credit institutions** competing in the payment account market. The fee information document should ~~only~~ **not** contain **any other** information ~~on the most representative services in each Member State, using the terms and definitions established at EU level where relevant~~. In order to help consumers understand the fees they have to pay for their payment account, a glossary providing explanations for at least the fees and services contained in the list **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 ~~payment service providers~~ **credit institutions** to inform consumers, at least annually, of all the fees charged on their account **including, if applicable, the overdraft fees. This is without prejudice to** ~~the information provisions~~ **in** ~~respect to the information provisions~~ **set out in** ~~the~~ **overdraft services**, Directive 2008/48/EC of the European Parliament and the Council on credit agreements for consumers ~~should apply~~. Ex-post information should be provided in a dedicated summary. It should provide ~~an complete~~ overview of **all** the fees incurred **in relation to the use of the payment account and linked services** 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** ~~covering the same services as the ex-ante information~~.

- (16) To meet the needs of consumers, it is necessary to ensure that fee information on payment accounts is accurate, clear and comparable. This Directive should therefore lay down common presentation requirements for the fee information document and the statement of fees, in order to ensure that they are understandable and comparable for consumers. The same format, order of items and headings should be followed for fee information document and statement of fees by every ~~payment service provider~~**credit institution** in one 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. They should be identified by a common symbol.
- (17) In order to ensure the consistent use of applicable EU level terminology across the Union, Member States should establish an obligation for ~~payment service providers~~**credit institutions** to use the applicable EU level terminology together with the remaining national standardised terminology identified in the provisional list when communicating with consumers, including in the fee information document and the statement of fees. In addition to the standardised terms ~~payment service providers~~**credit institutions** may use brand names in their contractual and commercial information, in the fee information document and statement of fees to denote services. **Any use of brand names should be secondary to the standardised terms, such as in brackets or of the smaller size.**
- (18) Comparison websites are an effective means for consumers to assess the merits of different payment account offers in a single space. They can provide the right balance between the need for information to be clear and concise, yet complete and comprehensive, by enabling users to obtain more detailed information where this is of interest to them. They can also reduce search costs as consumers will not need to collect information separately from ~~payment service providers~~**credit institutions**.

(19) In order to obtain impartial information on bank fees, consumers should be able to access comparison websites which are operationally independent from ~~payment service providers~~credit institutions, i.e. which means that any credit institution ~~payment service provider~~ are shown in equal mannershould not be given favourable treatment in search results. Member States should ~~therefore~~ ensure that at least one such website is available to consumers in their respective territories. Such comparison websites may be operated by competent authorities, other public authorities and/or ~~accredited~~ private operators. Member States should ~~establish a voluntary accreditation scheme allowing private operators of comparison websites to apply for accreditation in accordance with specified quality criteria; however, comparison websites without accreditation may continue to operate.~~ The function of comparing fees connected to payment accounts may be fulfilled also by ~~already-existing~~ websites comparing a broad range of financial or non-financial products. ~~A comparison website operated by a competent authority or other public authority should be established where a privately operated website has not been accredited.~~ The website shall operate in accordance with specified quality criteria including the requirement to provide up-to-date information and cover a sufficiently broad overview 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 sufficiently broad overview 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. ~~Such~~ websites should also comply with the quality criteria. A comparison website should compare the fees of services contained in the national list integrating EU level terminology. They may also encompass compare another information as well, e.g. information on determinants of the level of services provided by ~~payment service providers~~credit institutions, such as the number of branches or ATMs.

(20) It is current practice for ~~payment service providers~~**credit institutions** to offer a payment account in a package with other financial products or services **such as insurance products or financial advice**. This practice can be a means for ~~payment service providers~~**credit institutions** to diversify their offer and to compete against each other, and in the end it can be beneficial for consumers. However the Commission study on tying practices in the financial sector conducted in 2009 as well as relevant consultations and consumer complaints have showed that payment service providers may offer bank accounts packaged with products not requested by consumers and which are not essential for payment accounts, such as household insurance. Moreover, it has been observed that these practices may reduce transparency and comparability of prices, limit purchasing options for consumers and negatively impact upon their mobility. Therefore, Member States should ensure that when ~~payment service providers~~**credit institutions** offer packaged payment accounts consumers are provided with information on the applicable fees for the payment account and for each other ~~financial service~~ included in the package ~~separately~~, **where such services are also offered separately from the payment account and where it is possible to do so**. These obligations should not apply to services which are naturally connected to the use of the payment account, such as withdrawals, wire transfers or payment cards. As a result, these services should be excluded from the scope of this provision.

- (21) Consumers are only incentivised to switch accounts if the process does not entail an excessive administrative and financial burden. Therefore, ~~payment service providers~~**credit institutions** should offer to consumers a clear and quick procedure to switch accounts. Such procedure should be guaranteed when consumers want to switch from one ~~payment service provider~~**credit institution** to another but also when consumers want to switch between different accounts within the same ~~payment service provider~~**credit institution**. This will allow consumers to benefit from the most convenient offers on the market and easily change from their existing account to a ~~new~~**other** potentially more suitable one, irrespective of whether this occurs within the same ~~provider~~**credit institution** or between different ~~providers~~**credit institutions**. The fees, if any, charged by ~~payment service providers~~**credit institution** in relation to the switching service should be in line with the actual costs incurred by ~~payment service providers~~**credit institution**. ~~In order to have positive impact on competition, switching should also be facilitated at cross border level. Given that switching cross border could be more complex than the switching at national level and may require payment service providers to adapt and refine their internal procedures, longer implementation periods for the cross border switching should be foreseen as well as longer deadlines to perform necessary tasks.~~The need to ~~maintain different deadlines~~**switch accounts between credit institutions located in different Member States** should be evaluated in the context of the review of the proposed Directive.
- (22) The switching process should be as straightforward as possible for the consumer. Accordingly Member States should ensure that the receiving ~~payment service provider~~**credit institution** 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.**

