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Committee on Economic and Monetary Affairs

2013/0264(COD)

26.11.2013

*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council on payment services in the internal market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC (COM(2013)0547 – C7-0230/2013 – 2013/0264(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Diogo Feio

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ¶ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on payment services in the internal market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC (COM(2013)0547 – C7-0230/2013 – 2013/0264(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0547),
 - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0230/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of ... 2013¹,
 - having regard to the opinion of the European Central Bank of ... 2013²,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Legal Affairs (A7-0000/2013),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive
Recital 3

¹ OJ C ... /Not yet published in the Official Journal.

² OJ C ... /Not yet published in the Official Journal.

(3) The review of the Union legal framework on payment services and notably the analysis of the impact of Directive 2007/64/EC and the consultation on the Commission Green Paper ‘Towards an integrated European market for card, internet and mobile payments’²⁴ have shown that developments have given rise to important challenges from a regulatory perspective. Important areas of the payments market, in particular card payments, internet and mobile payments are often still fragmented along national borders. *Many innovative payment products or services do not fall, entirely or in large parts, under the scope of Directive 2007/64/EC. Furthermore, the scope of Directive 2007/64/EC and in particular, the elements excluded therefrom, as certain payment-related activities from the general rules, proved in a few cases too ambiguous, too general or simply outdated, taking into account the market developments. This has resulted in legal uncertainty, potential security risks in the payment chain and a lack of consumer protection in certain areas. For innovative and easy-to-use digital payment services it has proven to be difficult to take off and provide consumers and retailers with effective, convenient and secure payment methods in the Union.*

²⁴ COM(2012) 941 final.

(3) The review of the Union legal framework on payment services and notably the analysis of the impact of Directive 2007/64/EC and the consultation on the Commission Green Paper ‘Towards an integrated European market for card, internet and mobile payments’²⁴ have shown that developments have given rise to important challenges from a regulatory perspective. Important areas of the payments market, in particular card payments, internet and mobile payments are often still fragmented along national borders.

²⁴ COM(2012) 941 final.

Or. en

Amendment 2

Proposal for a directive Recital 5

Text proposed by the Commission

(5) New rules should be provided in order to close the regulatory gaps while at the same time providing for more legal clarity and ensuring a consistent application of the legislative framework across the Union. Equivalent operating conditions should be guaranteed to both existing and new players on the market, facilitating new means of payment to reach a broader market and ensuring a high level of consumer protection in the use of these payment services across the whole of the Union. ***This should lead to a downward trend in costs and prices for payment services users and more choice and transparency of payment services.***

Amendment

(5) New rules should be provided in order to close the regulatory gaps while at the same time providing for more legal clarity and ensuring a consistent application of the legislative framework across the Union. Equivalent operating conditions should be guaranteed to both existing and new players on the market, facilitating new means of payment to reach a broader market and ensuring a high level of consumer protection in the use of these payment services across the whole of the Union.

Or. en

Amendment 3

**Proposal for a directive
Recital 5 a (new)**

Text proposed by the Commission

Amendment

(5a) The Single Euro Payments Area ("SEPA") governance arrangements in place, including the role of the existing SEPA Council, an ad-hoc high level governing body, which was put in place under the co-chairmanship of the Commission and the European Central Bank (ECB) for an initial period of three years in order to improve stakeholders' involvement in SEPA, should be strengthened. To that end, the mandate of the SEPA Council should be clarified, its composition reviewed and a better balance of interest of the supply and the demand side established, to ensure effective advice to Commission and the ECB as regards the orientation of the SEPA project in the

future and to facilitate the creation of an integrated, competitive and innovative market for retail payments, in particular in the euro area. The Commission should work with the ECB to identify appropriate ways to address the tasks, composition, chairmanship and functioning of the governance arrangements of SEPA.

Or. en

Amendment 4

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) In addition to the general measures to be taken at Member States' level in Directive [pls insert number of NIS Directive after adoption], the security risks related to payment transactions should also be addressed at the level of the payment service providers. The security measures to be taken by the payment service providers need to be proportionate to the security risks concerned. A regular reporting mechanism should be established, so as to ensure payment services should provide the competent authorities on ***an annual*** basis with updated information on the assessment of their security risks and the (additional) measures that they have taken in response to these risks. Furthermore, in order to ensure that damages to other payment service providers and payment systems, such as a substantial disruption of a payment system and to users is kept to a minimum, it is essential that payment service providers have the obligation to report within undue delay major security incidents to the European Banking Authority.

