

- (b) a reference enabling the payer and the payee to identify the payment transaction and the payer, where appropriate, and any information transferred with the payment transaction;
- (c) the amount of the payment transaction;
- (d) where applicable, the amount of any charges for the payment transaction and, where applicable, a breakdown thereof.

Article 40

Information for the payer's account servicing payment service provider in case of a payment initiation service

Where a payment order is initiated by the third party payment service provider's own system, it shall in case of fraud or dispute make available to the payer and the account servicing payment service provider the reference of the transactions and the authorisation information.

Article 41

Information for the payer after receipt of the payment order

Immediately after receipt of the payment order, the payer's payment service provider shall provide or make available to the payer, in the same way as provided for in Article 37(1), the following data:

- (a) a reference enabling the payer to identify the payment transaction and, where appropriate, information relating to the payee;
- (b) the amount of the payment transaction in the currency used in the payment order;
- (c) the amount of any charges for the payment transaction payable by the payer and, where applicable, a breakdown of the amounts of such charges;
- (d) where applicable, the exchange rate used in the payment transaction by the payer's payment service provider or a reference thereto, when different from the rate provided in accordance with Article 38(1)(d), and the amount of the payment transaction after that currency conversion;
- (e) the date of receipt of the payment order.

Article 42

Information for the payee after execution

Immediately after the execution of the payment transaction, the payee's payment service provider shall provide or make available to the payee, in the same way as provided for in Article 37(1), all of the following data:

- (a) the reference enabling the payee to identify the payment transaction and, where appropriate, the payer and any information transferred with the payment transaction;
- (b) the amount of the payment transaction in the currency in which the funds are at the payee's disposal;
- (c) the amount of any charges for the payment transaction payable by the payee and, where applicable, a breakdown of the amount of such charges;
- (d) where applicable, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before that currency conversion;
- (e) the credit value date.

CHAPTER 3

Framework contracts

Article 43

Scope

This Chapter applies to payment transactions covered by a framework contract.

Article 44

Prior general information

1. Member States shall require that, in good time before the payment service user is bound by any framework contract or offer, the payment service provider provide the payment service user on paper or on another durable medium with the information and conditions specified in Article 45. The information and conditions shall be given in easily understandable words and in a clear and comprehensible form, in an official language of the Member State where the payment service is offered or in any other language agreed between the parties.
2. If the framework contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to comply with paragraph 1, the payment service provider shall fulfil its obligations under that paragraph immediately after the conclusion of the framework contract.
3. The obligations under paragraph 1 may also be discharged by supplying a copy of the draft framework contract including the information and conditions specified in Article 45.

Article 45

Information and conditions

Member States shall ensure that the following information and conditions are provided to the payment service user:

1. on the payment service provider:
 - (a) the name of the payment service provider, the geographical address of its head office and, where applicable, the geographical address of its agent or branch established in the Member State where the payment service is offered, and any other address, including electronic mail address, relevant for communication with the payment service provider;
 - (b) the particulars of the relevant supervisory authorities and of the register provided for in Article 13 or of any other relevant public register of authorisation of the payment service provider and the registration number, or equivalent means of identification in that register;
2. on use of the payment service:
 - (a) a description of the main characteristics of the payment service to be provided;
 - (b) a specification of the information or unique identifier that has to be provided by the payment service user in order for a payment order to be properly initiated or executed;
 - (c) the form of and procedure for giving consent to initiate or execute a payment transaction and withdrawal of such consent in accordance with Articles 57 and 71;
 - (d) a reference to the point in time of receipt of a payment order as defined in Article 69 and the cut-off time, if any, established by the payment service provider;

- (e) the maximum execution time for the payment services to be provided;
 - (f) whether there is a possibility to agree on spending limits for the use of the payment instrument in accordance with Article 60(1);
3. on charges, interest and exchange rates:
- (a) all charges payable by the payment service user to the payment service provider and, where applicable, the breakdown of the amounts of any charges;
 - (b) where applicable, the interest and exchange rates to be applied or, if reference interest and exchange rates are to be used, the method of calculating the actual interest, and the relevant date and index or base for determining such reference interest or exchange rate;
 - (c) if agreed, the immediate application of changes in reference interest or exchange rate and information requirements related to the changes in accordance with Article 47(2);
4. on communication:
- (a) where applicable, the means of communication, including the technical requirements for the payment service user's equipment and software, agreed between the parties for the transmission of information or notifications under this Directive;
 - (b) the manner in and frequency with which information under this Directive is to be provided or made available;
 - (c) the language or languages in which the framework contract will be concluded and communication during this contractual relationship undertaken;
 - (d) the payment service user's right to receive the contractual terms of the framework contract and information and conditions in accordance with Article 46;
5. on safeguards and corrective measures:
- (a) where applicable, a description of steps that the payment service user is to take in order to keep safe a payment instrument and how to notify the payment service provider for the purposes of Article 61(1)(b); and the secure procedure on notification of the customer by the payment service provider in case of suspected or actual fraud or security threats;
 - (b) if agreed, the conditions under which the payment service provider reserves the right to block a payment instrument in accordance with Article 60;
 - (c) the liability of the payer in accordance with Article 66, including information on the relevant amount;
 - (d) how and within what period of time the payment service user is to notify the payment service provider of any unauthorised or incorrectly initiated or executed payment transaction in accordance with Article 63 as well as the payment service provider's liability for unauthorised payment transactions in accordance with Article 65;
 - (e) the liability of the payment service provider for the initiation or execution of payment transactions in accordance with Article 80;
 - (f) the conditions for refund in accordance with Articles 67 and 68;
6. on changes in and termination of framework contract:
- (a) if agreed, information that the payment service user will be deemed to have accepted changes in the conditions in accordance with Article 47, unless he notifies the payment

service provider that he does not accept them before the date of their proposed date of entry into force;

- (b) the duration of the contract;
 - (c) the right of the payment service user to terminate the framework contract and any agreements relating to termination in accordance with Article 47(1) and Article 48;
7. on redress:
- (a) any contractual clause on the law applicable to the framework contract and/or the competent courts;
 - (b) the out-of-court complaint and redress procedures available to the payment service user in accordance with Articles 88 to 91.

Article 46

Accessibility of information and conditions of the framework contract

At any time during the contractual relationship the payment service user shall have a right to receive, on request, the contractual terms of the framework contract as well as the information and conditions specified in Article 45 on paper or on another durable medium.

Article 47

Changes in conditions of the framework contract

1. Any changes in the framework contract as well as the information and conditions specified in Article 45, shall be proposed by the payment service provider in the same way as provided for in Article 44(1) and no later than two months before their proposed date of application.
Where applicable in accordance with point (a) of Article 45(6), the payment service provider shall inform the payment service user that he is to be deemed to have accepted these changes if he does not notify the payment service provider that he does not accept them before the proposed date of their entry into force. In this case, the payment service provider shall also specify that the payment service user has the right to terminate the framework contract immediately and without charge before the date of the proposed application of the changes.
2. Changes in the interest or exchange rates may be applied immediately and without notice, provided that such a right is agreed upon in the framework contract and that the changes are based on the reference interest or exchange rates agreed on in accordance with points (b) and (c) of Article 45(3). The payment service user shall be informed of any change in the interest rate at the earliest opportunity in the same way as provided for in Article 44(1), unless the parties have agreed on a specific frequency or manner in which the information is to be provided or made available. However, changes in interest or exchange rates which are more favourable to the payment service users, may be applied without notice.
3. Changes in the interest or exchange rate used in payment transactions shall be implemented and calculated in a neutral manner that does not discriminate against payment service users.

Article 48

Termination

1. The payment service user may terminate the framework contract at any time, unless the parties have agreed on a period of notice. Such a period may not exceed one month.

2. Termination of a framework contract concluded for a fixed period exceeding 12 months or for an indefinite period shall be free of charge for the payment service user after the expiry of 12 months. In all other cases charges for the termination shall be appropriate and in line with costs.
3. If agreed in the framework contract, the payment service provider may terminate a framework contract concluded for an indefinite period by giving at least two months' notice in the same way as provided for in Article 44(1).
4. Charges for payment services levied on a regular basis shall be payable by the payment service user only proportionally up to the termination of the contract. If such charges are paid in advance, they shall be reimbursed proportionally.
5. The provisions of this Article are without prejudice to the Member States' laws and regulations governing the rights of the parties to declare the framework contract unenforceable or void.
6. Member States may provide more favourable provisions for payment service users.

Article 49

Information before execution of individual payment transactions

In the case of an individual payment transaction under a framework contract initiated by the payer, a payment service provider shall, at the payer's request for this specific payment transaction, provide explicit information on the maximum execution time and the charges payable by the payer and, where applicable, a breakdown of the amounts of any charges.

Article 50

Information for the payer on individual payment transactions

1. After the amount of an individual payment transaction is debited from the payer's account or, where the payer does not use a payment account, after the receipt of the payment order, the payer's payment service provider shall provide the payer without undue delay in the same way as laid down in Article 44(1) with the following information:
 - (a) a reference enabling the payer to identify each payment transaction and, where appropriate, information relating to the payee;
 - (b) the amount of the payment transaction in the currency in which the payer's payment account is debited or in the currency used for the payment order;
 - (c) the amount of any charges for the payment transaction and, where applicable, a breakdown thereof, or the interest payable by the payer;
 - (d) where applicable, the exchange rate used in the payment transaction by the payer's payment service provider, and the amount of the payment transaction after that currency conversion;
 - (e) the debit value date or the date of receipt of the payment order.
2. A framework contract may include a condition that the information referred to in paragraph 1 is to be provided or made available periodically at least once a month and in an agreed manner which allows the payer to store and reproduce information unchanged.
3. However, Member States may require payment service providers to provide information on paper once a month free of charge.