- (23) Consumers should be allowed to ask the receiving ~~payment service provider~~**credit institution** to perform the switch of all or part of the standing orders for credit transfers, recurring direct debits and ~~recurring~~-incoming credit transfers executed on a payment account, as well as transferring the remaining balance or closing the former account, ideally within a single meeting with the receiving ~~payment service provider~~**credit institution**. To this end, consumers should be able to sign one authorisation giving consent to **each of** the mentioned tasks. **The authorisation should be in writing, but Member States should be allowed 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.
- (24) The co-operation of the transferring ~~payment service provider~~**credit institution** is necessary for the switch to be successful. The receiving ~~payment service provider~~**credit institution** should be provided by the transferring ~~payment service provider~~**credit institution** with all the information necessary ~~on well founded operational grounds~~ to reinstate the payments on the ~~new~~**other** payment account. However, such information should not exceed what is necessary to carry out the switch ~~and the receiving payment service provider should not ask for superfluous information.~~
- (25) Consumers should not be subject to financial losses caused by the misdirection of incoming credit transfers or direct debits. This is particularly important for certain categories of payer and payee, such as utilities companies, which use electronic means (e.g. databases) to store information on consumers' account details and perform numerous periodical transactions involving large numbers of consumers. In particular, consumers should not bear any financial loss deriving from the payment of additional fees, interest or other charges as well as fines, or penalties **or any other type of financial detriment** due to the delay in the execution of the payment.

- (26) Member States should guarantee that consumers who intend to open a payment account are not discriminated against on the basis of their nationality or place of residence. While it is important for **credit institutions**~~payment service providers~~ to ensure that their customers are not using the financial system for illegal purposes such as fraud, money laundering or terrorism financing, they should not impose barriers to consumers who want to benefit from the advantages of the single market by purchasing payment accounts cross-border.
- (27) 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 a Member State of the Union’ should cover both EU citizens and third country nationals who already benefit from rights conferred upon them by Community acts such as 1) Regulation (EEC) No 1408/71 (on the application of social security schemes to employed persons and their families moving within the Community), 2) Council Directive 2003/109/EC of 25 November 2003 concerning the status of third country nationals who are long-term residents, 3) 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 4) 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.**

- (27a)** In order to ensure the widest possible access to such accounts, consumers should have access to them irrespective of their financial circumstances, such as unemployment or personal bankruptcy, and of their place of residence. Moreover, the right to access a payment account with basic features in any Member State should be granted in conformity with the requirements set out in Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing<sup>5</sup>, in particular with regard to customer due diligence procedures.
- (28) Member States should ensure that **credit institutions** ~~payment service providers, offering payment accounts to consumers in the retail market, provide~~ **offer** payment accounts with basic features to consumers. Access should not be overly difficult and should not entail excessive costs for consumers. In order to minimise the risk for consumers to become financially excluded, Member States should improve financial education, including at school, and combat over-indebtedness. Furthermore, Member States should promote initiatives of **credit institutions** ~~payment service providers~~ in order to facilitate the combination of providing payment accounts with basic features and financial education.
- (29) **Credit institutions should be allowed to refuse the opening of a payment account with basic features to consumers who already hold a payment account in the same Member State and can use it. In order to verify whether or not a consumer already holds a payment account, credit institutions may for example accept a declaration by consumers.** ~~To exercise their right to access a payment account with basic features, consumers should not already hold a payment account in the same territory. When it is not possible to use electronic systems to establish whether or not a consumer already holds a payment account, payment service providers should accept a declaration by consumers as a reliable means of verifying that they do not already hold a payment account.~~

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<sup>5</sup> OJ L 309, 25.11.2005, p. 15.



(30) Consumers should be guaranteed access to a range of basic payment services, for which a minimum number of operations shall may be determined by Member States. ~~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 the national level and that should be provided with a payment account with basic features. Beyond this list of minimum services, payment services providers may apply their regular fees. Services linked to payment accounts with basic features should include the facility to deposit 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 credit institution's 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. **In order to ensure that payment accounts with basic features are available to the widest possible range of consumers, they should be offered free of charge or for 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 State should establish what constitutes a reasonable fee according to national circumstances.** Consumers should not be given access to a regular overdraft facility with a payment account with basic features. However, Member States may allow payment services providers to offer temporary and limited overdraft (buffering) facilities for very small amounts and for a very short time in relation to payment accounts with basic features.~~

**(30a) 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 the national level and that should be provided with a payment account with basic features. Also, a Member State 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. Beyond these services, credit institutions may apply their regular fees.**

**(31) Member States may allow credit institutions to provide consumers with an overdraft facility in relation to payment accounts with basic features, to be provided only upon consumer request. Moreover, Member States should be allowed to determine a maximum period of time as well as a maximum amount for the offer of overdraft facilities. Finally, credit institutions must comply with the provisions of Directive 2008/48/EC when offering overdraft facilities in conjunction with a payment account with basic features.**

~~(31) In order to ensure that payment accounts with basic features are available to the widest possible range of consumers, they should be offered free of charge or for 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 fee according to national circumstances. In order to ensure consistency and efficiency in the implementation of the principle of a reasonable fee, the EBA should be tasked with issuing guidelines as regards the criteria identified in this Directive.~~

(32) The ~~credit institution~~ ~~payment service provider~~ 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.