Amendment

(7) The security measures to be taken by the payment service providers need to be proportionate to the security risks concerned. A regular reporting mechanism should be established, so as to ensure payment services should provide the competent authorities on ***a regular*** basis with updated information on the assessment of their security risks and the (additional) measures that they have taken in response to these risks. Furthermore, in order to ensure that damages to other payment service providers and payment systems, such as a substantial disruption of a payment system and to users is kept to a minimum, it is essential that payment service providers have the obligation to report within undue delay major security incidents to the European Banking Authority.

Amendment 5

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) In that context, the Commission should ensure that consumers are fully informed of their rights, so that they can exercise them effectively. The Commission should develop a leaflet to be widely distributed across the Union with easily comprehensible information listing the rights of consumers under this Directive and related Union law

Or. en

Amendment 6

Proposal for a directive Recital 9

Text proposed by the Commission

Amendment

(9) In order to avoid divergent approaches across Member States to the detriment of consumers, the provisions on transparency and information requirements for payment service providers in this Directive should also apply to transactions where the payer's or payee's payment service provider is located within the European Economic Area (hereinafter 'EEA') and the other payment service provider is located outside the EEA. It is also appropriate to extend the application of transparency and information provisions to transactions in all currencies between payment service providers that are located within the EEA.

(9) In order to avoid divergent approaches across Member States to the detriment of consumers, the provisions on transparency and information requirements for payment service providers ***and on rights and obligations in relation to the provisions and use of payment services*** in this Directive should also apply to transactions where the payer's or payee's payment service provider is located within the European Economic Area (hereinafter 'EEA') and the other payment service provider is located outside the EEA. It is also appropriate to extend the application of transparency and information provisions to transactions in all currencies between payment service providers that are located

within the EEA.

Or. en

Amendment 7

Proposal for a directive Recital 12

Text proposed by the Commission

(12) Feedback from the market shows that the payment activities covered by the limited network exception often comprise massive payment volumes and values and offer to consumers hundreds or thousands of different products and services, which does not fit the purpose of the limited network exemption as provided for in Directive 2007/64/EC. That implies greater risks and no legal protection for payment service users, in particular for consumers and clear disadvantages for regulated market actors. A more precise description of a limited network, in line with Directive 2009/110/EC, is necessary in order to limit those risks. A payment instrument should thus be considered to be used within such a limited network if it can be used only either for the purchase of goods and services in a specific store or chain of stores, or for a limited range of goods or services, regardless of the geographical location of the point of sale. Such instruments could include store cards, petrol cards, membership cards, public transport cards, meal vouchers or vouchers for specific services, which are sometimes subject to a specific tax or labour legal framework designed to promote the use of such instruments to meet the objectives laid down in social legislation. Where such a specific-purpose instrument develops into a general purpose instrument, the exemption from the scope of this Directive should no longer apply. Instruments which

Amendment

(12) Feedback from the market shows that the payment activities covered by the limited network exception often comprise massive payment volumes and values and offer to consumers hundreds or thousands of different products and services, which does not fit the purpose of the limited network exemption as provided for in Directive 2007/64/EC. That implies greater risks and no legal protection for payment service users, in particular for consumers and clear disadvantages for regulated market actors. A more precise description of a limited network, in line with Directive 2009/110/EC, is necessary in order to limit those risks. A payment instrument should thus be considered to be used within such a limited network if it can be used only either for the purchase of goods and services in a specific store or **website or** chain of stores **or websites**, or for a limited range of goods or services, regardless of the geographical location of the point of sale. Such instruments could include store cards, petrol cards, membership cards, public transport cards, meal vouchers or vouchers for specific services, which are sometimes subject to a specific tax or labour legal framework designed to promote the use of such instruments to meet the objectives laid down in social legislation. Where such a specific-purpose instrument develops into a general purpose instrument, the exemption from the scope of this Directive should no longer apply.

can be used for purchases in stores of listed merchants should not be exempted from the scope of this Directive as such instruments are typically designed for a network of service providers which is continuously growing. The exemption should apply in combination with the obligation of potential payment service providers to notify activities falling within the scope of the definition of a limited network.

Instruments which can be used for purchases in stores of listed merchants should not be exempted from the scope of this Directive as such instruments are typically designed for a network of service providers which is continuously growing. The exemption should apply in combination with the obligation of potential payment service providers to notify activities falling within the scope of the definition of a limited network.