Article 51

Information for the payee on individual payment transactions

1. After the execution of an individual payment transaction, the payee's payment service provider shall provide the payee without undue delay in the same way as laid down in Article 44(1) with the following information:
 - (a) the reference enabling the payee to identify the payment transaction and, where appropriate, the payer, and any information transferred with the payment transaction;
 - (b) the amount of the payment transaction in the currency in which the payee's payment account is credited;
 - (c) the amount of any charges for the payment transaction and, where applicable, a breakdown thereof, or the interest payable by the payee;
 - (d) where applicable, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before that currency conversion;
 - (e) the credit value date.
2. A framework contract may include a condition that the information referred to in paragraph 1 is to be provided or made available periodically at least once a month and in an agreed manner which allows the payee to store and reproduce information unchanged.
3. However, Member States may require payment service providers to provide information on paper once a month free of charge.

CHAPTER 4
Common provisions

Article 52

Currency and currency conversion

1. Payments shall be made in the currency agreed between the parties.
2. Where a currency conversion service is offered prior to the initiation of the payment transaction and where that currency conversion service is offered at the point of sale or by the payee, the party offering the currency conversion service to the payer shall disclose to the payer all charges as well as the exchange rate to be used for converting the payment transaction.

The payer shall agree to the currency conversion service on that basis.

Article 53

Information on additional charges or reductions

1. Where, for the use of a given payment instrument, the payee requests a charge or offers a reduction, the payee shall inform the payer thereof prior to the initiation of the payment transaction.
2. Where, for the use of a given payment instrument, a payment service provider or a third party requests a charge, he shall inform the payment service user thereof prior to the initiation of the payment transaction.

TITLE IV

RIGHTS AND OBLIGATIONS IN RELATION TO THE PROVISION AND USE OF PAYMENT SERVICES

CHAPTER 1

COMMON PROVISIONS

Article 54

Scope

1. Where the payment service user is not a consumer, the payment service user and the payment service provider may agree that Article 55(1), Article 57(3), and Articles 64, 66, 67, 68, 71 and 80 shall not apply in whole or in part. The payment service user and the payment service provider may also agree on a time period different from that laid down in Article 63.
2. Member States may provide that Article 91 does not apply where the payment service user is not a consumer.
3. Member States may provide that provisions in this Title are applied to micro enterprises in the same way as to consumers.
4. This Directive shall be without prejudice Directive 2008/48/EC or other relevant Union law or national legislation regarding conditions for granting credit to consumers not harmonised by this Directive that are in conformity with Union law.

Article 55

Charges applicable

1. The payment service provider may not charge the payment service user for fulfilment of its information obligations or corrective and preventive measures under this Title, unless otherwise specified in Articles 70(1), 71(5) and 79(2). Those charges shall be agreed between the payment service user and the payment service provider and shall be appropriate and in line with the payment service provider's actual costs.
2. Where a payment transaction does not involve any currency conversion, Member States shall require that the payee pays the charges levied by his payment service provider, and the payer pays the charges levied by his payment service provider.
3. The payment service provider shall not prevent the payee from requesting from the payer a charge, offering him a reduction or otherwise steering him towards the use of a given payment instrument. Any charges applied shall, however, not exceed the costs borne by the payee for the use of the specific payment instrument.
4. However, Member States shall ensure that the payee shall not request charges for the use of payment instruments for which interchange fees are regulated under Regulation (EU) No [XX/XX/XX/] [OP please insert number of Regulation once adopted]

Article 56

Derogation for low value payment instruments and electronic money

1. In the case of payment instruments which according to the framework contract, solely concern individual payment transactions not exceeding EUR 30 or which either have a spending limit of EUR 150 or store funds which do not exceed EUR 150 at any time payment service providers may agree with their payment service users that:
 - (a) Article 61(1)(b) and Article 62(1)(c) and (d) as well as Article 66(2) do not apply if the payment instrument does not allow its blocking or prevention of its further use;
 - (b) Articles 64, 65 and Article 66(1) and (2) do not apply if the payment instrument is used anonymously or the payment service provider is not in a position for other reasons which are intrinsic to the payment instrument to prove that a payment transaction was authorised;
 - (c) by way of derogation from Article 70(1), the payment service provider is not required to notify the payment service user of the refusal of a payment order, if the non-execution is apparent from the context;
 - (d) by way of derogation from Article 71, the payer may not revoke the payment order after transmitting the payment order or giving consent to execute the payment transaction to the payee;
 - (e) by way of derogation from Articles 74 and 75, other execution periods apply.
2. For national payment transactions, Member States or their competent authorities may reduce or double the amounts referred to in paragraph 1. They may increase them for prepaid payment instruments up to EUR 500.
3. Articles 65 and 66 of this Directive shall apply also to electronic money within the meaning of Article 2(2) of Directive 2009/110/EC, except where the payer's payment service provider does not have the ability to freeze the payment account or block the payment instrument. Member States may limit that derogation to payment accounts or payment instruments of a certain value.

CHAPTER 2

Authorisation of payment transactions

Article 57

Consent and withdrawal of consent

1. Member States shall ensure that a payment transaction is considered to be authorised only if the payer has given consent to execute the payment transaction. A payment transaction may be authorised by the payer prior to or, if agreed between the payer and the payment service provider, after the execution of the payment transaction.
2. Consent to execute a payment transaction or a series of payment transactions shall be given in the form agreed between the payer and the payment service provider. Consent may also be given directly or indirectly via the payee. Consent to execute a payment transaction shall also be considered given where the payer authorises a third party payment service provider to initiate the payment transaction with the account servicing payment service provider.

In the absence of consent, a payment transaction shall be considered to be unauthorised.

3. Consent may be withdrawn by the payer at any time, but no later than the point in time of irrevocability under Article 71. Consent to execute a series of payment transactions may also be withdrawn with the effect that any future payment transaction is to be considered as unauthorised.
4. The procedure for giving consent shall be agreed between the payer and the relevant payment service provider(s).

Article 58

Access to and use of payment account information by third party payment service provider

1. Member States shall ensure that a payer has the right to make use of a third party payment service provider to obtain payment services enabling access to payment accounts as referred to in point (7) of Annex I.
2. Where a third party payment service provider has been authorised by the payer to provide payment services under paragraph 1, he shall have the following obligations:
 - (a) to ensure that the personalised security features of the payment service user are not accessible to other parties;
 - (b) to authenticate itself in an unequivocal manner towards the account servicing payment service provider(s) of the account owner.
 - (c) not to store sensitive payment data or personalised security credentials of the payment service user.
3. Where, for a payment initiation service, the account servicing payment service provider has received the payer's payment order through the services of a third party payment service provider, it shall immediately notify the latter of the receipt of the payment order and provide information on the availability of sufficient funds for the specified payment transaction.
4. Account servicing payment service providers shall treat payment orders transmitted through the services of a third party payment service provider without any discrimination for other than objective reasons in terms of timing and priority vis-à-vis payment orders transmitted directly by the payer himself.

Article 59

Access to and use of payment account information by third party payment instrument issuers

1. Member States shall ensure that a payer has the right to make use of a third party payment instrument issuer to obtain payment card services.
2. If the payer has given consent to a third party payment instrument issuer which has provided the payer with a payment instrument to obtain information on the availability of sufficient funds for a specified payment transaction on a specified payment account held by the payer, the account servicing payment service provider of the specified payment account shall provide such information to the third party payment instrument issuer immediately upon receipt of the payer's payment order.
3. Account servicing payment service providers shall treat payment orders transmitted through the services of a third party payment instrument issuer without any discrimination for other than objective reasons in terms of timing and priority in respect of payment orders transmitted directly by the payer personally.

Article 60

Limits of the use of the payment instrument

1. Where a specific payment instrument is used for the purposes of giving consent, the payer and the payer's payment service provider may agree on spending limits for payment transactions executed through that payment instrument.
2. If agreed in the framework contract, the payment service provider may reserve the right to block the payment instrument for objectively justified reasons related to the security of the payment instrument, the suspicion of unauthorised or fraudulent use of the payment instrument or, in the case of a payment instrument with a credit line, a significantly increased risk that the payer may be unable to fulfil its liability to pay.
3. In such cases the payment service provider shall inform the payer of the blocking of the payment instrument and the reasons for it in an agreed manner, where possible, before the payment instrument is blocked and at the latest immediately thereafter, unless giving such information would compromise objectively justified security reasons or is prohibited by other relevant Union or national legislation.
4. The payment service provider shall unblock the payment instrument or replace it with a new payment instrument once the reasons for blocking no longer exist.

Article 61

Obligations of the payment service user in relation to payment instruments

1. The payment service user entitled to use a payment instrument shall have the following obligations:
 - (a) to use the payment instrument in accordance with the objective, non-discriminatory and proportionate terms governing the issue and use of the payment instrument;
 - (b) to notify the payment service provider, or the entity specified by the latter, without undue delay on becoming aware of loss, theft or misappropriation of the payment instrument or of its unauthorised use.
2. For the purposes of point (a) of paragraph 1, the payment service user shall, in particular, as soon as he is in receipt of a payment instrument, take all reasonable steps to keep its personalised security features safe. The payment service users' obligations of care shall not inhibit the use of any payment instrument and services authorised under this Directive.