**Moreover, Member States should be allowed to take into account additional causes for termination that are commonly inserted in contractual arrangements for opening a payment account. This applies, for example, where a consumer threatens or abuses staff of the credit institution or where there is a strong suspicion that the account may be used for illegal or fraudulent purposes.**

(33) Clear and comprehensible information on the right to a ~~bank~~ ~~payment~~ account with basic features should be provided by Member States and ~~credit institutions~~ ~~payment service providers~~ to consumers. The information should cover the main features and conditions for using the account and also the steps consumers should follow to exercise their right to open a payment account with basic features. Notably, consumers should be informed that the purchase of additional services is not compulsory in order to access a payment account with basic features.

(34) Member States should designate competent authorities that are empowered to ensure enforcement of this Directive and that are granted investigation and enforcement powers. Designated competent authorities shall have adequate resources 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 above mentioned bodies and 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 ability to designate different competent authorities should not affect the obligations for on-going supervision and cooperation between the competent authorities, as foreseen in this Directive.

- (35) 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 data<sup>6</sup>. The present Directive should therefore comply with the rules established in Directive 95/46/EC and the national laws implementing them.
- (36) In order to attain the objectives set out in this Directive, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of identifying the standardised terminology at EU level for payment services common to a number of Member States and the related definitions for these terms

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<sup>6</sup> OJ L 281, 23.11.1995, p. 31.

- (37) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission. These powers relate to the definition of the format of the fee information document, its common symbol and the order in which the services contained in it shall be presented, as well as to the format of the statement of fees, its common symbol and the order in which the services contained in it shall be presented. These powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.
- (38) Within three years from entry into force of this Directive and every three years thereafter, 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.
- (39) A review of this Directive should be carried out five years after its entry into force in order to take account of market developments, such as the emergence of new types of payment accounts and payment services, as well as developments in other areas of Union law and the experiences of Member States. The review should assess whether the measures introduced have improved consumer understanding of payment account fees, the comparability of payment accounts and the ease of switching accounts. It should also determine how many basic payment accounts have been opened including by previously unbanked consumers. ~~It should also assess whether extended deadlines for credit institutions payment service providers performing cross-border switching are to be maintained for a longer period.~~ Also, it should assess whether the provisions on the information to be provided by credit institutions ~~payment service providers~~ when offering packaged products are sufficient or whether additional measures are needed. The Commission should submit a report to the European Parliament and the Council accompanied, if appropriate, by legislative proposals.

- (40) This Directive respects fundamental rights and observes the principles recognised by the Charter of the Fundamental Rights of the European Union.
- (41) In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents<sup>7</sup>, 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:

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<sup>7</sup> OJ C 369, 17.12.2011, p. 14.

# CHAPTER I

## SUBJECT MATTER, SCOPE AND DEFINITIONS

### *Article 1*

#### **Subject matter and scope**

1. This Directive lays down rules concerning the transparency and comparability of fees charged to consumers on their payment accounts held within the European Union ~~and provided by payment service providers located in the Union~~ and rules concerning the switching of payment accounts within the Member State~~Union~~.
2. This Directive also defines a framework for the rules and conditions according to which Member States shall guarantee a right for consumers to open and use payment accounts with basic features in the Union.
  - 2a. This Directive shall apply to credit institutions within the meaning of Article 4(1)(1) of Regulation 575/2013, located in the Union.
  - 2b. Member States may waive the application of all or part of the provisions in this Directive to the institutions referred to in Article 2(5) of Directive 2013/36/EU.
  - 2c. This Directive shall apply to payment accounts through which consumers are able at least to:
    - (a) place cash 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.**

3. 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.
- ~~4. This Directive shall apply to payment service providers located in the Union. Payment service providers that operate solely as online e-payment accounts providers are excluded from the scope of this directive.~~
- 5. Member States may extend the application of all or part of provisions in this Directive to other payment service providers as defined in Article 4(9) of Directive 2007/64/EC and to payment accounts with fewer services than referred to in paragraph 2c.**

## *Article 2*

### **Definitions**

For the purposes of this Directive, the following definitions shall apply:

- (a) ‘consumer’ means any natural person who is acting for purposes which are outside his trade, business, craft or profession;
- (b) ‘payment account’ means an account held in the name of one or more consumers which is used for the execution of payment transactions;

- (ba) 'payment account with basic features' means a payment account provided by a ~~payment service provider~~ **credit institution** to a consumer in line with the provisions in Articles 15 to 19 of this Directive.
- (c) 'payment service' means a payment service as defined in Article 4(3) of Directive 2007/64/EC;
- (ca) '~~related services~~ **linked to a payment account**' mean any financial or non-financial service ~~attached~~ **related** to the opening, maintenance and closing of a payment account **including** ~~or to the provision of payment services~~ **and overdraft facilities** .
- (d) 'payment transaction' means an act, initiated by the payer or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee;
- ~~(e) 'payment service provider' means a payment service provider as defined in Article 4(9) of Directive 2007/64/EC;~~
- (ea) 'credit institution' means a credit institution as defined in Article 4(1)(1) of Regulation 575/2013;**
- (f) 'payment instrument' means a payment instrument as defined in Article 4(23) of Directive 2007/64/EC;

- (g) 'transferring ~~payment service provider~~**credit institution**' means the ~~payment service provider~~**credit institution** from which the information required to perform the switching is transferred;
- (h) 'receiving ~~payment service provider~~**credit institution**' means the ~~payment service provider~~**credit institution** to which the information required to perform the switching is transferred;
- (i) 'payer' means a natural or legal person who holds a payment account and allows a payment order from that payment account or, where there is no ~~payer's~~ payment account, a natural or legal person who ~~makes~~ **gives** a payment order to a ~~payee's~~ payment account;
- (j) 'payee' means a natural or legal person who **holds an account and who** is the intended recipient of funds which have been the subject of a payment transaction;
- (k) 'fees' means the charges, if any, payable by the consumer to the ~~payment service provider~~**credit institution** for the provision of ~~payment services and related services~~ **linked to a payment account**;