Or. en

Amendment 8

Proposal for a directive

Recital 13

Text proposed by the Commission

Amendment

(13) Directive 2007/64/EC exempts from its scope certain payment transactions by means of telecom or information technology devices where the network operator not only acts as an intermediary for the delivery of digital goods and services through the device in question, but also adds value to these goods or services. In particular, this exemption allows for so called operator billing or direct to phone-bill purchases which, starting with ringing tones and premium SMS-services, contributes to the development of new business models based on low-value sale of digital content. Feedback from the market shows no evidence that this payment method, trusted by consumers as convenient for low threshold payments, has developed into a general payment intermediation service. However, due to the ambiguous wording of the current exemption, this rule has been implemented differently in Member States. This translates into lack of legal certainty for operators and

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consumers and has occasionally allowed other payment intermediation services to claim eligibility for the exemption of the application of Directive 2007/64/EC. It is therefore appropriate to narrow down the scope of that Directive. The exemption should focus specifically on micro-payments for digital content, such as ringtones, wallpapers, music, games, videos, or applications. The exemption should only apply to payment services when provided as ancillary services to electronic communications services (i.e. the core business of the operator concerned).

Or. en

Amendment 9

Proposal for a directive Recital 18

Text proposed by the Commission

(18) Since the adoption of Directive 2007/64/EC new types of payment services have emerged, especially in the area of internet payments. In particular, third party providers (hereinafter ‘TPPs’) have evolved, offering so-called payment initiation services to consumers and merchants, often without entering into the possession of the funds to be transferred. Those services facilitate the e-commerce payments by establishing a software bridge between the website of the merchant and the online banking platform of the consumer in order to initiate internet payments on the basis of credit transfers or direct debits. The TPPs offer a low-cost alternative to card payments for both merchants and consumers and provide consumers a possibility to shop online even if they do not possess credit cards. However, as TPPs are currently not subject

Amendment

(18) Since the adoption of Directive 2007/64/EC new types of payment services have emerged, especially in the area of internet payments. In particular, third party providers (hereinafter ‘TPPs’) have evolved, offering so-called payment initiation services to consumers and merchants, often without entering into the possession of the funds to be transferred. Those services facilitate the e-commerce payments by establishing a software bridge between the website of the merchant and the online banking platform of the consumer in order to initiate internet payments on the basis of credit transfers or direct debits. The TPPs offer a low-cost alternative to card payments for both merchants and consumers and provide consumers a possibility to shop online even if they do not possess credit cards. ***TPPs also represent important security***

to Directive 2007/64/EC, they are not necessarily supervised by a competent authority and do not follow the requirements of Directive 2007/64/EC. This raises a series of legal issues, such as consumer protection, security and liability as well as competition and data protection issues. The new rules should therefore **respond to those issues.**

challenges to the safeguarding of the integrity of payments and personal data made available to them by payers. However, as TPPs are currently not subject to Directive 2007/64/EC, they are not necessarily supervised by a competent authority and do not follow the requirements of Directive 2007/64/EC. This raises a series of legal issues, such as consumer protection, security and liability as well as competition and data protection issues. The new rules should therefore ***address all those challenges appropriately and ensure that TPPs operating in the Union are licensed or registered and supervised as payment institutions.***

Or. en

Amendment 10

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) Money remittance is a simple payment service that is usually based on cash provided by a payer to a payment service provider, which remits the corresponding amount, for example via communication network, to a payee or to another payment service provider acting on behalf of the payee. In some Member States supermarkets, merchants and other retailers provide to the public a corresponding service enabling the payment of utility and other regular household bills. Those bill-paying services should be treated as money remittance, unless the competent authorities consider the activity to fall under another payment service.

Amendment

(19) Money remittance is a simple payment service that is usually based on cash provided by a payer to a payment service provider, which remits the corresponding amount, for example via communication network, to a payee or to another payment service provider acting on behalf of the payee. In some Member States ***ATMs***, supermarkets, merchants and other retailers provide to the public a corresponding service enabling the payment of utility and other regular household bills. Those bill-paying services should be treated as money remittance, unless the competent authorities consider the activity to fall under another payment service.

