Payment services in the internal market

2013/0264(COD) - 29/09/2015 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted a report by Antonio TAJANI (EPP, IT) on 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 committee recommended that the European Parliaments position adopted at first reading following the ordinary legislative procedure should amend the Commission proposal as follows.

Enhance growth and enlarge the consumers 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 amended text stressed that the continued development of an integrated internal market for safe electronic payments is crucial in order to support the growth of the Union economy and to ensure that consumers, merchants and companies enjoy choice and transparency of payment services to benefit fully from the internal market.

This 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 shall 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.

Exclusions: the Directive does not apply to the following:

- payment transactions by a provider of electronic communications networks or services provided in addition to electronic communications services for a subscriber to the network or service: (i) for purchase of digital content and voice-based services, regardless of the device used for the purchase or consumption of the digital content and charged to the related bill; or (ii) performed from or via an electronic device and charged to the related bill within the framework of a charitable activity or for the purchase of ticket. Members laid down the conditions to this exclusion;
- cash withdrawal services offered by means of automated teller machines (ATM) 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 do not conduct other payment services.

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.

EBA should develop guidelines on the criteria to be used by Member States to establish the minimum monetary amount of professional indemnity insurance or comparable guarantee. Members introduced provisions as regards the control of the shareholding.

EBA register: in order to enhance transparency of the operation of payment institutions that are authorised by, or registered with, competent authorities of the home Member State, including their agents, and to ensure a high level of consumer protection in the Union, it is necessary to ensure easy public access to the list of the entities providing payment services. EBA should therefore develop and operate a central register in which it publishes a list of the names of the entities providing payment services. Member States should ensure that the data that they provide is kept up to date.

The report also enhanced provisions regarding:

- 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: Members stated that any authorised payment institution wishing to provide payment services for the first time in a Member State other than its home Member State, in the exercise of the right of establishment or the freedom to provide services, shall communicate information to the competent authorities in its home Member State. The type of information is laid down in the report;
- 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.

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;
- confirmation on the availability of funds;
- 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;
- obligations of the payment service user in relation to payment instruments and personalised security credentials;
- payer's liability for unauthorised payment transactions;
- payment transactions where the transaction amount is not known in advance.

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.

Member States shall ensure that, 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.

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.