- (l) 'durable medium' means any instrument which enables the consumer to store information addressed personally to him in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;
- (m) 'switching' **or 'switching service'** means, upon a consumer's request, transferring from ~~one payment service provider~~ **transferring credit institution** to another **receiving credit institution** the information about all or some standing orders for credit transfers, available direct debit mandates or ~~recurring~~-incoming credit transfers executed on a payment account, transferring the positive account balance from one payment account to the other or closing the ~~former~~-account **held with the transferring credit institution**;
- (n) '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;
- (o) '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~~ **credit institution** which holds the payer's payment account, based on an instruction given by the payer;

- (p) 'standing order' means an instruction given by the payer to the ~~payment service provider~~**credit institution** which holds the payer's payment account to ~~credit~~**execute credit transfers** at regular intervals or at predetermined dates ~~a payee's payment account with the payment transactions~~;
- (q) 'Funds' means banknotes and coins, scriptural money and electronic money as defined in Article 2(2) of Directive 2009/110/EC<sup>8</sup>;
- (r) '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.
- (s) 'Business day' means a day on which the relevant ~~payment service provider~~**credit institution** of the payer or the payment service provider of the payee involved in the execution of a payment transaction is open for business as required for the execution of a payment transaction.
- (t) 'Legally resident in a Member State of 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 persons awaiting a decision from the Member State on an application for asylum;**
- (u) 'Overdraft facility' means an explicit credit agreement whereby a credit institution makes available to a consumer funds which exceed the current balance in the consumer's payment account;**

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<sup>8</sup> OJ L 267, 10.10.2009, p. 7.

## CHAPTER II

# COMPARABILITY OF FEES CONNECTED WITH PAYMENT ACCOUNTS

### *Article 3*

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

1. Member States shall communicate to the Commission a provisional list of **at least 10 and** up to 20 the most representative ~~payment services and related services~~ **linked to a payment account and** subject to a fee at national level ~~within 12 months of the entry into force of this Directive~~. The list shall contain terms and definitions for each of the services identified.

**1a. For the purposes of paragraph 1, the Commission will communicate the criteria that Member States shall use when establishing the provisional list taking into consideration the opinion provided by EBA in accordance with paragraph 2.**

**Member States shall communicate the provisional lists to the Commission within 6 months of receiving the criteria.**

2. **EBA shall provide the Commission with an opinion pursuant to Article 34 of Regulation (EU) No 1093/2010 on the criteria Member States should use when determining the provisional lists, within 6 months of the entry into force of this Directive.** ~~For the purposes of paragraph 1, the competent authorities~~ **When determining the criteria, it** shall have regard **at least** ~~to the services:~~

- (1) **the services** most commonly used by consumers in relation to their payment account;

**(1a) different communication channels used to initiate payment transactions;**

- (2) **the services,** which generate the highest cost for consumers per service;
- (3) **the services,** which generate the highest overall costs for consumers.
- (4) (...)
- (5) (...)

~~The EBA shall develop guidelines pursuant to Article 16 of Regulation (EU) No 1093/2010 to assist the competent authorities within 6 months of the entry into force of this Directive.~~

3. (...)
4. The Commission shall be empowered to adopt delegated acts, in accordance with Article 24, concerning the setting out, on the basis of the provisional lists submitted pursuant to paragraph 1, of an EU standardised terminology for those ~~payment~~ services that are common to at least a majority of Member States. The EU standardised terminology will include common terms and definitions for the common services **and will be made available in the official languages of the Union. There may be more than one common term per service within an official language of the Union.**
5. After the publication in the Official Journal of the European Union of the delegated acts referred to in paragraph 4, each Member State shall without delay and at the latest within ~~23~~ months integrate, **where applicable,** the EU standardised terminology adopted pursuant to paragraph 4 into the provisional list referred to in paragraph 1 and shall publish this list.

Article 4

**Fee information document and glossary**

1. 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 service providers~~ **credit institutions** provide the consumer with a fee information document on paper or other durable medium containing the list of the most representative services referred to in paragraph 5 of Article 3 and the corresponding fees for each service, **if this service is offered by a credit institution.**

**1a. The fee information document shall be:**

**(a) a short, stand-alone document, clearly separate from marketing materials;**

**(b) presented and laid out in a way that is easy to read, using characters of readable size;**

**(c) where colours are used in the fee information document, they shall not diminish the comprehensibility of the information in the event it is printed or photocopied in black and white;**

**(d) written in the official language of the Member State where the payment account is offered;**

**(e) accurate, not misleading and expressed in national currency of the Member State where the payment account is offered or, if requested by a consumer, in another currency of the Union;**



**(f) containing the title “fee information document” at the top of the first page next to a common symbol to distinguish the document from other documentation.**

2. Where one or more services referred to in paragraph 1 is offered as part of a package of ~~financial~~ services, the fee information document shall disclose which of the services referred to in paragraph 1 are included in the package, **the quantity of each service, and** the fee for the entire package ~~and the fee for any service that is not referred to in paragraph 1.~~
3. ~~The title "fee information document" shall prominently appear at the top of the first page of the fee information document next to a common symbol to distinguish the document from other documentation.~~
- 3a. Member States shall define the format of the fee information document, its common symbol and the order in which the services referred to in paragraph 5 of Article 3 shall be presented in the fee information document, having regard to paragraphs 1a and 2.**
4. Member States shall ensure that ~~payment service providers~~ **credit institutions** make available to consumers a glossary of at least the list of services referred to in paragraph 1 and the related definitions.
5. Member States shall establish an obligation for ~~payment service providers~~ **credit institutions** to use terms and definitions as referred to in Article 3(5) in the glossary. The definitions for other terms explaining services provided shall be drafted in easily understandable words and in clear and comprehensible form.