Or. en

Amendment 11

Proposal for a directive Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) To complete the internal market in payments and to ensure that it is conducive to a striving electronic commerce and to economic growth, it is important to allow potential new entrants and current payment service providers alternatives to card payments in order to develop and enhance their services to consumers and retailers. Therefore, access to the international bank account number (IBAN), as defined in Article 2(15) of Regulation (EU) No 260/2012 of the European Parliament and of the Council^{26a} stored on the electronic chip of debit cards, or to their equivalent for mobile or online payments based thereon, including the electronic chip of the smartphone, the payment application deriving from the debit card or any equivalent embedded technology, should allow those payment service providers to initiate automatically, with the cardholder's consent, a payment transaction (e.g. a direct debit or a credit transfer) using the IBAN stored on the electronic chip of debit cards or any other equivalent embedded technology.

^{26a} ***Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012).***

Or. en

Amendment 12

Proposal for a directive Recital 28 a (new)

Text proposed by the Commission

Amendment

(28a) In order to ensure that a safe and robust system is put in place and that all players in the market are on a level playing field, EBA should be mandated to create a special working group where payment institutions including both services providers and third-party payment service providers should work together to develop a single European payments interface that allows third-party payment services providers to access the information necessary to authorise a payment on behalf of the payer without disclosing all the account data or involving the transmission of all the payer's credentials. That working group should be as inclusive as possible, should ensure a broad representation of the market players of the different Member States and should involve the Commission. Such an interface should be developed to create a safer system for users and not in any way to create an unnecessary burden on third-party payment service providers. EBA should issue binding technical standards on the single European payments interface, taking into account the contributions of the different stakeholders within 18 months of the creation of the working group. If, after that period, the market players have not managed to come to an agreement and EBA has not succeeded in issuing technical standards, then the Commission should complete the task. The creation of a single European interface should not, in any event, be a condition for the entry into force of any of the provisions of this Directive.

Or. en

Amendment 13

Proposal for a directive Recital 37

Text proposed by the Commission

(37) In recent years, certain three party payment systems in which the system acts as the sole payment service provider for both the payer and the payee, have become respectable players in the market for processing payments. It is therefore no longer justified to allow these systems to benefit from an exemption with regard to providing access to other payment service providers, where other payment systems cannot benefit from such exemption.

Amendment

deleted

Or. en

Amendment 14

Proposal for a directive Recital 41

Text proposed by the Commission

(41) This Directive should specify the obligations on payment service providers as regards the provision of information to the payment service users who should receive the same high level of clear information about payment services in order to make well-informed choices and be able to choose freely within the Union. In the interest of transparency this Directive should lay down the harmonised requirements needed to ensure that necessary **and** sufficient information is given to the payment service users with regard to the payment service contract and the payment transactions. In order to promote smooth functioning of the single

Amendment

(41) This Directive should specify the obligations on payment service providers as regards the provision of information to the payment service users who should receive the same high level of clear information about payment services in order to make well-informed choices and be able to choose freely within the Union. In the interest of transparency this Directive should lay down the harmonised requirements needed to ensure that necessary, sufficient **and comprehensible** information is given to the payment service users with regard to the payment service contract and the payment transactions. In order to promote smooth functioning of the

market in payment services, Member States should be able to adopt only those information provisions laid down in this Directive.

single market in payment services, Member States should be able to adopt only those information provisions laid down in this Directive.

Or. en

Amendment 15

Proposal for a directive Recital 42

Text proposed by the Commission

Amendment

(42) Consumers should be protected against unfair and misleading practices in line with Directive 2005/29/EC of the European Parliament and the Council³⁴ as well as Directive 2000/31/EC of the European Parliament and the Council³⁵ and Directive 2002/65/EC of the European Parliament and the Council³⁶. The additional provisions in those Directives continue to be applicable. However, the relationship of the pre-contractual information requirements between this Directive and Directive 2002/65/EC should, in particular, be clarified.

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³⁴ *Directive 2005/29/EC of the European Parliament and the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the Internal Market (OJ L 149, 11.06.2005, p. 22).*

³⁵ *Directive 2000/31/EC of the European Parliament and the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.07.2000, p. 1).*

³⁶ *Directive 2002/65/EC of the European Parliament and the Council of 23*

September 2002 concerning the distance marketing of consumer financial services (OJ L 271, 9.10.2002, p. 16).

Or. en

Amendment 16

Proposal for a directive Recital 43

Text proposed by the Commission

(43) The information required should be proportionate to the needs of users and communicated in a standard format. However, the information requirements for a single payment transaction should be different from those of a framework contract which provides for the series of payment transactions.