Article 62

Obligations of the payment service provider in relation to payment instruments

1. The payment service provider issuing a payment instrument shall have the following obligations:
 - (a) to make sure that the personalised security features of the payment instrument are not accessible to parties other than the payment service user entitled to use the payment instrument, without prejudice to the obligations on the payment service user set out in Article 61;
 - (b) to refrain from sending an unsolicited payment instrument, except where a payment instrument already given to the payment service user is to be replaced;

- (c) to ensure that appropriate means are available at all times to enable the payment service user to make a notification pursuant to Article 61(1)(b) or request unblocking pursuant to Article 60(4); on request, the payment service provider shall provide the payment service user with the means to prove, for 18 months after notification, that he made such notification;
 - (d) to provide the payer with an option to make a notification pursuant to Article 61(1)(b) free of charge and to charge, if at all, only replacement costs directly attributed to the payment instrument;
 - (e) to prevent all use of the payment instrument once notification pursuant to Article 61(1)(b) has been made.
2. The payment service provider shall bear the risk of sending a payment instrument to the payer or of sending any personalised security features of it.

Article 63

Notification of unauthorised or incorrectly executed payment transactions

1. The payment service user shall obtain rectification from the account servicing payment service provider only if he notifies the payment service provider without undue delay on becoming aware of any unauthorised or incorrectly executed payment transactions giving rise to a claim, including that under Article 80, and no later than 13 months after the debit date, unless, where applicable, the payment service provider has failed to provide or make available the information on that payment transaction in accordance with Title III.
2. Where a third party payment service provider is involved, the payment service user shall also obtain rectification from the account servicing payment service provider pursuant to paragraph 1 of this Article, without prejudice to Articles 65(2) and 80(1).

Article 64

Evidence on authentication and execution of payment transactions

1. Member States shall require that, where a payment service user denies having authorised an executed payment transaction or claims that the payment transaction was not correctly executed, it is for the payment service provider and, if involved and as appropriate, the third party payment service provider, to prove that the payment transaction was authenticated, accurately recorded, entered in the accounts and not affected by a technical breakdown or some other deficiency.

If the payment transaction has been initiated through a third party payment service provider, the burden shall be on the latter to prove that the payment transaction was not affected by a technical breakdown or other deficiencies linked to the payment service it is in charge of.

2. Where a payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider, including the third party payment service provider as appropriate, shall in itself not necessarily be sufficient to prove either that the payment transaction was authorised by the payer or that the payer acted fraudulently or failed with intent or gross negligence to fulfil one or more of the obligations under Article 61.

Article 65

Payment service provider's liability for unauthorised payment transactions

1. Member States shall ensure that, without prejudice to Article 63, in the case of an unauthorised payment transaction, the payer's payment service provider refunds to the payer immediately the amount of the unauthorised payment transaction and, where applicable, restores the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place. This shall also ensure that the credit value date for the payer's payment account shall be no later than the date the amount had been debited.
2. Where a third party payment service provider is involved, the account servicing payment service provider shall refund the amount of the unauthorised payment transaction and, where applicable, restore the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place. Financial compensation to the account servicing payment service provider by the third party payment service provider may be applicable.
3. Further financial compensation may be determined in accordance with the law applicable to the contract concluded between the payer and the payment service provider or the contract concluded between the payer and the third party payment service provider if applicable.

Article 66

Payer's liability for unauthorised payment transactions

1. By way of derogation from Article 65 the payer may be obliged to bear the losses relating to any unauthorised payment transactions, up to a maximum of EUR 50, resulting from the use of a lost or stolen payment instrument or from the misappropriation of a payment instrument.

The payer shall bear all the losses relating to any unauthorised payment transactions if incurred by acting fraudulently or by failing to fulfil one or more of the obligations set out in Article 61 with intent or gross negligence. In such cases, the maximum amount referred to in paragraph 1 of this Article shall not apply. For payments via a distance communication where the payment service provider does not require strong customer authentication, the payer shall only bear any financial consequences where having acted fraudulently. Should the payee or the payment service provider of the payee fail to accept strong customer authentication, they shall refund the financial damage caused to the payer's payment service provider.
2. The payer shall not bear any financial consequences resulting from use of the lost, stolen or misappropriated payment instrument after notification in accordance with Article 61(1)(b), except where having acted fraudulently. If the payment service provider does not provide appropriate means for the notification at all times of a lost, stolen or misappropriated payment instrument, as required under Article 62(1)(c), the payer shall not be liable for the financial consequences resulting from use of that payment instrument, except where having acted fraudulently.

Article 67

Refunds for payment transactions initiated by or through a payee

1. Member States shall ensure that a payer is entitled to a refund from the payment service provider of an authorised payment transaction initiated by or through a payee which has already been executed, if the following conditions are met:

- (a) the authorisation did not specify the exact amount of the payment transaction when the authorisation was made;
- (b) the amount of the payment transaction exceeded the amount the payer could reasonably have expected taking into account the previous spending pattern, the conditions in the framework contract and relevant circumstances of the case.

At the payment service provider's request, the payer shall bear the burden to prove such conditions are met.

The refund shall consist of the full amount of the executed payment transaction. This includes that the credit value date for the payer's payment account is no later than the date the amount had been debited.

For direct debits the payer has an unconditional right for refund within the time limits set in Article 68, except where the payee has already fulfilled the contractual obligations and the services have already been received or the goods have already been consumed by the payer. At the payment service provider's request, the payee shall bear the burden to prove that the conditions referred to in the third subparagraph.

- 2. However, for the purposes of point (b) of the first subparagraph of paragraph 1, the payer may not rely on currency exchange reasons if the reference exchange rate agreed with his payment service provider in accordance with Articles 38(1)(d) and 45(3)(b) was applied.
- 3. It may be agreed in a framework contract between the payer and the payment service provider that the payer has no right to a refund where having given consent to execute the payment transaction directly to the payment service provider and, where applicable, information on the future payment transaction was provided or made available in an agreed manner to the payer for at least four weeks before the due date by the payment service provider or by the payee.

Article 68

Requests for refunds for payment transactions initiated by or through a payee

- 1. Member States shall ensure that the payer can request the refund referred to in Article 67 of an authorised payment transaction initiated by or through a payee for a period of eight weeks from the date on which the funds were debited.
- 2. Within 10 business days of receiving a request for a refund, the payment service provider shall either refund the full amount of the payment transaction or provide justification for refusing the refund, indicating the bodies to which the payer may refer the matter in accordance with Articles 88 to 91 if not accepting the justification provided.

The payment service provider's right under the first subparagraph to refuse the refund shall not apply in the case set out in the fourth subparagraph of Article 67(1).

CHAPTER 3

Execution of payment transactions

SECTION 1

PAYMENT ORDERS AND AMOUNTS TRANSFERRED

Article 69

Receipt of payment orders

1. Member States shall ensure that the point in time of receipt is the time when the payment order initiated directly by the payer or on his behalf by a third party payment service provider or indirectly by or through a payee is received by the payer's payment service provider. If the point in time of receipt is not on a business day for the payer's payment service provider, the payment order shall be deemed to have been received on the following business day. The payment service provider may establish a cut-off time near the end of a business day beyond which any payment order received shall be deemed to have been received on the following business day.
2. If the payment service user initiating a payment order and the payment service provider agree that execution of the payment order shall start on a specific day or at the end of a certain period or on the day on which the payer has set funds at the payment service provider's disposal, the point in time of receipt for the purposes of Article 74 is deemed to be the agreed day. If the agreed day is not a business day for the payment service provider, the payment order received shall be deemed to have been received on the following business day.

Article 70

Refusal of payment orders

1. Where the payment service provider refuses to execute a payment order, the refusal and, if possible, the reasons for it and the procedure for correcting any factual mistakes that led to the refusal shall be notified to the payment service user, unless prohibited by other relevant Union or national legislation.

The payment service provider shall provide or make available the notification in an agreed manner at the earliest opportunity, and in any case, within the periods specified in Article 74.

The framework contract may include a condition that the payment service provider may charge for such a notification if the refusal is objectively justified.
2. Where all the conditions set out in the payer's framework contract are met, the payer's account servicing payment service provider shall not refuse to execute an authorised payment order irrespective of whether the payment order is initiated by a payer, on his behalf by a third party payment service provider or by or through a payee, unless prohibited by other relevant Union or national legislation.
3. For the purposes of Articles 74 and 80 a payment order of which execution has been refused shall be deemed not to have been received.

Article 71
Irrevocability of a payment order

1. Member States shall ensure that the payment service user may not revoke a payment order once it has been received by the payer's payment service provider, unless otherwise specified in this Article.
2. Where the payment transaction is initiated by a third party payment service provider on behalf of the payer or by or through the payee, the payer may not revoke the payment order after giving consent to the third party payment service provider to initiate the payment transaction or transmitting the payment order or giving consent to execute the payment transaction to the payee.
3. However, in the case of a direct debit and without prejudice to refund rights the payer may revoke the payment order at the latest by the end of the business day preceding the day agreed for debiting the funds.
4. In the case referred to in Article 69(2) the payment service user may revoke a payment order at the latest by the end of the business day preceding the agreed day.
5. After the time limits specified in paragraphs 1 to 4, the payment order may be revoked only if and in so far as agreed between the payment service user and the relevant payment service providers. In the case referred to in paragraphs 2 and 3, the payee's agreement shall also be required. If agreed in the framework contract, the relevant payment service provider may charge for revocation.

Article 72
Amounts transferred and amounts received

1. Member States shall require the payment service provider(s) of the payer, the payment service provider(s) of the payee and any intermediaries of the payment service providers to transfer the full amount of the payment transaction and refrain from deducting charges from the amount transferred.
2. However, the payee and the payment service provider may agree that the relevant payment service provider deduct its charges from the amount transferred before crediting it to the payee. In such a case, the full amount of the payment transaction and charges shall be separated in the information given to the payee.
3. If any charges other than those referred to in paragraph 2 are deducted from the amount transferred, the payment service provider of the payer shall ensure that the payee receives the full amount of the payment transaction initiated by the payer. In cases where the payment transaction is initiated by or through the payee, the payment service provider shall ensure that the full amount of the payment transaction is received by the payee.