6. The fee information document and the glossary shall be made available **to consumers** at all ~~any~~ times by ~~payment service providers~~ **credit institutions**. **They shall be provided in an easily accessible manner** in electronic form on their websites, **where available**, -and shall be provided on paper **or other durable medium** free of charge upon the request by a consumer.
7. ~~Member States shall define the format of the fee information document, its common symbol and the order in which the services referred to in paragraph 5 of Article 3 shall be presented in the fee information document.~~

#### *Article 5*

#### **Statement of fees**

1. Without prejudice to Articles 47(1)(e) and 48(1)(e) of Directive 2007/64/EC **and Article 12 of Directive 2008/48/EC** Member States shall ensure that ~~payment service providers~~ **credit institutions** provide the consumer with a statement of all fees incurred ~~on their~~ **for services linked to a** payment account at least annually on paper or other durable medium.
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, ~~or~~ **and** where the consumer bought different services combined in a package, the fee charged for the package of services and the number of times the package fee was charged during the relevant period;

- (b) the total amount of fees incurred for each service and each package of ~~financial~~ services provided during the relevant period;
- (c) the total amount of fees incurred for all services provided during the relevant period.

**2a. The statement of fees shall be:**

- (a) presented and laid out in a way that is easy to read, using characters of readable size;**
- (b) accurate, not misleading and expressed in national currency of the Member State where the payment account is offered or, if agreed by the consumer and the credit institution, 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.**

3. ~~The title "statement of fees" shall prominently appear at the top of the first page of the statement next to a common symbol to distinguish the document from other documentation.~~

4. Member States shall define the format of the statement of fees, its common symbol and the order in which the services referred to in paragraph 5 of Article 3 shall be presented in the statement of fees, **having regard to paragraphs 2 and 2a.**

## Article 6

### Contractual and commercial information

1. Member States shall ensure that in their contractual and commercial information, ~~payment service providers~~ **credit institutions** use, where relevant, the terms and definitions contained in the list of the most representative services referred to in Article 3, paragraph 5.
2. ~~Payment service providers~~ **Credit institutions** may use brand names to designate their services in their contractual and commercial information, 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).

## Article 7

### Comparison websites

1. Member States shall ensure that consumers have access to at least one website comparing fees charged by ~~payment service providers~~ **credit institutions** for services included in the list referred to in Article 3(5) at national level. **Comparison website shall be operated by a private operator** ~~in accordance with paragraphs 2;~~ and **or established by a public authority**<sup>3</sup>.

2. ~~Member States shall establish a voluntary accreditation scheme for websites comparing fees charged by payment service providers for services offered on payment accounts operated by private operators. In order to be granted accreditation, **The** comparison websites **established in accordance with paragraph 1** operated by private operators shall:~~
- (a) be operationally independent of any ~~payment service provider~~ **credit institution**;
  - (b) use plain language and, where relevant, the terms referred to in Article 3, paragraph 5;
  - (c) provide up-to-date information;
  - (d) provide a sufficiently broad overview of the payment accounts market;
  - (e) provide an effective procedure to report incorrect information on published fees.
3. ~~Where no website is accredited pursuant to paragraph 2, Member States shall ensure that a website operated by the competent authority referred to in Article 20 or any other competent public authority is established. Where a website has been accredited pursuant to paragraph 2, Member States may decide to establish an additional website operated by the competent authority referred to in Article 20 or any other competent public authority. Websites operated by a competent authority pursuant to paragraph 1 shall comply with paragraphs 2 (a) to (e).~~
4. ~~Member States shall retain the right to refuse or withdraw accreditation from private operators in the event of a failure to comply with the obligations in paragraph 2.~~
5. Member States shall ensure that adequate information about the websites referred to in paragraph 1 is available to consumers. This shall include, where relevant, the maintenance of a publicly accessible register of accredited comparison websites.

Article 8

**Packaged accounts**

1. Member States shall ensure that when a payment account is offered together with another service or product as part of a package, the ~~payment service provider~~ **credit institution** informs the consumer of whether it is possible to buy the payment account separately and, if this is the case, provides separate information **in the fee information document as defined in Article 4** regarding the ~~costs and~~ fees associated with each of the products and services offered in the package **where it is possible to do so**.
  
2. Paragraph 1 does not apply when only ~~payment services as defined in Article 4(3) of Directive 2007/64/EC~~ **linked to a payment account** are offered ~~together with a payment account~~ **in a package**.
  
3. ~~When the consumer reaches the agreed limit of payment transactions included in the package, he should be informed before the last payment transaction of the fact the limit is reached, and of the fee per unit that will be charged for following payment transactions.~~

## CHAPTER III

### SWITCHING

#### *Article 9*

#### **Provision of the switching service**

Member States shall ensure that credit institutions ~~payment service providers~~ provide a switching service as described in Article 10 to any consumer who **opens or** holds a payment account with a **that credit institutions** ~~payment service provider~~ located in the Union **Member State**.

#### *Article 10*

#### **The switching service**

1. Member States shall ensure that the switching service is initiated by the receiving credit institutions ~~payment service provider~~ at the request of the consumer and provided in accordance with the rules ~~set out~~ **which at the minimum comply with the provisions** -in paragraphs 2 to 7.

