

Payment services in the internal market

2013/0264(COD) - 08/10/2015 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 578 votes to 29, with 52 abstentions, the proposal for a directive of the European Parliament and of the Council on payment services in the internal market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC.

The European Parliament's position, adopted at first reading following the ordinary legislative procedure, amended the Commission proposal. The key amendments adopted in plenary dealt with the following points:

Enhance growth and enlarge the consumer's choice: since the adoption of Directive 2007/64/EC, the retail payments market has experienced significant technical innovation, with rapid growth in the number of electronic and mobile payments and the emergence of new types of payment services in the market place, which challenges the current framework.

The new Directive should aim to ensure continuity in the market, **enabling existing and new service providers**, regardless of the business model applied by them, to offer their services with a clear and harmonised regulatory framework.

The new rules, supplemented by Regulation (EU) 2015/751 of the European Parliament and of the Council which introduces, in particular, rules on the charging of interchange fees for card-based transactions, should generate efficiencies in the payment system as a whole and lead to **more choice and more transparency of payment services while strengthening the trust of consumers in a harmonised payments market**.

Purpose and scope: the Directive should apply to:

- credit institutions as defined under [Regulation \(EU\) No 575/2013](#), including branches, where such branches are located in the Union, whether the head offices of those branches are located within the Union or, outside the Union;
- electronic money institutions as defined under [Directive 2009/110/EC](#), including, branches thereof, where such branches are located within the Union and their head offices are located outside the Union, in as far as the payment services provided by those branches are linked to the issuance of electronic money.

The Directive should also cover: i) the **accounts information service** which allow the payment service user to have an overall view of its financial situation immediately at any given moment; ii) **payment initiation services** that enable the payment initiation service provider to provide comfort to a payee that the payment has been initiated in order to provide an incentive to the payee to release the goods or to deliver the service without undue delay.

Exclusions: the exclusion relating to certain payment transactions by means of telecom or information technology devices should focus specifically on **micro-payments for digital content and voice-based services**. A clear reference to payment transactions for the purchase of **electronic tickets** should also be introduced.

The Directive does not apply to **cash withdrawal services offered by means of automated teller machines (ATMs)** by providers, acting on behalf of one or more card issuers, which are not a party to the framework contract with the customer withdrawing money from a payment account, on condition that

those providers comply with specific transparency provisions of this Directive while ensuring clarity with regard to withdrawal charges.

Payment initiation service providers: Member States shall require undertakings that apply for authorisation to provide payment services, as a condition of their authorisation, to hold a **professional indemnity insurance**, covering the territories in which they offer services, or some other comparable guarantee against liability to ensure that they can cover their liabilities.

In order to enhance transparency of the operation of payment institutions and to ensure a high level of consumer protection in the Union, **the European Banking Authority (EBA) should therefore set up a central register** in which it publishes a list of the names of the entities providing payment services.

Parliament also enhanced provisions of the Directive regarding:

- **control of the shareholding** in a payment institution
- **settlement of disagreements** between competent authorities of different Member States, the EBA may be called upon if necessary;
- **application to exercise the right of establishment and freedom to provide services;**
- **supervision** of payment institutions exercising the right of establishment and freedom to provide services;
- **measures in case of non-compliance**, including precautionary measures to ensure that the payment institution concerned puts an end to its irregular situation.

Access to accounts maintained with a credit institution: a new Article stipulates that Member States shall ensure that payment institutions have **access** to credit institutions' payment accounts services on an **objective, non-discriminatory and proportionate basis**. Such access shall be sufficiently extensive as to allow payment institutions to provide payment services in an unhindered and efficient manner.

The credit institution shall provide the competent authority with duly motivated reasons for any rejection.

Rights and obligations in relation to the provision and use of payment services: the amendments concern in particular issues such as:

- **limits on applicable fees;** for payment transactions provided within the Union, where both the payer's and the payee's payment service providers are, or the sole payment service provider in the payment transaction is, located within the Union, the payee pays the charges levied by his payment service provider, and the payer pays the charges levied by his payment service provider;
- confirmation on the availability of funds; on the part of a claimant's payment service provider, **confirmation of the amount necessary** for the execution of a card-based payment transaction is available on the payment account of the payer, provided that certain following conditions are met;
- rules on access to payment account in the case of payment initiation services;
- rules on access to and use of payment account information in the case of account information service; limits of the use of the payment instrument and of the **access to payment accounts by payment service providers**; an account servicing payment service provider may deny an account information service provider access to a payment account for objectively justified and duly evidenced reasons relating to unauthorised or fraudulent access to the payment account and notified to the competent authority;
- obligations of the payment service user in relation to payment instruments and personalised security credentials;
- **payer's liability for unauthorised payment transactions**; in this case, the payment service provider should immediately refund the amount of that transaction to the payer.

Protection of data and safer payments: the amended text provides that Member States shall permit processing of personal data by payment systems and payment service providers when **necessary to safeguard the prevention, investigation and detection of payment fraud**. Payment service providers shall only access, process and retain personal data necessary for the provision of their payment services, with the **explicit consent** of the payment service user.

Payment service providers shall establish and maintain effective incident management procedures, including for the detection and classification of major operational and security incidents. For electronic remote payment transactions, payment service providers apply strong customer authentication that includes elements which dynamically link the transaction to a specific amount and a specific payee.

In any event, **all payment services offered electronically should be carried out in a secure manner**, adopting technologies able to guarantee the safe authentication of the user and to reduce, to the maximum extent possible, the risk of fraud.

Obligation to inform consumers of their rights: by two years after the date of entry into force of this Directive, the Commission shall produce a user-friendly electronic leaflet, listing in a clear and easily comprehensible manner, the rights of consumers under this Directive.