Initial appraisal of a European Commission Impact Assessment

European Commission proposal for a Directive on payment accounts: comparability of fees, switching and access to payment accounts with basic features


• Background

This note seeks to provide an initial analysis of the strengths and weaknesses of the European Commission’s Impact Assessment (IA) accompanying the above-mentioned proposal, submitted by the Commission in May 2013.

The proposed Directive on payment accounts aims at giving all EU citizens access to basic payment services; providing for ways to make bank fees clearer; and facilitating switching of bank accounts, including across borders. The focus of the proposal is on payment accounts held by consumers. It does not cover savings accounts, which may have more limited payment functions.

In April 2011, in a Resolution on a Single Market for Europeans,¹ the European Parliament called on the Commission ‘to submit by June 2011 a legislative proposal on guaranteeing access to certain basic banking services and to improve the transparency and comparability of bank charges by the end of 2011.’ This was reiterated in a recent EP Resolution² asking the Commission to put forward a legal proposal addressing access to basic banking services by January 2013, and to complement this with measures in other areas, including on comparability of fees and switching. The main Resolutions and Reports of the European Parliament on these issues are summarised in Annex 1 of the Impact Assessment (IA, pp. 102 to 104).

• Identification of the issues at stake

This IA identifies satisfactorily the three problems at stake, their causes and their consequences. In summary:
- according to Commission estimates, between 30 and 68 million EU citizens do not have access to a payment account and around half of these want to have one;
- unclear bank fee information makes it difficult for consumers to choose which account provides best value for them;

¹ European Parliament Resolution 2010/2278(INI)
² European Parliament Resolution 2012/2055(INI)
- consumers tend to refrain from switching payment account, potentially to an account better suited to their needs.

These three problems exclude financially certain consumers and inhibit consumer mobility, competition and efficiency in payment account markets.

The proposal seeks to address more directly some regulatory and market failures that cause these problems.

**Regulatory failures**

- In 2008, in response to a Commission request, the European Banking Industry Committee (EBIC) developed the Common Principles for Bank Account Switching. However, according to the IA, national banking associations have still not implemented satisfactorily this self-regulatory initiative.
- In 2010, the Commission asked EBIC to improve the clarity of account fees. However, an agreement has not been reached to date on a self-regulatory code for payment services providers.
- In July 2011, the Commission adopted a Recommendation on access to a basic payment account, which set out principles guaranteeing consumers’ access to an account throughout the EU. Member States were asked to comply with the Recommendation by January 2012. The Commission indicates that only three Member States so far have a framework in line with the Recommendation.

**Market failures**

Many causes are highlighted. It is worth mentioning:

- misaligned incentives between the account provider and the consumer, especially vulnerable and mobile consumers, who as a result are turned down by banks;
- opaque account structures and pricing complexities, which lead to information asymmetries and hinder consumer choice and competition among providers;
- banks providing limited or inadequate information on switching.

The logic of the problem definition seems convincing. Some issues which may impact on the problems at stake are left outside the scope of the analysis. These include low levels of financial literacy, the tying and bundling of payment accounts to other products, the existence of alternatives to payment accounts such as e-payments, anti-money laundering requirements, and the level of development of banking infrastructures, as well as social and economic factors (for example, trust in the banking sector and economic growth).

**Objectives of the legislative proposal**

The legislative proposal in question aims to achieve the following general objectives:

- to enhance consumer confidence;
- to broaden consumer choice both in terms of the quality of the products available and in terms of price reductions;
- to facilitate financial inclusion and thereafter customer mobility;
- to facilitate the cross-border activity of payment account providers;
- to ensure a level playing field between market actors.

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4 Belgium, France and Italy.
Specific and operational objectives are broken down by problem area. Operational objectives are listed as bullets below the corresponding specific objective.

**Basic payment account** – to facilitate access to basic account services (not oblige everyone to have a payment account):
- reduce the number of unbanked Europeans by 6.4 million by 2020;
- ensure access to all basic payment means for all consumers with basic payment accounts;
- facilitate cross-border access to basic banking services for 3.5 million consumers by 2020;
- improve consumers' awareness on basic payment accounts.