2. The receiving **credit institutions** ~~payment service provider~~ shall perform the switching service **upon receipt of the authorisation from the consumer** ~~after receiving the written authorisation from the consumer and opening of the new account~~. The authorisation shall allow the consumer to provide specific consent to the transferring **credit institution** ~~payment service provider~~ to perform each of the tasks indicated in paragraph 3 and to provide specific consent to the receiving **credit institution** ~~payment service provider~~ to perform each of the tasks indicated in paragraphs 4 ~~and 5~~. The authorisation shall allow the consumer to specifically identify the standing orders for credit transfers and the direct debit mandates that shall be switched. – The authorisation shall also specify the date from which ~~standing orders for credit transfers and direct debits are to be executed from the account opened with the receiving~~ **credit institution** ~~payment service provider~~. **The date specified shall be at least one business day after the conclusion of the switching service process.**
3. Within one business day from the receipt of the authorisation **from the consumer** and opening a new **payment** account **with the receiving credit institution, or from the receipt of the authorisation from the consumer, if the account with the receiving credit institution was previously opened** ~~as referred to in paragraph 2~~, the receiving **credit institution** ~~payment service provider~~ shall request the transferring **credit institution** ~~payment service provider~~ to carry out the following tasks **if provided for in the consumer's authorisation:**
- (a) transmit to the receiving **credit institution** ~~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 direct debit mandates that are being switched;



- (b) transmit to the receiving **credit institution** ~~payment service provider~~ and, if specifically requested by the consumer, to the consumer, the available information about incoming credit transfers and direct debits executed on the consumer's account in the previous 13 months;
- ~~(c) transmit to the receiving payment service provider any additional information deemed necessary on well founded operational grounds by the receiving payment service provider to perform the switch;~~
- (d) where the transferring **credit institution** ~~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 **credit institution** ~~payment service provider~~, stop accepting incoming credit transfers and direct debits from the date specified in the authorisation;
- (da) cancel standing orders from the date specified in the authorisation;
- (e) transfer any remaining positive balance to the account opened or held with the receiving **credit institution** ~~payment service provider~~ on the date specified by the consumer; and

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

3a. Upon receipt of a request from the receiving credit institution ~~payment service provider~~ acting under the authorisation from the consumer, the transferring credit institution ~~payment service provider~~ shall carry out the following tasks, ~~where applicable~~ **if provided for in the consumer's authorisation:**

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

(b) where the transferring credit institution ~~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 credit institution ~~payment service provider~~, stop accepting incoming credit transfers and direct debits on the payment account from the date specified in the authorisation;

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

(c) transfer the remaining positive balance from the payment account to the account held with the receiving credit institution ~~payment service provider~~ on the date specified in the authorisation;

(d) **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 account;

~~(e) carry out any additional tasks necessary for performing the switching service, pursuant to paragraph 5.~~

4. Upon receipt of the information requested from the transferring **credit institution** ~~payment service provider~~ referred to in paragraph 3, the receiving **credit institution** ~~payment service provider~~ shall within 5 business days carry out the following tasks as and if provided **for** in the authorisation:

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

(b) prepare to accept ~~and accept~~ direct debits **and accept them** from the date specified in the authorisation;

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

- ~~5. Where the consumer gave specific consent pursuant to paragraph 2, the receiving payment service provider may carry out additional tasks necessary for the performance of the switch.~~
6. (...)
7. Without prejudice to Article 55(2) of Directive 2007/64/EC, the transferring **credit institution** ~~payment service provider~~ shall not block payment instruments before the date specified in the **consumer's** ~~authorisation from the consumer~~.
- ~~8. [Member States shall ensure that the provisions contained in paragraphs 1 to 7 also apply when the switching service is initiated by a payment service provider located in another Member State starting from 2 years after the term indicated in Article 28(2).~~
- ~~9. In the case indicated in paragraph 8, the deadlines indicated in paragraphs 3, 3a and 4 shall be doubled. The present provision shall be subject to review pursuant to Article 27.]~~

*Article 11*

**Fees connected with the switching service**

1. Member States shall ensure that consumers are able to access their personal information regarding existing standing orders and direct debits held by either the transferring or the receiving ~~payment service provider~~ **credit institution** free of charge.
2. Member States shall ensure that the transferring ~~credit institution payment service provider~~ provides the information requested by the receiving ~~credit institution payment service provider~~ pursuant to paragraph 3a (a) of Article 10 without charging the consumer or the receiving ~~credit institution payment service provider~~.
3. Member States shall ensure that fees, if any, applied by the transferring ~~credit institution 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 ~~credit institution payment service provider~~ to the consumer for any service provided under Article 10, other than those referred to in paragraphs 1 to 3, shall be appropriate and in line with the actual costs of that ~~credit institution payment service provider~~.

*Article 12*

**Financial loss for consumers**

1. Member States shall ensure that any financial loss incurred by the consumer resulting from the ~~intentional and negligent non-compliance of a **credit institution** payment service provider~~ involved in the switching process with its obligations under Article 10 is refunded by that ~~**credit institution** payment service provider~~.
  
- 1a. Liability under paragraph 1 shall not apply in cases of 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 credit institution is bound by other legal obligations covered by national or Community legislation.**
  
2. Member States shall ensure that consumers do not bear any financial loss resulting from ~~intentional and negligent~~ mistakes or delays in updating their payment account details by a payer or payee.
  
3. Member States shall ensure that liability with respect to paragraphs 1 and 2 is established in accordance with the applicable legislation at national level.

*Article 13*

**Information about the switching service**

1. Member States shall ensure that ~~payment service providers~~ **credit institutions** make available to consumers at least the following information about the switching service:
  - (a) the roles of the transferring and receiving ~~payment service provider~~ **credit institution** for each step of the switching process, as indicated in Article 10;
  - (b) the timeframe for completion of the respective steps;
  - (c) the fees, if any, charged for the switching process;
  - (d) any information that the consumer will be asked to provide;
  - (e) the alternative dispute resolution procedures scheme referred to in Article 21-
  - (f) the information necessary for the identification of the Deposit Guarantee Scheme of which the credit institution is a member of within the Union**
  
2. The ~~free of charge~~ information shall be made available **free of charge** on **paper or** a durable medium at all premises of the **credit institutions** ~~payment service providers~~ accessible to consumers and be available in electronic form on their websites at all times and shall be provided ~~for~~ **to** consumers intending to use **the** switching services.