Amendment

(43) The information required should be proportionate to the needs of users and communicated in a standard ***and clear*** format. However, the information requirements for a single payment transaction should be different from those of a framework contract which provides for the series of payment transactions.

Or. en

Amendment 17

Proposal for a directive Recital 51

Text proposed by the Commission

(51) It is necessary to set up the criteria under which TPPs are allowed to access and use the information on the availability of funds on the payment service user account held with another payment service provider. In particular, necessary data protection and security requirements set or referred to in this Directive or included in the EBA guidelines should be fulfilled by both the TPP and the payment service provider servicing the account of the payment service user. ***The payers*** should give ***an*** explicit consent to the TPP to

Amendment

(51) It is necessary to set up the criteria under which TPPs are allowed to access and use the information on the availability of funds on the payment service user account held with another payment service provider. In particular, necessary data protection and security requirements set or referred to in this Directive or included in the EBA guidelines should be fulfilled by both the TPP and the payment service provider servicing the account of the payment service user. ***Payers*** should ***be informed unequivocally where they are***

access their payment account and be properly informed about the extent of this access. To allow the development of other payment services providers which cannot receive deposits, it is necessary that credit institutions provide them with the information on the availability of funds if the payer has given consent for this information to be communicated to the payment service provider issuer of the payment instrument.

using a TPP and should give explicit consent to the TPP to access their payment account and be properly informed about the extent of this access. To allow the development of other payment services providers which cannot receive deposits, it is necessary that credit institutions provide them with the information on the availability of funds if the payer has given consent for this information to be communicated to the payment service provider issuer of the payment instrument. ***To ensure the free access to the market of innovative payment service providers, no contract or agreement between an account servicing payment service provider and a TPP should be required.***

Or. en

Amendment 18

Proposal for a directive Recital 52

Text proposed by the Commission

(52) Rights and obligations of the payment service users and payment service providers should be appropriately adjusted to take account of the TPP involvement in the transaction whenever the payment initiation service is used. Specifically, a balanced liability repartition between the payment service provider servicing the account and the TPP involved in the transaction should compel them to take responsibility for the respective parts of the transaction that are under their control and clearly point to the responsible party in case of incidents. In case of fraud or dispute, the TPP should be under a specific obligation to provide the payer and the account servicing payment service provider with the reference of the transactions and the information of the authorisation

Amendment

(52) Rights and obligations of the payment service users and payment service providers should be appropriately adjusted to take account of the TPP involvement in the transaction whenever the payment initiation service is used. Specifically, a balanced liability repartition between the payment service provider servicing the account and the TPP involved in the transaction should compel them to take responsibility for the respective parts of the transaction that are under their control and clearly point to the responsible party in case of incidents. ***TPPs should therefore be directly liable before payers for any unauthorised or incorrectly executed payment transaction caused by a payment order transmitted by them.*** In case of fraud or dispute, the TPP should be under a

relating to the transaction concerned.

specific obligation to provide the payer and the account servicing payment service provider with the reference of the transactions and the information of the authorisation relating to the transaction concerned.

Or. en

Amendment 19

Proposal for a directive Recital 54

Text proposed by the Commission

(54) In the case of unauthorized payment transactions the payer should be refunded **immediately** the amount of the respective transaction. In order to prevent the payer from any disadvantages, the credit value date of the refund should not be later than the date when the respective amount has been debited. In order to provide an incentive for the payment service user to notify, without undue delay, the provider of any theft or loss of a payment instrument and thus to reduce the risk of unauthorised payment transactions, the user should be liable only for a very limited amount, unless the payment service user has acted fraudulently or with gross negligence. In this context an amount of EUR 50 seems to be adequate in order to ensure a harmonized and a high level user protection within the Union. Moreover, once users have notified a payment service provider that their payment instrument may have been compromised, the users should not be required to cover any further losses stemming from unauthorised use of that instrument. This Directive should be without prejudice to the payment service providers' responsibility for technical security of their own products.

Amendment

(54) In the case of unauthorized payment transactions the payer should, **within one working day**, be refunded the amount of the respective transaction. In order to prevent the payer from any disadvantages, the credit value date of the refund should not be later than the date when the respective amount has been debited. **Where this is no longer technically possible, the payer should also be compensated for loss of interest.** In order to provide an incentive for the payment service user to notify, without undue delay, the provider of any theft or loss of a payment instrument and thus to reduce the risk of unauthorised payment transactions, the user should be liable only for a very limited amount, unless the payment service user has acted fraudulently or with gross negligence. In this context an amount of EUR 50 seems to be adequate in order to ensure a harmonized and a high level user protection within the Union. Moreover, once users have notified a payment service provider that their payment instrument may have been compromised, the users should not be required to cover any further losses stemming from unauthorised use of that instrument. This Directive should be without prejudice to the payment service

providers' responsibility for technical security of their own products.