**Comparability of fees** - to ensure that EU consumers receive clear, complete and comparable information on bank fees:
- consumers are able to understand bank offers and assess value for money;
- payment account offers are easily comparable;
- help consumers choosing the offer best matching their needs;
- increase consumers awareness of charges actually paid;
- the burden of switching to consumers is reduced.

**Switching** – to ensure that EU consumers are able to switch payment accounts with ease and in a timely manner:
- switching is a smooth and easy process;
- consumers are assisted and informed of the switching process in an adequate manner;
- the number of misdirected/missed payments during switching process is reduced to less than 5% of recurrent transactions;
- the direct financial costs of switching to consumers is reduced;
- the duration of switching process is maximum 14 days;
- the mobility of payment account users is increased.

The Commission argues that achieving these operational objectives would lead to reaching the listed specific objectives and, in turn, the general objectives. This hierarchy is consistent with the problem definition. Some operational objectives are usefully quantified and time-dependent, for example ‘to reduce the number of unbanked Europeans by 6.4 million by 2020’. These will provide a useful benchmark to verify whether objectives are going to be achieved when monitoring and evaluating this policy (see “Monitoring and evaluation” section below). On the other hand, the proliferation of objectives makes this task harder.

**Range of the options considered**

The table below summarises the analysed policy options. The Commission’s preferred policy options as a result of the analysis are in bold.

### Access to basic account services

<table>
<thead>
<tr>
<th>Option</th>
<th>Summary</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>No EU action</td>
</tr>
<tr>
<td>2</td>
<td>Ensure that the provisions of the Recommendation are applied.</td>
</tr>
<tr>
<td>3</td>
<td>Modify the provisions of the Recommendation relative to the beneficiaries&lt;br&gt;A: Introduce a universal right to a basic payment account&lt;br&gt;B: Introduce a right to a basic payment account for national residents&lt;br&gt;C: Introduce a right to a basic payment account to non-residents with a link to the country where they wish to open an account</td>
</tr>
</tbody>
</table>
4  Improve the features of the basic payment account
   A: Enlarge the list of basic services to include internet banking and online purchasing
   B: Enlarge the list of basic services to include a small overdraft or a ‘buffer’ facility
   C: Indicate a minimum account balance that cannot be seized
   D: Ensure that the features of the payment account are not of a discriminatory nature.

Presentation and ease of comparison of bank fees

<table>
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<tr>
<th>Option</th>
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</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>No EU action</td>
</tr>
<tr>
<td>2</td>
<td>Introduce a standard price list as part of account opening procedures. Fees common to all Member States would be identified at EU level and supplemented nationally to cover the 20 most representative fees or at least 80% of key charges incurred.</td>
</tr>
</tbody>
</table>
| 3      | Introduce the requirement to develop glossaries for bank fee terminology
   A: Non-harmonised terminology
   B: Not based on fully harmonised terminology |
| 4      | Introduce the requirement to set up independent fee comparison websites at Member State level
   A: a single official website in each Member State
   B: Comparison sites licensed under an accreditation scheme |
| 5      | Introduce the requirement to provide representative examples of the cost of holding a payment account
   A: Banks set up own representative examples
   B: Member States prescribe representative examples |
| 6      | Establish customer usage profiles and provide a cost simulation to prospective current account holders
   A: Banks set up own customer profiles
   B: Member States prescribe customer profiles |
| 7      | Introduce EU standardised forms for the provision of ex-ante information on fees |
| 8      | Introduce an obligation for banks to provide ex-post information on fees incurred |
| 9      | Introduce EU standardised forms for the provision of ex-post information on fee |

Payment account switching

<table>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>No EU action</td>
</tr>
<tr>
<td>2</td>
<td>Ensure that switching services follow the Common Principles</td>
</tr>
</tbody>
</table>
| 3      | Improve the effectiveness of the Common Principles
   A: Improve the existing Common Principles at domestic level
   B: Broaden the scope of the improved Common Principles to EU-wide cross-border switching |
| 4      | Introduce an automatic redirection service for all receipts and payments
   A: Domestic
   B: EU |
| 5      | Introduce payment account portability
   A: Domestic
   B: EU |
The IA seems to identify the main realistic options for addressing the problems identified, with two caveats. First, the Commission does not include options dealing with issues which are left out of the scope of the analysis, such as financial education. Second, the IA does not go into every element of the proposal. This is probably due to the wide scope of the initiative. Some of these more detailed elements, which were mentioned in the European Parliament Resolution 2012/2055(INI) on basic banking services, include the number of banks which should offer the basic payment services and whether the account should be ‘free of charge’ or the ‘most affordable account’.