SECTION 2
EXECUTION TIME AND VALUE DATE

Article 73
Scope

1. This Section shall apply to:
 - (a) payment transactions in euro;

- (b) national payment transactions in the currency of the Member State outside the euro area;
 - (c) payment transactions involving only one currency conversion between the euro and the currency of a Member State outside the euro area, provided that the required currency conversion is carried out in the Member State outside the euro area concerned and, in the case of cross-border payment transactions, the cross-border transfer takes place in euro.
2. This Section shall apply to other payment transactions, unless otherwise agreed between the payment service user and the payment service provider, with the exception of Article 78, which is not at the disposal of the parties. However, when the payment service user and the payment service provider agree on a longer period than those laid down in Article 74, for intra-Union payment transactions such period shall not exceed 4 business days following the point in time of receipt in accordance with Article 69.

Article 74

Payment transactions to a payment account

1. Member States shall require the payer's payment service provider to ensure that, after the point in time of receipt in accordance with Article 69, the amount of the payment transaction is credited to the payee's payment service provider's account at the latest by the end of the next business day. These periods may be extended by a further business day for paper-initiated payment transactions.
2. Member States shall require the payment service provider of the payee to value date and make available the amount of the payment transaction to the payee's payment account after the payment service provider has received the funds in accordance with Article 78.
3. Member States shall require the payee's payment service provider to transmit a payment order initiated by or through the payee to the payer's payment service provider within the time limits agreed between the payee and the payment service provider, enabling settlement, as far as direct debit is concerned, on the agreed due date.

Article 75

Absence of payee's payment account with the payment service provider

Where the payee does not have a payment account with the payment service provider, the funds shall be made available to the payee by the payment service provider who receives the funds for the payee within the period specified in Article 74.

Article 76

Cash placed on a payment account

Where a consumer places cash on a payment account with that payment service provider in the currency of that payment account, the payment service provider shall ensure that the amount is made available and value dated immediately after the point of time of the receipt of the funds. Where the payment service user is not a consumer, the amount shall be made available and value dated at the latest on the next business day after the receipt of the funds.

Article 77
National payment transactions

For national payment transactions, Member States may provide for shorter maximum execution times than those provided for in this Section.

Article 78
Value date and availability of funds

1. Member States shall ensure that the credit value date for the payee's payment account is no later than the business day on which the amount of the payment transaction is credited to the payee's payment service provider's account.

The payment service provider of the payee shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the payee's payment service provider's account, also including payments within one payment service provider.

2. Member States shall ensure that the debit value date for the payer's payment account is no earlier than the point in time at which the amount of the payment transaction is debited to that payment account.

SECTION 3
LIABILITY

Article 79
Incorrect unique identifiers

1. If a payment order is executed in accordance with the unique identifier, the payment order shall be deemed to have been executed correctly with regard to the payee specified by the unique identifier.
2. If the unique identifier provided by the payment service user is incorrect, the payment service provider shall not be liable under Article 80 for non-execution or defective execution of the payment transaction.
3. However the payer's payment service provider shall make reasonable efforts to recover the funds involved in the payment transaction.
4. If agreed in the framework contract, the payment service provider may charge the payment service user for recovery.
5. If the payment service user provides information additional to that specified in Articles 38(1)(a) or 45(2)(b), the payment service provider shall be liable only for the execution of payment transactions in accordance with the unique identifier provided by the payment service user.

Article 80
Non-execution, defective or late execution

1. Where a payment order is directly initiated by the payer, the payment service provider shall, without prejudice to Article 63, Article 79(2) and (3), and Article 83, be liable to the payer for correct execution of the payment transaction, unless it can prove to the payer and, where relevant, to the payee's payment service provider that the payee's payment service provider

received the amount of the payment transaction in accordance with Article 74(1). In that case, the payee's payment service provider shall be liable to the payee for the correct execution of the payment transaction.

Where a payment order is initiated by the payer through a third party payment service provider, the third party payment service provider shall, without prejudice to Article 63, Article 79(2) and (3), and Article 83, be liable to the payer for correct execution of the payment transaction, unless it can prove to the payer and, where relevant, to the payer's account servicing payment service provider that the payment initiation was received by the payer's account servicing payment service provider in accordance with Article 69. In that case, the payer's account servicing payment service provider shall be liable to the payee for the correct execution of the payment transaction.

Where the payer's payment service provider or a third party payment service provider is liable under the first or the second subparagraph, the relevant payment service provider shall without undue delay refund to the payer the amount of the non-executed or defective payment transaction, and, where applicable, restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place. The credit value date for the payer's payment account shall be no later than the date the amount had been debited.

In case a payment transaction is executed late, the payer may decide that the amount is value dated on the payee's payment account no later than the date the amount should have been value dated in case of correct execution.

Where the payee's payment service provider is liable under the first subparagraph, it shall immediately place the amount of the payment transaction at the payee's disposal and, where applicable, credit the corresponding amount to the payee's payment account. The amount shall be value dated no later than the date the amount should have been value dated in case of correct execution.

In the case of a non-executed or defectively executed payment transaction where the payment order is initiated by the payer, the payment service provider shall regardless of liability under this paragraph, on request, make immediate efforts to trace the payment transaction and notify the payer of the outcome. This shall be free of charge for the payer.

2. Where a payment order is initiated by or through the payee, the payment service provider shall, without prejudice to Article 63, Article 79(2) and (3), and Article 83, be liable to the payee for correct transmission of the payment order to the payment service provider of the payer in accordance with Article 74(3). Where the payee's payment service provider is liable under this subparagraph, he shall immediately re-transmit the payment order in question to the payment service provider of the payer. In the case of a late transmission of the payment order, the amount shall be value dated on the payee's payment account no later than the date the amount should have been value dated in case of correct execution.

In addition, the payment service provider of the payee shall, without prejudice to Article 63, Article 79(2) and (3), and Article 83, be liable to the payee for handling the payment transaction in accordance with its obligations under Article 78. Where the payee's payment service provider is liable under this subparagraph, it shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the payee's payment service provider's account. The amount shall be value dated on the payee's payment account no later than the date the amount should have been value dated in case of correct execution.

In the case of a non-executed or defectively executed payment transaction for which the payee's payment service provider is not liable under the first and second subparagraphs, the payer's payment service provider shall be liable to the payer. Where the payer's payment service provider is so liable he shall, as appropriate and without undue delay, refund to the payer the amount of the non-executed or defective payment transaction and restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place. The credit value date for the payer's payment account shall be no later than the date the amount had been debited.

In the case of a late executed payment transaction, the payer may decide that the amount shall be value dated on the payee's payment account no later than the date the amount should have been value dated in case of correct execution.

In the case of a non-executed or defectively executed payment transaction where the payment order is initiated by or through the payee, the payment service provider shall, regardless of liability under this paragraph, on request, make immediate efforts to trace the payment transaction and notify the payee of the outcome. This shall be free of charge for the payee.

3. In addition, payment service providers shall be liable to their respective payment service users for any charges for which they are responsible, and for any interest to which the payment service user is subject as a consequence of non-execution or defective, including late, execution of the payment transaction.

Article 81

Additional financial compensation

Any financial compensation additional to that provided for under this Section may be determined in accordance with the law applicable to the contract concluded between the payment service user and the payment service provider.

Article 82

Right of recourse

1. Where the liability of a payment service provider under Article 80 is attributable to another payment service provider or to an intermediary, that payment service provider or intermediary shall compensate the first payment service provider for any losses incurred or sums paid under Article 80. This shall include compensation where any of the payment service providers fail to use strong customer authentication.
2. Further financial compensation may be determined in accordance with agreements between payment service providers and/or intermediaries and the law applicable to the agreement concluded between them.

Article 83

No liability

Liability under Chapters 2 and 3 shall not apply in cases of abnormal and unforeseeable circumstances beyond the control of the party pleading for the application of those circumstances, the consequences of which would have been unavoidable despite all efforts to the contrary, or where a payment service provider is bound by other legal obligations covered by national or Union legislation.

CHAPTER 4

DATA PROTECTION

Article 84

Data protection

Any processing of personal data for the purposes of this Directive shall be carried out in accordance with Directive 95/46/EC, the national rules which transpose Directive 95/46/EC and Regulation (EC) No 45/2001.

CHAPTER 5

OPERATIONAL AND SECURITY AND AUTHENTICATION

Article 85

Security requirements and incident notification

1. Payment service providers are subject to Directive [NIS Directive] [OP please insert number of Directive once adopted] and notably to the risk management and incident reporting requirements in Articles 14 and 15 therein.
2. The authority designated under Article 6(1) of Directive [NIS Directive] [OP please insert number of Directive once adopted] shall without undue delay inform the competent authority in the home Member State and EBA of the notifications of NIS incidents received from payment services providers.
3. Upon receipt of the notification, and where relevant, EBA shall notify the competent authorities in the other Member States.
4. In addition to the provisions of Article 14(4) of Directive [NIS Directive] [OP please insert number of Directive once adopted], where the security incident has the potential of impacting the financial interests of the payment service users of the payment service provider, it shall without undue delay notify its payment service users of the incident and inform them of possible mitigation measures that they can take on their side to mitigate the adverse effects of the incident.

Article 86

Implementation and reporting

1. Member States shall ensure that payment service providers provide to the authority designated under Article 6(1) of Directive [NIS Directive] [OP please insert number of Directive once adopted] on a yearly basis updated information of the assessment of the operational and security risks associated with the payment services they provide and on the adequacy of the mitigation measures and control mechanisms implemented in response to these risks. The authority designated under Article 6(1) of Directive [NIS Directive] [OP please insert number of Directive once adopted] shall without undue delay transmit a copy of this information to the competent authority in the home Member State.
2. Without prejudice to Articles 14 and 15 of Directive [NIS Directive] [OP please insert number of Directive once adopted], EBA shall, in close cooperation with the ECB, develop guidelines with regard to the establishment, implementation and monitoring of the security measures, including certification processes when relevant. It shall, *inter alia*, take into account the

standards and/or specifications published by the Commission under Article 16(2) of Directive [NIS Directive] [OP please insert number of Directive once adopted].