# CHAPTER IV

## ACCESS TO PAYMENT ACCOUNTS

### *Article 14*

#### **Non-discrimination**

Member States shall ensure that **credit institutions do not discriminate against** consumers legally resident in **a Member State of** the Union ~~are not discriminated against~~ by reason of their nationality or place of residence when applying for or accessing a payment account within the Union.

### *Article 15*

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

1. Member States shall ensure that ~~payment service providers, offering payment account services to consumers in the retail market, provide~~ payment accounts with basic features **are offered** to consumers ~~in their territory.~~ **The number of credit institutions providing accounts with basic features in the Member State shall be sufficient to cover the whole territory of this Member State.** ~~Member States shall ensure that payment accounts with basic features are not only offered by payment service providers that provide the account solely with online banking facilities.~~
2. Member States shall ensure that consumers legally resident in **a Member State of** the Union 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 **and financial conditions.** Member States shall ensure that the exercise of the right is not made excessively difficult or burdensome for the consumer.

**2a. Member States shall permit credit institutions to** ~~Before opening the payment account with basic features, payment service providers may verify whether the consumer holds or does not hold a payment account~~ **with a credit institution located in the same Member State.** ~~in their territory. Payment service providers~~ **Credit institutions** may rely on self-certification by consumers for this purpose.

3. Member States shall ensure that **credit institutions** ~~payment service providers~~ offering payment accounts with basic features decide on a consumer's request for access to a payment account with basic features without undue delay and at the latest within two weeks **after receiving a complete application** ~~from the date of the request.~~

**3a. Member States shall permit credit institutions** ~~Payment services providers~~ that offer payment accounts with basic features ~~may not~~ **to** refuse an application for access to **such an account** ~~a payment account with basic features except in the following cases:~~ (a) —where a consumer already holds a payment account with a payment service provider located in their territory, which allows him to make use of the payment services listed in Article 16(1), unless when a consumer declares that he has received notice that a payment account will be closed or when a new account is being opened for account switching purposes.

**3b. 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 violation of the provision on** (b) ~~—where a payment service provider would fail to meet its obligations in relation to the prevention of money laundering~~ **laundering** and the countering of terrorist financing as established by Directive 2005/60/EC.

~~(c) where a consumer has provided false information in order to obtain a payment account with basic features and where the correct information would have resulted in the absence of such a right;~~

~~(d) where a customer is not in compliance with any other requirement established by a Member State and commonly used in contracts for the opening of a payment account in that Member State.~~

4. Member States shall ensure that, in the cases indicated in paragraphs **3a and 3b**, **after its decision, the credit institution** ~~the payment service provider~~ immediately after its decision informs the consumer of the refusal **and its reason**, in writing and free of charge, unless such disclosure would be contrary to the objectives of national security or public policy. **In case of** ~~The refusal,~~ **the credit institution** shall advise consumers of the procedure to ~~appeal~~ **submit a complain** against the refusal, their right to contact the relevant competent authority **within the meaning of Article 20** and designated alternative dispute resolution body with their contact details.
5. Member States shall ensure that **for**, ~~in~~ the cases indicated in paragraph **3b**, the **credit institution** ~~payment service provider~~ adopts appropriate measures pursuant to Directive 2005/60/EC.
6. ~~Member States shall ensure that access to a payment account with basic features is not made conditional on the purchase of additional services and that the features of the payment account with basic features are same as the ones for other payment accounts.~~

*Article 16*

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

1. Member States shall ensure that a payment account with basic features includes the services:
  - (a) services enabling all the operations required for the opening, operating and closing of a payment account;
  - (b) services enabling money to be placed on a payment account ~~according to the facilities available to the consumers;~~
  - (c) services enabling cash withdrawals within the Union from a payment account ~~according to the facilities available to the consumers;~~
  - (d) execution of the following payment transactions within the Union ~~where available~~:
    - (1) direct debit;
    - (2) payment transactions through a payment card, including online payments;
    - (3) credit transfers.

**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.**

**1a. 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.**

**1b.** Member States may establish the obligation for **credit institutions** ~~payment service providers~~ 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.

**1c. Member States shall ensure that access to a payment account with basic features is not made conditional on the purchase of additional services, including those provided pursuant to paragraph 1a.**

**1d. The payment account with basic features shall be opened in the national currency of the Member State where the credit institution is located.**

2. Member States shall ~~shall~~ **may** determine, for **some or** all the services referred to in paragraph 1, a minimum number of operations which will be provided to the consumer for the fee, if any, referred to in Article 17. The minimum number of operations shall be reasonable and in line with the common commercial practice in the Member State concerned.

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

~~4. Member States shall ensure that an overdraft facility, if any, is allowed only to a limited extent and for a limited period, in conjunction with the payment account with basic features.~~

*Article 17*

**Associated fees**

1. Member States shall ensure that the services indicated in **paragraphs 1 and 1b of** Article 16 are offered by **credit institutions**~~payment service providers~~ 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 the following criteria:
  - (a) national income levels;
  - (b) average fees charged by **credit institutions**~~payment service providers~~ in that Member State for services provided on payments accounts.
  - (c) (...)
  - (d) (...)