• Scope of the Impact Assessment

The IA assesses all options for their economic and social impacts. Economic impacts include costs on service providers and benefits for the economy as a whole. Social impacts include the participation of consumers to the European internal market and, as a result, the inclusion of citizens into society. Direct environmental impacts do not appear to be relevant.

The analysis draws from a broad range of sources and is mainly qualitative. The limitations in the available data and sources are acknowledged. There is a quantification of costs and benefits based on available evidence. This Cost Benefit Analysis differentiates between initial one-off costs and recurring costs and benefits. The analysis notices that many benefits and costs are not quantifiable. Furthermore, it refrains from providing a single figure which would sum up the net benefit or cost to each category of stakeholders, e.g. banks. A synoptic view of the main quantitative results may be found on page 11 of the Executive Summary.

Once options have been analysed, they are usefully grouped into four packages that reflect different degrees of EU intervention: no action, action targeting exclusively regulation in Member States’ domestic markets, preferred options, and a greater degree of EU harmonisation. A debated issue is the evidence regarding the cross-border dimension of the problems, closely related to the subsidiarity aspect below (see in particular p. 11, sections 3.2.2. and 3.2.3 of the IA).

• Subsidiarity / proportionality

The proposal is based on Article 114 TFEU, which allows for the adoption of ‘measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market’.

The Commission’s Impact Assessment Board requested the originating DGs (DG MARKT and DG SANCO) ‘to strengthen the arguments regarding subsidiarity and the proportionality and EU value added of the presented options involving binding measures’.

The European Commission argues that this proposal affects ‘the financial services product most likely to be purchased cross-border… The fragmented market that flourishes in the absence of transparent and comparable information, effective switching mechanisms and the right of access, distorts competition within the internal market’ (IA, pp. 51-52). According to the report, EU intervention can be justified, inter alia, ‘to improve the proper functioning of the internal market and avoid the distortion of competition in the field of retail banking’ and ‘to empower
consumers by enabling them to make informed choices and enable them to take advantage of the single market.’ (IA, pp. 52-53) The Commission also argues that divergent national approaches to solving the problems would risk creating further fragmentation between domestic and cross-border markets.

The IA acknowledges that some Member States consider action in these areas should be taken initially at national level (IA, pp. 8-9). However, at the moment of the publication of this appraisal, 17 national parliaments from 15 Member States have scrutinised this proposal. None of them has so far issued reasoned opinions raising problems with regards to the subsidiarity issue.

As far as proportionality of the binding measure is concerned, the Commission argues that a Directive ‘enables tailor-made solutions to be designed to address national market specificities…. While a non-binding approach would probably be less expensive for industry and Member States, its value could be limited considering the current weaknesses in self-regulatory and non-binding approaches attempted within the three areas…’(IA, p. 96).

- **Budgetary or public finance implications**

The IA mentions that the proposal has no implication for the budget of the EU or those of the EU agencies. As far as Member States’ public finances are concerned, the analysis contrasts a benefit and a cost. According to the Commission, Member States would benefit from lower costs for social security payments and less fraud related to benefit and tax. On the other hand, they would potentially incur the cost of legislating and implementing the framework, as well as of supervising and monitoring it. Such costs are deemed to be limited (IA, p. 91).

- **SME test / Competitiveness**

The expected impacts of the proposal on SMEs are briefly analysed, as the IA and the proposal focus on payment accounts held by consumers. The Commission notes two main points. Firstly, one-person companies may run their business from their personal account and fall in the consumer category. Secondly, SMEs are likely to benefit from a higher number of banked consumers (IA, pp. 94-95). If one focuses to direct impacts, as opposed to indirect or unintentional impacts, these conclusions seem appropriate.