3. EBA shall, in close cooperation with the ECB, review the guidelines on a regularly basis, but at least every two years.
4. Without prejudice to Articles 14 and 15 of Directive [NIS Directive] [OP please insert number of Directive once adopted], EBA shall issue guidelines to facilitate payment service providers in qualifying major incidents and the circumstances under which a payment institution is required to notify a security incident. Those guidelines shall be issued by (insert date - two years of the date of entry into force of this Directive).

Article 87

Authentication

1. Member States shall ensure that a payment service provider applies strong customer authentication when the payer initiates an electronic payment transaction unless EBA guidelines allow specific exemptions based on the risk involved in the provided payment service. This also applies to a third party payment service provider when initiating a payment transaction on behalf of the payer. The account servicing payment service provider shall allow the third party payment service provider to rely on the authentication methods of the former when acting on behalf of the payment service user.
2. Where a payment service provider provides services referred to in point 7 of Annex I, it shall authenticate itself towards the account servicing payment service provider of the account owner.
3. EBA shall, in close cooperation with the ECB, issue guidelines addressed to payment service providers as set out in Article 1(1) of this Directive in accordance with Article 16 of Regulation (EU) No 1093/2010 on state of the art customer authentication and any exemption to the use of strong customer authentication. Those guidelines shall be issued by (insert date - two years from the date of entry into force of this Directive) and be updated on a regular basis as appropriate.

CHAPTER 6

OUT-OF-COURT COMPLAINT AND REDRESS PROCEDURES FOR THE SETTLEMENT OF DISPUTES

SECTION 1

COMPLAINT PROCEDURES

Article 88

Complaints

1. Member States shall ensure that procedures are set up which allow payment service users and other interested parties, including consumer associations, to submit complaints to the competent authorities with regard to payment service providers' alleged infringements of this Directive.
2. Where appropriate and without prejudice to the right to bring proceedings before a court in accordance with national procedural law, the reply from the competent authorities shall inform the complainant of the existence of the out-of-court complaint and redress procedures set up in accordance with Article 91.

Article 89
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 payment service providers. They shall be competent authorities within the meaning of Article 4(2) of Regulation (EU) 1039/2010.
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.
3. In the event of infringement or suspected infringement of the provisions of national law adopted pursuant to Titles III and IV, the competent authorities referred to in paragraph 1 of this Article shall be those of the home Member State of the payment service provider, except for agents and branches conducted under the right of establishment where the competent authorities shall be those of the host Member State.
4. Member States shall notify the Commission of the designated competent authorities referred to in paragraph 1 by [... one year after entry into force of this Directive] at the latest. 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.

SECTION 2
OUT-OF-COURT REDRESS PROCEDURES AND SANCTIONS

Article 90
Internal dispute resolution

1. Member States shall ensure that payment service providers put in place adequate and effective consumer complaint resolution procedures for the settlement of complaints of payment service users concerning the rights and obligations arising under this Directive.
2. Member States shall require that payment service providers make every possible effort to reply, in writing, to the payment service users' complaints, addressing all points raised, within an adequate timeframe and at the latest within 15 business days. In exceptional situations, if the answer cannot be given within 15 business days for reasons beyond the control of the payment service provider, it shall be required to send a holding reply, clearly indicating the reasons for a delay in answering to the complaint and specifying the deadline by which the consumer will receive the final reply. That deadline may not, in any case, exceed another 30 business days.
3. The payment service provider shall inform the payment service user about the out-of-court redress entities which are competent to deal with disputes concerning the rights and obligations arising under this Directive.
4. The information referred to in paragraph 2 shall be mentioned in an easily, directly, prominently and permanently accessible way on the website of the payment service provider, where one exists, in the general terms and conditions of the contract between the payment service provider and the payment service user and in invoices and receipts relating to such

contracts. It shall specify how further information on the out-of-court redress entity concerned and on the conditions for using it can be accessed.

Article 91

Out-of-court redress

1. Member States shall ensure that adequate and effective out-of-court complaint and redress procedures for the settlement of disputes between payment service users and payment service providers concerning the rights and obligations arising under this Directive are established according to the relevant national and Union legislation, using existing bodies where appropriate. Member States shall ensure that such procedures are applicable to payment service providers and that they also cover the activities of appointed representatives.
2. Member States shall require the bodies referred to in paragraph 1 to cooperate for the resolution of cross-border disputes concerning the rights and obligations arising under this Directive.

Article 92

Sanctions

1. Member States shall ensure that payment service providers and third party payment providers can be held liable for breaches of the national provisions adopted pursuant to this Directive.
2. Without prejudice to the right of Member States to impose criminal sanctions, Member States shall ensure that competent authorities may take appropriate administrative measures and impose administrative sanctions where payment service providers and third party payment providers referred to in paragraph 1 breach the national provisions, adopted in the transposition of this Directive, and shall ensure that they are applied. Those measures and sanctions shall be effective, proportionate and dissuasive.

TITLE V

DELEGATED ACTS

Article 93 *Delegated Acts*

The Commission shall be empowered to adopt delegated acts in accordance with Article 94 concerning:

- (a) adaptation of the reference to Recommendation 2003/361/EC in Article 4(29) of this Directive where that Recommendation is amended;
- (b) updating of the amounts specified in Articles 27(1) and 66(1) to take account of inflation and significant market developments.

Article 94 *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 93 shall be conferred on the Commission for an undetermined period of time from [insert date - date of entry into force of the legislative act]
3. The delegation of powers referred to in Article 93 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 93 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two 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 two months at the initiative of the European Parliament or of the Council.

TITLE VI

FINAL PROVISIONS

Article 95

Full harmonisation

1. Without prejudice to Article 31(2), Article 34, Article 35(2), Article 48(6), Article 50(3), Article 51(3), Article 54(2), Article 56(2), and Articles 77 and 96 insofar as this Directive contains harmonised provisions, Member States shall not maintain or introduce provisions other than those laid down in this Directive.
2. Where a Member State makes use of any of the options referred to in paragraph 1, it shall inform the Commission thereof as well as of any subsequent changes. The Commission shall make the information public on a web-site or other easily accessible means.
3. Member States shall ensure that payment service providers do not derogate, to the detriment of payment service users, from the provisions of national law implementing or corresponding to provisions of this Directive except where explicitly provided for therein.

However, payment service providers may decide to grant more favourable terms to payment service users.

Article 96

Review clause

The Commission shall present to the European Parliament, the Council, the European Economic and Social Committee and the European Central Bank, within five years of entry into force of this Directive, a report on the application and impact of this Directive, and in particular on the appropriateness and the impact of the rules on charges as set out in Articles 55(3) and (4).

Article 97

Transitional provision

1. Member States shall allow legal persons who have commenced before [*OP please insert final transposition date*], the activities as a payment institution in accordance with the national laws transposing Directive 2007/64/EC, to continue those activities in accordance with the requirements provided for in Directive 2007/64/EC without being required to seek authorisation in accordance with Article 5 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive until [*OP please insert final transposition date + 6 months*].

Member States shall require legal persons referred to in the first subparagraph to submit all relevant information to the competent authorities in order to allow the latter to assess by [*OP please insert final transposition date + 6 months*], whether those legal persons comply with the requirements laid down in this Directive and, if not, which measures need to be taken in order to ensure compliance or whether a withdrawal of authorisation is appropriate.

Legal persons referred to in the first subparagraph, which upon verification by the competent authorities comply with the requirements laid down in Title II of this Directive, shall be granted authorisation and shall be entered in the register of the home Member State and the EBA register provided for in Articles 13 and 14 of this Directive. Where those legal persons do not comply with the requirements laid down in Title II of this Directive by [*OP please*

insert final transposition date + 6 months], they shall be prohibited in accordance with Article 30 of this Directive to provide payment services.

2. Member States may provide that legal persons referred to in the first subparagraph of paragraph 1 of this Article shall be automatically granted authorisation and entered in their national register of the home Member State and the EBA register provided for in Articles 13 and 14 if the competent authorities already have evidence that the requirements laid down in Articles 5 and 10 are complied with. The competent authorities shall inform the entities concerned before the authorisation is granted.
3. Member States shall allow natural or legal persons who have commenced, before [*OP Please insert final date of transposition*], pursuing activities as payment institutions within the meaning of this Directive, and who have been granted a waiver under Article 26 of Directive 2007/64/EC, to continue those activities within the Member State concerned in accordance with Directive 2007/64/EC, until [*OP Please insert final transposition date + 12 months*] without being required to seek authorisation under Article 5 or 27 of this Directive, or to comply with the other provisions laid down or referred to in Title II of this Directive. Any persons who have not received authorisation or have not been granted a waiver within this period under this Directive, shall be prohibited to provide payment services in accordance with Article 30 of this Directive.

Article 98

Amendments to Directive 2002/65/EC

In Article 4 of Directive 2002/65/EC paragraph 5 is replaced by the following:

‘5. Where Directive [OP please insert No of this Directive] of the European Parliament and of the Council* is also applicable, the information provisions under Article 3(1) of this Directive, with the exception of paragraphs (2)(c) to (g), (3)(a), (d) and (e), and (4)(b), shall be replaced with Articles 37, 38, 44 and 45 of that Directive.’»

* Directive ... of the European Parliament and of the Council of [insert full title](OJ L..).