~~Member States shall ensure that the amount and duration of overdraft facility offered in relation to a payment account with basic features are defined.~~

- ~~4. Within 6 month of the entry into force of this Directive, the EBA shall develop guidelines pursuant to Article 16 of Regulation (EU) No 1093/2010 to assist the Member States.~~

### *Article 18*

#### **Framework contracts and termination**

1. Framework contracts providing access to a payment account with basic features shall be subject to the provisions of Directive 2007/64/EC unless otherwise specified in paragraphs 2 and 3.
2. The **credit institution**~~payment service provider~~ may unilaterally terminate a framework contract where at least one of the following conditions is met:
  - (a) **credit institution**~~the payment service provider~~ has an objectively justified reason to suspect that the consumer deliberately used the account for criminal activities;
  - (b) there has been no transaction on the account for more than 24 consecutive months;
  - (c) the consumer ~~knowingly~~ provided incorrect information in order to obtain the payment account with basic features where the correct information would have resulted in the 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 16(1)**, in the Member State where he already holds a payment account with basic features.
- 2a. Member States may identify additional cases for **unilateral** terminating a framework contract for a payment account with basic features, in accordance with the laws and common commercial practices applicable at the national level.
3. Member States shall ensure that where the **credit institution** ~~payment service provider~~ terminates the contract of a payment account with basic features on the grounds mentioned in points (b), ~~(e)~~ and (d) of paragraph 2 **and in paragraph 2a**, 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** ~~payment service provider~~ terminates the contract in accordance with **points (a) and (c) of** paragraph 2 ~~(a)~~, it shall be terminated immediately.



**3a.** The notification shall advise consumers of the procedure to ~~appeal~~ **submit a complaint** against the refusal if any, right of their to contact the competent authority **within the meaning of Article 20** and designated alternative dispute resolution body with their contact details.

#### *Article 19*

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

1. Member States shall ensure that 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 ~~an~~ alternative resolution for the settlement of disputes.
2. Member States shall ensure that **credit institutions**~~payment service providers~~ make available to consumers information free of charge about the specific features of the payment account with basic features on offer, their associated fees and their 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 20*

#### **Competent authorities**

1. Member States shall designate competent authorities to ensure and monitor effective compliance with this Directive. Those competent authorities shall take all necessary measures to ensure such compliance. They shall be independent from **credit institutions**~~payment service providers~~. They shall be either:
  - (i) competent authorities within the meaning of Article 4(2) of Regulation 1093/2010, or
  - (ii) bodies recognised by national law or by public authorities expressly empowered for that purpose by national law.
  
2. The authorities referred to in paragraph 1 shall possess all the powers necessary for the performance of their duties. Where more than one competent authority is empowered to ensure and monitor effective compliance with this Directive, Member States shall ensure that those authorities collaborate closely so that they can discharge their respective duties effectively.

**2a. The competent authorities may 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 competent to grant the necessary decision, including, where appropriate, by appeal, if the application to grant the necessary decision is not successful.**

**Insofar as competent authorities exercise their powers by application to the courts in accordance with paragraph 2a(b), those courts shall be competent to grant the necessary decisions.**

3. Member States shall notify the Commission of the designated competent authorities referred to in paragraph 1 by ~~18~~**24** months after entry into force of this Directive. They shall inform the Commission of any division of duties of those authorities. They shall immediately notify the Commission of any subsequent change concerning the designation and respective competences of those authorities.

#### *Article 21*

### **Alternative Dispute Resolution**

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.

# CHAPTER VI

## SANCTIONS

### *Article 22*

#### **Administrative measures and sanctions**

Without prejudice to the supervisory powers of competent authorities and the right of Member States to provide for and impose criminal sanctions, Member States shall lay down rules **on sanctions applicable to infringements of the national provisions adopted pursuant to this Directive** establishing appropriate administrative sanctions and measures applicable to situations which constitute a breach of the provisions of this Directive and shall take all necessary measures to ensure that they are implemented. **Such** ~~These~~ sanctions and measures shall be effective, proportionate and dissuasive.

~~Member States may decide not to lay down rules for administrative sanctions according to paragraph 1 where those breaches are subject to criminal sanctions in their national law.~~

## **CHAPTER VII**

### **FINAL PROVISIONS**

#### *Article 23*

##### **Delegated acts**

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

#### *Article 24*

##### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 23 shall be conferred for an indeterminate period of time from the date of entry into force of this Directive.
3. The delegation of powers referred to in Article 23 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 23 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

*Article 25*

**Implementing acts**

(...)

*Article 26*

**Evaluation**

Member States shall provide the Commission with information on the compliance with the provisions contained in this Directive for the first time within 3 years from entry into force of this Directive and every 3 years thereafter:

- (a) compliance by **credit institutions**~~payment service providers~~ with the provisions in Articles ~~34~~ to 6;
- (b) **compliance by Member State**~~the number of accredited~~ **with the requirements to ensure the existence of** comparison websites ~~established~~ pursuant to Article 7;

- (c) the number of payment accounts that have been switched.
- (d) the number of **credit institutions offering** payment accounts with basic features **and the number of such accounts that have been** opened.

*Article 27*

**Review clause**

1. The Commission shall present to the European Parliament and the Council, within five years of entry into force of this Directive, a report on the application of this Directive accompanied, if appropriate, by a proposal.
2. The review shall assess, based also on the information received from Member States pursuant to Article 26, whether to amend and update the list of services that are part of a payment account with basic features, having regard to the evolution of means of payment and technology.
3. The review shall also assess **the need to extend the provisions of Chapter III to the receiving and transferring credit institutions located in different Member States**~~whether the extended deadlines established in Article 10(9) shall be maintained for a longer period of time~~ and whether additional measures ~~in addition~~ to those adopted pursuant to Article 7 and 8 with respect to comparison websites and packaged offers are needed.

*Article 28*

**Transposition**

1. Member States shall adopt and publish, by [~~18~~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 30 months after entry into force of this Directive.
3. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
4. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.



*Article 29*

**Entry into force**

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

*Article 30*

**Addressees**

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

Done at Brussels,

*For the European Parliament*

*For the Council*

*The President*

*The President*

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