- **Simplification and other regulatory implications**

The Commission indicates that the proposal is consistent with other pieces of EU legislation, notably:
- the Payment Services Directive, which in 2007 introduced transparency obligations for EU payment service providers complementary to the ones currently being proposed. This Directive is currently being evaluated. (IA, p. 12)
- the European banking union, i.e. the move towards a single supervisory structure for banks in the euro area. The Commission argues that the proposal will ‘contribute to achieving the objectives of the Banking Union by enhancing the functioning of the internal market and strengthening the banking conduct regime by removing the remaining barriers to the internal market.’ (IA, p. 51)
• **Relations with third countries**

First, the Commission indicates that credit institutions from third countries willing to offer their services in the EU would not be discriminated against, as they would have to comply with the same rules. Second, consumers in Iceland, Norway and Liechtenstein would be affected as EU consumers, should these provisions be extended to the three non-EU members of the European Economic Area (IA, p. 95). These conclusions seem appropriate.

• **Quality of data, research and analysis**

The IA draws on information from a wide range of sources, including academic literature; pan-EU studies undertaken on behalf of the Commission; national research carried out by public authorities and at the national level; and reports by the financial services industry and consumer groups. The assessment seems reasonable and is based on quoted evidence.

Two main pitfalls may be identified. In some cases, the analysis would benefit from a more nuanced presentation. This applies, for example, to the assessment section, where a long list of alleged benefits may appear biased. Second, the length of the IA considerably exceeds normal Commission standards. While the IA covers three initiatives, the main text is approximately 80-pages long and, in some instances, this makes it more difficult to follow the reasoning.

• **Stakeholder consultation**

The IA identifies correctly the stakeholders affected by the problems. These include consumers and civil society, payment service providers and the financial services’ industry, Member States’ governments and public authorities, utility firms and businesses. A distinction is made between various categories of consumers, for example between vulnerable and non-vulnerable consumers. Young and older consumers, low-income and mobile consumers are mentioned and analysed.

Stakeholders appear to have been consulted at several stages since 2007. There was a public consultation on the areas covered by the proposal in 2012. The IA complies with the request of the Commission Impact Assessment Board to provide details about dissenting and mixed views.

• **Monitoring and evaluation**

The IA mentions some indicators to be monitored, such as the number of switches and basic payment accounts opened, or details of possible customer complaints regarding unclear fees. Some of these feature as well in the Commission proposal’s provisions relating to evaluation (Art. 26). It is worth noting that any future evaluation of this proposal, once it enters into force, could usefully take as a reference-point the benchmarks listed in the operational objectives, which are more detailed (see above under “Objectives”).

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5 According to the Commission’s Impact Assessment Guidelines of 2009, the IA ‘should be no longer than 30 pages (excluding the executive summary, tables, diagrams and annexes). If the report covers several initiatives, you may need to go beyond 30 pages’
According to legislative proposal, Member States would have to provide the Commission with some information for the first time within three years from the entry into force of the Directive and every two years thereafter. Then, within five years of entry into force of the Directive, the Commission would present to the European Parliament and the Council a report on the application of the Directive accompanied, if appropriated, by a proposal.

- **Commission Impact Assessment Board**

The Commission IA Board issued two opinions on this IA. The first, negative, opinion requested the originating Directorate Generals to resubmit a revised version. In its second opinion, the Commission's Board requested that they further improve the analysis in four main ways, i.e. to:
- further improve the problem definition – for example, better analysing the cross-border aspects and the links between the three problems;
- better demonstrate subsidiarity arguments and the proportionality of binding measures;
- further strengthen the presentation of options and expected impacts, including a more transparent presentation of the cost-benefit analysis;
- better present stakeholders' views, including critical views.

The IA seems to respond appropriately to the main comments on the problem definition, options and impacts, as well as stakeholders' views. Please also see the Subsidiarity / proportionality section above for these issues.

- **Coherence between the Commission's legislative proposal and IA**

The proposal and the preferred options in the IA appear to correspond.
Author: Claudio Collovà

Ex-Ante Impact Assessment Unit
Directorate G for Impact Assessment and European Added Value
Directorate General for Internal Policies of the Union (DG IPOL)
European Parliament.

This note, prepared by the Ex-Ante Impact Assessment Unit for the European Parliament's Committee on Economic and Monetary Affairs (ECON), analyses whether the principal criteria laid down in the Commission’s own Impact Assessment Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal. It is drafted for informational and background purposes to assist the relevant parliamentary committee(s) and Members more widely in their work.

This document is also available on the internet at: http://www.europarl.europa.eu/activities/committees/studies.html

To contact the Impact Assessment Unit, please e-mail: impa-secretariat@ep.europa.eu.

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