Article 99

Amendment to Directive 2013/36/EU

In Annex I to Directive 2013/36/EU of the European Parliament and of the Council⁵⁰, point 4 is replaced by the following:

(4) Payment services as defined in Article 4(3) of Directive 2014/XX/EU of the European Parliament and of the Council* [*OP please insert name and number of this Directive once adopted*]

*Directive ... of the European Parliament and of the Council of ...

⁵⁰ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

Article 100
Amendments to Directive 2009/110/EC

In Article 18 of Directive 2009/110/EC, the following paragraph 4 is added:

‘4. Member States shall allow electronic money institutions that have taken up, before the adoption of Directive [OP please insert No of this Directive] of the European Parliament of the Council *, activities in accordance with this Directive and Directive 2007/64/EC in the Member State in which their head office is located, to continue those activities in that member State or in another Member State without being required to seek authorisation in accordance with Article 3 of this Directive or to comply with the other requirements laid down or referred to in Title II of this Directive until[OP please insert final transposition date + 6 months] .

Member States shall require legal persons referred to in the first subparagraph to submit all relevant information to the competent authorities in order to allow the later to assess, [OP please insert final transposition date + 6 months], whether those legal persons comply with the requirements laid down in Title II of this Directive, and if not, which measures need to be taken in order to ensure compliance or whether a withdrawal of authorisation is appropriate.

Legal persons referred to in the first subparagraph, which upon verification by the competent authorities comply with the requirements laid down in Title II of this Directive, shall be granted authorisation and shall be entered in the register. Where those legal persons do not comply with the requirements laid down in Title II of this Directive by [OP please insert final transposition date + 6 months], they shall be prohibited from issuing electronic money.’

* Directive ... of the European Parliament of the Council of ... [insert full title] (OJ L ...)

**

Article 101
Repeal

Directive 2007/64/EC is repealed with effect from [OP please insert date – day after the date set out in the first subparagraph of Article 102(2)].

Any reference to the repealed Directive shall be construed as a reference to this Directive and shall be read in accordance with the correlation table in Annex II.

Article 102
Transposition

1. Member States shall adopt and publish, by [*two years after adoption*] 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 [...].

When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

3. 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 103

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

Article 104

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX I
PAYMENT SERVICES (DEFINITION 3 IN ARTICLE 4)

1. Services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account.
2. Services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account.
3. Execution of payment transactions, including transfers of funds on a payment account with the user's payment service provider or with another payment service provider:
 - (a) execution of direct debits, including one-off direct debits,
 - (b) execution of payment transactions through a payment card or a similar device,
 - (c) execution of credit transfers, including standing orders.
4. Execution of payment transactions where the funds are covered by a credit line for a payment service user:
 - (a) execution of direct debits, including one-off direct debits,
 - (b) execution of payment transactions through a payment card or a similar device,
 - (c) execution of credit transfers, including standing orders.
5. Issuing of payment instruments and/or acquiring of payment transactions.
6. Money remittance.
7. Services based on access to payment accounts provided by a payment service provider who is not the account servicing payment service provider, in the form of:
 - (a) payment initiation services;
 - (b) account information services.

ANNEX II
CORRELATION TABLE

This Directive		Directive 2007/64/EC	
Article 1 (1)		Article 1 (1)	
Article 1 (2)		Article 1 (2)	
Article 2 (1)		Article 2 (1)	
Article 2 (2)		Article 2 (2)	
Article 2 (3)		Article 2 (3)	
Article 3 o) deleted		Article 3	
Article 4 Definitions added		Article 4	
	Article 5 - Rules added for applications for authorisations	Article 5	
Article 6		Article 6	
Article 7 (1)		Article 7 (1)	
Article 7 (2)		Article 7 (2)	
Article 7 (3)		Article 7 (3)	
Article 8 (1)		Article 8 (1)	
Article 8 (2)		Article 8 (2)	
Article 8 (3)		Article 8 (3)	
Article 9(1)		Article 9(1)	
	Article 9(2) Article 9(3) & (4) deleted	Article 9(2)	
Article 10 (1)		Article 10 (1)	
Article 10 (2)		Article 10 (2)	
Article 10 (3)		Article 10 (3)	
Article 10 (4)		Article 10 (4)	
Article 10 (5)		Article 10 (5)	
Article 10 (6)		Article 10 (6)	
Article 10 (7)		Article 10 (7)	
Article 10 (8)		Article 10 (8)	
Article 10 (9)		Article 10 (9)	
Article 11		Article 11	
Article 12 (1)		Article 12 (1)	
Article 12 (2)		Article 12 (2)	
Article 12 (3)		Article 12 (3)	
Article 13		Article 13	
Article 14 (1)			
Article 14 (2)			
Article 14 (3)			
Article 14 (4)			
Article 15		Article 14	
Article 16 (1)		Article 15 (1)	
Article 16 (2)		Article 15 (2)	

Article 16 (3)	Article 15 (3)	
Article 16 (4)	Article 15 (4)	
Article 17 (1)	Article 16 (1)	
Article 17 (2)	Article 16 (2)	
Article 17 (3)		
Article 17 (4)	Article 16 (3)	
Article 17 (5)	Article 16 (4)	
Article 17 (6)	Article 16 (5)	
Article 18 (1)	Article 17 (1)	
Article 18 (2)	Article 17 (2)	
Article 18 (3)	Article 17 (3)	
Article 18 (4)	Article 17 (4)	
Article 18 (5)	Article 17 (5)	
Article 18 (6)	Article 17 (6)	
Article 18 (7)	Article 17 (7)	
Article 18 (8)	Article 17 (8)	
Article 18 (9)		
Article 19 (1)	Article 18 (1)	
Article 19 (2)	Article 18 (2)	
Article 20	Article 19	
Article 21 (1)	Article 20 (1)	
Article 21 (2)	Article 20 (2)	
Article 21 (3)	Article 20 (3)	
Article 21 (4)	Article 20 (4)	
Article 21 (5)	Article 20 (5)	
Article 22 (1)	Article 21 (1)	
Article 22 (2)	Article 21 (2)	
Article 22 (3)	Article 21 (3)	
Article 23 (1)	Article 22 (1)	
Article 23 (2)	Article 22 (2)	
Article 23 (3)	Article 22 (3)	
Article 24 (1)	Article 23 (1)	
Article 24 (2)	Article 23 (2)	
Article 25 (1)	Article 24 (1)	
Article 25 (2) - d) deleted	Article 24 (2)	
Article 26 (1)	Article 25 (1)	
Article 26 (2)	Article 25 (2)	
Article 26 (3)	Article 25 (3)	
Article 26 (4)	Article 25 (4)	
Article 26 (5)	Article 25 (5)	
Article 26 (6)		
Article 26 (7)		
Article 26 (8)		
Article 26 (9)		

Article 27 (1)	Article 26 (1)	
Article 27 (2)	Article 26 (2)	
Article 27 (3)	Article 26 (3)	
Article 27 (4)	Article 26 (4)	
Article 27 (5)	Article 26 (5)	
Article 27 (6)	Article 26 (6)	
Article 28	Article 27	
Article 29 (1)	Article 28 (1)	
Article 29 (2) – c) deleted	Article 28 (2)	
Article 30 (1)	Article 29	
Article 30 (2)		
Article 31 (1)	Article 30 (1)	
Article 31 (2)	Article 30 (2)	
Article 31 (3)	Article 30 (3)	
Article 32	Article 31	
Article 33 (1)	Article 32 (1)	
Article 33 (2)	Article 32 (2)	
Article 33 (3)	Article 32 (3)	
Article 34	Article 33	
Article 35 (1)	Article 34 (1)	
Article 35 (2)	Article 34 (2)	
Article 36 (1)	Article 35 (1)	
Article 36 (2)	Article 35 (2)	
Article 37 (1)	Article 36 (1)	
Article 37 (2)	Article 36 (2)	
Article 37 (3)	Article 36 (3)	
Article 38 (1)	Article 37 (1)	
Article 38 (2)		
Article 38 (3)	Article 37 (2)	
Article 39		
Article 40		
Article 41	Article 38	
Article 42	Article 39	
Article 43	Article 40	
Article 44 (1)	Article 41 (1)	
Article 44 (2)	Article 41 (2)	
Article 44 (3)	Article 41 (3)	
Article 45 (1)	Article 42 (1)	
Article 45 (2)	Article 42 (2)	
Article 45 (3)	Article 42 (3)	
Article 45 (4)	Article 42 (4)	
Article 45 (5)	Article 42 (5)	
Article 45 (6)	Article 42 (6)	
Article 45 (7)	Article 42 (7)	

Article 46	Article 43	
Article 47 (1)	Article 44 (1)	
Article 47 (2)	Article 44 (2)	
Article 47 (3)	Article 44 (3)	
Article 48 (1)	Article 45 (1)	
Article 48 (2)	Article 45 (2)	
Article 48 (3)	Article 45 (3)	
Article 48 (4)	Article 45 (4)	
Article 48 (5)	Article 45 (5)	
Article 48 (6)	Article 45 (6)	
Article 49	Article 46	
Article 50 (1)	Article 47 (1)	
Article 50 (2)	Article 47 (2)	
Article 50 (3)	Article 47 (3)	
Article 51 (1)	Article 48 (1)	
Article 51 (2)	Article 48 (2)	
Article 51 (3)	Article 48 (3)	
Article 52 (1)	Article 49 (1)	
Article 52 (2)	Article 49 (2)	
Article 53 (1)	Article 50 (1)	
Article 53 (2)	Article 50 (2)	
Article 54 (1)	Article 51 (1)	
Article 54 (2)	Article 51 (2)	
Article 54 (3)	Article 51 (3)	
Article 54 (4)	Article 51 (4)	
Article 55 (1)	Article 52 (1)	
Article 55 (2)	Article 52 (2)	
Article 55 (3)	Article 52 (3)	
Article 55 (4)		
Article 56 (1)	Article 53 (1)	
Article 56 (2)	Article 53 (2)	
Article 56 (3)	Article 53 (3)	
Article 57 (1)	Article 54 (1)	
Article 57 (2)	Article 54 (2)	
Article 57 (3)	Article 54 (3)	
Article 57 (4)	Article 54 (4)	
Article 58 (1)		
Article 58 (2)		
Article 58 (3)		
Article 58 (4)		
Article 59 (1)		
Article 59 (2)		
Article 59 (3)		
Article 60 (1)	Article 55 (1)	

Article 60 (2)	Article 55 (2)	
Article 60 (3)	Article 55 (3)	
Article 60 (4)	Article 55 (4)	
Article 61 (1)	Article 56 (1)	
Article 61 (2)	Article 56 (2)	
Article 62 (1)	Article 57 (1)	
Article 62 (2)	Article 57 (2)	
Article 63 (1)	Article 58	
Article 63 (2)		
Article 64 (1)	Article 59 (1)	
Article 64 (2)	Article 59 (2)	
Article 65 (1)	Article 60 (1)	
Article 65 (2)		
Article 65 (3)	Article 60 (2)	
Article 66 (1)	Article 61 (1) & (2)	
Article 66 (2)	Article 61 (4) & (5)	
Article 67 (1)	Article 62 (1)	
Article 67 (2)	Article 62 (2)	
Article 67 (3)	Article 62 (3)	
Article 68 (1)	Article 63 (1)	
Article 68 (2)	Article 63 (2)	
Article 69 (1)	Article 64 (1)	
Article 69 (2)	Article 64 (2)	
Article 70 (1)	Article 65 (1)	
Article 70 (2)	Article 65 (2)	
Article 70 (3)	Article 65 (3)	
Article 71 (1)	Article 66 (1)	
Article 71 (2)	Article 66 (2)	
Article 71 (3)	Article 66 (3)	
Article 71 (4)	Article 66 (4)	
Article 71 (5)	Article 66 (5)	
Article 72 (1)	Article 67 (1)	
Article 72 (2)	Article 67 (2)	
Article 72 (3)	Article 67 (3)	
Article 73 (1)	Article 68 (1)	
Article 73 (2)	Article 68 (2)	
Article 74 (1)	Article 69 (1)	
Article 74 (2)	Article 69 (2)	
Article 74 (3)	Article 69 (3)	
Article 75	Article 70	
Article 76	Article 71	
Article 77	Article 72	
Article 78 (1)	Article 73 (1)	
Article 78 (2)	Article 73 (2)	

Article 79 (1)	Article 74 (1)	
Article 79 (2)	Article 74 (2)	
Article 79 (3)	Article 74 (2)	
Article 79 (4)	Article 74 (2)	
Article 79 (5)	Article 74 (3)	
Article 80 (1)	Article 75(1)	
Article 80 (2)	Article 75 (2)	
Article 80 (3)	Article 75 (3)	
Article 81	Article 76	
Article 82 (1)	Article 77 (1)	
Article 82 (2)	Article 77 (2)	
Article 83	Article 78	
Article 84	Article 79	
Article 85 (1)		
Article 85 (2)		
Article 85 (3)		
Article 85 (4)		
Article 86 (1)		
Article 86 (2)		
Article 86 (3)		
Article 86 (4)		
Article 87 (1)		
Article 87 (2)		
Article 87 (3)		
Article 88 (1)	Article 80 (1)	
Article 88 (2)	Article 80 (2)	
Article 89 (1)		
Article 89 (2)		
Article 89 (3)	Article 82 (2)	
Article 89 (4)		
Article 90 (1)		
Article 90 (2)		
Article 90 (3)		
Article 91 (1)	Article 83 (1)	
Article 91 (2)	Article 83 (2)	
Article 92 (1)		
Article 92 (2)		
Article 93	Article 84	
Article 94 (1)		
Article 94 (2)		
Article 94 (3)		
Article 94 (4)		
Article 94 (5)		
Article 95 (1)	Article 86 (1)	

Article 95 (2)	Article 86 (2)	
Article 95 (3)	Article 86 (3)	
Article 96	Article 87	
Article 97	Article 88	
Article 98 (1)		
Article 98 (2)		
Article 99 (1)		
Article 99 (2)		
Article 101		
Article 102 (1)	Article 94 (1)	
Article 102 (2)	Article 94 (1)	
Article 102 (3)	Article 94 (2)	
Article 103	Article 95	
Article 104	Article 96	
Annex I	Annex	

ANNEX III
Legislative financial statement ‘Agencies’

- 1. FRAMEWORK OF THE PROPOSAL/INITIATIVE**
 - 1.1. Title of the proposal/initiative**
 - 1.2. Policy area(s) concerned in the ABM/ABB structure**
 - 1.3. Nature of the proposal/initiative**
 - 1.4. Objective(s)**
 - 1.5. Grounds for the proposal/initiative**
 - 1.6. Duration and financial impact**
 - 1.7. Management mode(s) envisaged**

- 2. MANAGEMENT MEASURES**
 - 2.1. Monitoring and reporting rules**
 - 2.2. Management and control system**
 - 2.3. Measures to prevent fraud and irregularities**

- 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE**
 - 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected**
 - 3.2. Estimated impact on expenditure**
 - 3.2.1. Summary of estimated impact on expenditure*
 - 3.2.2. Estimated impact on [body]'s appropriations*
 - 3.2.3. Estimated impact on [body]'s human resources*
 - 3.2.4. Compatibility with the current multiannual financial framework*
 - 3.2.5. Third-party contributions*
 - 3.3. Estimated impact on revenue**

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Directive of the European Parliament and the Council on payment services in the internal market amending Directives 2002/65/EC, and 2013/36/EU and repealing Directive 2007/64/EC.

1.2. Policy area(s) concerned in the ABM/ABB structure⁵¹

Internal Market – retail financial services

Consumer protection – financial services

1.3. Nature of the proposal/initiative

The proposal/initiative relates to a **new action**

1.4. Objective(s)

1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

Promote smart and inclusive growth

Foster economic, social and territorial cohesion

1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

Develop an EU-wide market for electronic payments, which will enable consumers, retailers and other market players to enjoy the full benefits of the EU internal market

Address standardisation and interoperability gaps for card, internet and mobile payments.

Eliminate hurdles for competition, in particular for card and internet payments.

Align charging and steering practices for payment services across the EU.

Ensure that emerging types of payment services and instruments are covered by the regulatory framework for retail payments in the EU.

Ensure a consistent application of the legislative framework (PSD) and align the practical operation of the licensing and supervisory rules for payment services across Member States.

Ensure adequate and consistent protection of consumer interests in the context of payment transactions, including extending regulatory protection to new channels and innovative payment services.

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The proposed amendments will bring more legal clarity and a level playing field, leading to downward convergence of costs and prices for payment services users, more choice and transparency of payment services, facilitating the provision of innovative payment services, and to ensure secure and transparent payment services. The proposed measures seek to do so in a technologically neutral manner that will remain relevant as payment services evolve further. These objectives will be achieved by updating and complementing the existing framework on payments services; providing for rules that enhance transparency, innovation and security in the field of retail payments and improving consistency between national rules, with a particular emphasis on the legitimate needs of consumers.

⁵¹ ABM: *Activity-Based Management* – ABB: *Activity-Based Budgeting*.

1.4.4. *Indicators of results and impact*

Once the Directive has been implemented by at least a large majority of Member States, the Commission shall assess the implementation and impact of this Directive, on the basis of a conformity assessment of the national implementing measures and a study on the impact of the Directive on the market. It shall report to the European Parliament, the Council, the European Economic and Social Committee and the European Central Bank on the results and the proposed follow up.

1.5. **Grounds for the proposal/initiative**

1.5.1. *Requirement(s) to be met in the short or long term*

The Directive will improve the functioning of the internal market for payment services and more broadly for all goods and services given the need for innovative, efficient and secure means of payments to exist. In particular it aims to:

Ensure a competitive level playing field between all categories of payment service providers, including new emerging providers, which in turn increases the choice, efficiency, transparency and security of retail payments.

Facilitate the provision of innovative card, internet and mobile payment services across borders by ensuring a Single Market for all retail payments

Furthermore, it will strike the right balance between a high level of consumer protection and the competitiveness of enterprises, thereby limiting the discretion of merchants to apply charges on the use of payment instruments to the costs at hand.

It will also facilitate the economic transactions within the Union and this will contribute to the attainment of the wider objectives of the EU 2020 strategy and the promotion of new growth.

1.5.2. *Added value of EU involvement*

In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the TEU, the objectives of the proposal cannot be sufficiently achieved by Member States and can therefore be better achieved at the Union level. An integrated EU market for electronic retail payments market contributes to the aim of Article 3 of the Treaty on the European Union stipulating an internal market. The benefits of market integration include more competition between PSPs and more choice, innovation and security for payment service users, especially consumers. By its nature an integrated payments market, based on networks that reach beyond national borders, requires an EU-wide approach as the applicable principles, rules, processes and standards have to be consistent across all Member States in order to achieve legal certainty and a level playing field for all market participants. The alternative to a Community-wide approach would be a system of multilateral or bilateral agreements the complexity and costs of which would be prohibitive as compared to legislation at European level. A possible intervention at EU level therefore complies with the subsidiarity principle.

1.5.3. *Lessons learned from similar experiences in the past*

The analysis of the current regulatory framework and of the Payment Service Directive, in particular, has highlighted the following issues:

- Inconsistent application of the existing rules across Member States due to a high number of options and often very general criteria of application. Notably certain exemptions set out in the PSD appear too general or outdated in respect to market developments and are being interpreted very differently. Gaps in the scope of application also arise for payments with one leg of the transaction located outside the EEA and payments in non-EU currencies, leading to continued market fragmentation, regulatory arbitrage, and distortions of competition.

- Legal vacuum for certain newly emerged internet service providers, such as third party providers offering online banking based payment initiation. These services represent a viable and often cheaper payment alternative to card payments, attractive also for consumers who do not dispose of cards. However, the current business models create some concerns amongst banks and certain Member States as the providers are currently not subject to the current legal framework. The legal vacuum risks impeding innovation and appropriate market access conditions.
- Lack of standardisation and inter-operability between different payments solutions (card, internet and mobile payments) in varying aspects and to different degrees especially at cross-border level, exacerbated by weak governance arrangements for the EU retail payments market.
- Diverse and inconsistent charging practices (for the use of a specific payment instrument applied by merchants) between Member States (where around half of EU Member States allow and the other half forbids surcharging) leading to considerable confusion for consumers when they shop abroad or on the internet and an un-level playing field.
- In the area of payment cards, several restrictive business rules and practices distorting competition (regarding MIFs and rules on choice and flexibility of merchants regarding card acceptance).

The review of the European framework and notably of the PSD and the consultation on the Commission Green Paper on card, internet and mobile payments in 2012 have thus led to the conclusion that further measures and regulatory updates, including adjustments to the PSD are required so that the payments framework can better serve the needs of an effective European payments market, fully contributing to a payments environment which nurtures competition, innovation and security.

1.5.4. Compatibility and possible synergy with other appropriate instruments

The legal framework established by the PSD, the cross-border payments Regulation (EC) No 924/2009 and the Second Electronic Money Directive 2009/110/EC have already resulted in significant progress regarding the overall integration of the European retail payments market. The SEPA migration end-date Regulation (EU) No 260/2012 sets migration deadlines for pan-European credit transfers and pan-European direct debits, fully replacing national schemes for national and cross border euro payments within the EU as of 2014. The regulatory framework is complemented by a number of investigations and decisions under EU competition law by the Commission over the past years in the field of retail payments.

However, the retail payments market is very dynamic and experienced a significant innovation pace in the last few years. Important areas of the payments market, especially card payments and new means of payments, such as internet and mobile payments, are often still fragmented along national borders making it difficult for innovative and easy-to-use digital payment services to develop efficiently and to provide consumers and retailers with effective, convenient and secure payment methods (with the possible exception of credit cards) at pan-European level to purchase an expanding variety of goods and services. The latest developments in these markets have also highlighted certain regulatory gaps in the current legal framework for payments and market failures in the markets for card, internet and mobile payments which this initiative aims to address.

1.6. Duration and financial impact

Proposal/initiative of **limited duration**

Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY

Financial impact from YYYY to YYYY

Proposal/initiative of **unlimited duration**

1.7. Management mode(s) planned ⁵²

For the 2015 budget

Centralised indirect management with the delegation of implementation tasks to :

executive agencies

Shared management with the Member States

Indirect management by entrusting budget implementation tasks to:

international organisations and their agencies (to be specified);

the EIB and the European Investment Fund;

bodies referred to in Articles 208 and 209;

public law bodies;

bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions

Article 81 of the Regulation establishing the European Banking Authority (EBA) requires the Commission by 2 January 2014, and every 3 years thereafter, to publish a general report on the experience acquired as a result of the operation of EBA. To this end, the Commission will publish a general report that will be forwarded to the European Parliament and to the Council. Management and control system

2.1.1. Risk(s) identified

In relation to the legal, economical, efficient and effective use of appropriations resulting from the proposal it is expected that the proposal would not bring about new risks that would not be currently covered by an EBA existing internal control framework.

⁵² Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html

2.1.2. Control method(s) envisaged

Management and control systems as provided for in the Regulation establishing the European Banking Authority (1093/2010) will apply.

2.2. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures.

For the purposes of combating fraud, corruption and any other illegal activity, the provisions of Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) shall apply to the EBA without any restriction.

EBA shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office (OLAF) and shall immediately adopt appropriate provisions for all EBA staff.

The funding decisions and the agreements and the implementing instruments resulting from them shall explicitly stipulate that the Court of Auditors and OLAF may, if need be, carry out on-the-spot checks on the beneficiaries of monies disbursed by EBA as well as on the staff responsible for allocating these monies.

Articles 64 and 65 of the Regulation establishing EBA set out the provisions on implementation and control of the EBA budget and applicable financial rules.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number [Heading.....]	Diff./non-diff. (53)	From EFTA countries 54	From candidate countries 55	From third countries	Within the meaning of Article 21(2)(b) of the Financial Regulation
1.a	12.03.02 European Banking Authority	Diff.	YES	YES	NO	NO

3.2. Estimated impact on expenditure

The new tasks will be carried out with the human resources available within the annual budgetary allocation procedure, in the light of budgetary constraints, which are applicable to all EU bodies and in line with the financial programming for agencies.

3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial framework	1.a	Competiveness for Growth and Jobs
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DG MARKT			2015	2016	2017	2018	2019	2020	TOTAL
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⁵³ Diff.=Differentiated appropriations / Non-Diff. = Non-differentiated appropriations.

⁵⁴ EFTA: European Free Trade Association.

⁵⁵ Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

12.03.02	Commitments	(1)	0.160	0.150	0.075	0.075	0.075	0.075	0.609	
	Payments	(2)	0.160	0.150	0.075	0.075	0.075	0.075	0.609	
TOTAL appropriations for DG MARKT		Commitments	=1+1a +3a	0.160	0.150	0.075	0.075	0.075	0.075	0.609
		Payments	=2+2a +3b	0.160	0.150	0.075	0.075	0.075	0.075	0.609

EUR million (to three decimal places)

		2015 ⁵⁶	2016	2017	2018	2019	2020	TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments	0.160	0.150	0.075	0.075	0.075	0.075	0.609
	Payments	0.160	0.150	0.075	0.075	0.075	0.075	0.609

⁵⁶

Year N is the year in which implementation of the proposal/initiative starts.

3.2.2. *Estimated impact on [body]'s appropriations*

- The proposal/initiative does not require the use of operational appropriations

3.2.3. *Estimated impact on [body]'s human resources*

3.2.3.1. Summary

- The proposal/initiative does not require the use of appropriations of an administrative nature

3.2.3.2. Estimated requirements of human resources for the parent DG

- The proposal/initiative does not require the use of human resources.

3.2.4. *Comptability with the current multiannual financial framework*

- Proposal/initiative is compatible the current multiannual financial framework.

3.2.5. *Third-party contributions*

The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to 3 decimal places)

	2015	2016	2017	2018	2019	2020	Total
Member States	0.240	0.225	0.112	0.112	0.112	0.112	0.913
TOTAL appropriations cofinanced	0.240	0.225	0.112	0.112	0.112	0.112	0.913

3.3. Estimated impact on revenue

- Proposal/initiative has no financial impact on revenue.

Annex 1

In the review of the PSD, the following specific responsibilities and tasks have been defined for EBA, established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council.

Article 14 – develop and operate a web portal:

- Develop and operate a web portal serving as EU electronic access point interconnecting national public registers set out under Article 13 and develop draft regulatory standards setting technical requirements regarding access to the information contained in these public registers.

Article 26 – obligations of EBA in context of "passporting" procedure:

- Preparation of guidelines concerning the question whether the taking up of activities in another Member State under the "passporting" regime constitutes the exercise of the right of establishment or freedom to provide services. Those guidelines shall be issued within two years of the date of entry into force of this Directive.
- Development of draft regulatory technical standards on the co-operation and exchange of information of the competent authorities of the home Member State referred to in Article 26 paragraph 1 with those of the host Member State in accordance with Article 26 and Article 18, specifying the method, means and details of cooperation in the notification of payment institutions operating on a cross border basis and notably the scope and treatment of information to be submitted, including a common terminology and standard notification templates to ensure a consistent and efficient notification process. EBA shall submit those draft regulatory technical standards to the Commission within two years of the date of entry into force of this Directive.
- Development of draft regulatory technical standards on the cooperation and exchange of information of the competent authorities of the home Member State with those of the host Member State in accordance with Article 26 paragraphs 2 to 4 and Article 22, specifying the method, means and details of cooperation in the supervision of payment institutions operating on a cross border basis and notably the scope and treatment of information to be exchanged, to ensure consistent and efficient supervision of payment institutions exercising cross-border provision of payment services. EBA shall submit those draft regulatory technical standards to the Commission within two years of the date of entry into force of this Directive.

Article 86 and 87 – development of security guidelines and issuance of guidelines on the handling of major security incidents by Payment Service Providers (PSPs):

- Development of guidelines with regard to the establishment, implementation and monitoring of the security measures under Article 85, including certification processes when relevant in line with the principles referred to in Article 85(3). It shall, inter alia, take into account the standards and/or specifications published by the Commission under Article 16(2) of the NIS Directive. EBA shall, in close cooperation with the ECB, review the guidelines on a regularly basis, but at least every two years.

- Issuance of guidelines to facilitate payment service providers in qualifying major incidents and the circumstances under which a payment institution is required to notify a security incident. Those guidelines shall be issued within two years of the date of entry into force of this Directive.
- In close cooperation with the ECB, issuance of guidelines addressed to payment service providers as set out in Article 1(1) of this Directive in accordance with Article 16 of Regulation (EU) No 1093/2010 on state of the art customer authentication and any exemption to the use of strong customer authentication. Those guidelines shall be issued within two years from the date of entry into force of this Directive and be updated on a regular basis as appropriate.