Or. en

Amendment 20

Proposal for a directive Recital 57

Text proposed by the Commission

(57) This Directive should lay down rules for a refund to protect the consumer when the executed payment transaction exceeds the amount which could reasonably have been expected. In order to prevent a financial disadvantage for the payer, it needs to be ensured that the credit value date of any refund is no later than the date when the respective amount has been debited. In the case of direct debits payment service providers should be able to provide even more favourable terms to their customers, who should have an unconditional right to a refund of any disputed payment transactions. However, this unconditional refund right which ensures the highest level of consumer protection is not justified in cases where the merchant has already fulfilled the contract and the corresponding good or service has already been consumed. In cases where the user makes a claim for the refund of a payment transaction refund rights should affect neither the liability of the payer vis-à-vis the payee from the underlying relationship, e.g. for goods or services ordered, consumed or legitimately charged, nor the users rights with regard to revocation of a payment order.

Amendment

(57) This Directive should lay down rules for a refund to protect the consumer when the executed payment transaction exceeds the amount which could reasonably have been expected. In order to prevent a financial disadvantage for the payer, it needs to be ensured that the credit value date of any refund is no later than the date when the respective amount has been debited. ***Where this is no longer technically possible, the payer should also be compensated for loss of interest.*** In the case of direct debits payment service providers should be able to provide even more favourable terms to their customers, who should have an unconditional right to a refund of any disputed payment transactions. However, this unconditional refund right which ensures the highest level of consumer protection is not justified in cases where the merchant has already fulfilled the contract and the corresponding good or service has already been consumed. In cases where the user makes a claim for the refund of a payment transaction refund rights should affect neither the liability of the payer vis-à-vis the payee from the underlying relationship, e.g. for goods or services ordered, consumed or legitimately charged, nor the users rights with regard to revocation of a payment order.

Or. en

Amendment 21

Proposal for a directive Recital 63

Text proposed by the Commission

(63) ***Different national practices concerning*** charging for the use of a given payment instrument (hereinafter ‘surcharging’) ***have led to extreme heterogeneity of the Union's payments market and become a source of confusion for consumers, in particular in the e-commerce and cross-border context. Merchants located in Member States where surcharging is allowed offer products and services in Member States where it is prohibited and in this case still surcharge the consumer.*** Moreover, a strong rationale for revision of surcharging practices is supported by the fact that Regulation (EU) No xxx/yyyy establishes rules for multilateral interchange fees for card-based payments. As interchange fees are the main element making most card payments expensive and surcharging is in practice limited to card-based payments, the rules on interchange fees should be accompanied by a revision of surcharging rules. In order to promote cost transparency and the use of the most efficient payment instruments, Member States and payment service providers should not prevent the payee from requesting a charge from the payer for using a specific payment instrument, duly taking into account the provisions set out in Directive 2011/83/EU. However, the right of the payee to request a surcharge should only apply to those payment instruments for which interchange fees are not regulated. This should act as a steering mechanism towards the cheapest means of payments.

Amendment

(63) ***In order to promote cost transparency and the use of the most efficient payment instruments, Member States and payment service providers should not prevent*** charging for the use of a given payment instrument (hereinafter ‘surcharging’) ***therefore allowing the payee to requesting a charge from the payer for using a specific payment instrument, provided that such charge will not exceed the costs borne by the payee for the use the specific payment instrument. Also, payment service provider should not prevent the payee from offering the payer a reduction for use of a specific payment instrument. This should act as a steering mechanism towards the cheapest means of payments.*** Moreover, a strong rationale for revision of surcharging practices is supported by the fact that Regulation (EU) No xxx/yyyy establishes rules for multilateral interchange fees for card-based payments. As interchange fees are the main element making most card payments expensive and surcharging is in practice limited to card-based payments, the rules on interchange fees should be accompanied by a revision of surcharging rules. In order to promote cost transparency and the use of the most efficient payment instruments, Member States and payment service providers should not prevent the payee from requesting a charge from the payer for using a specific payment instrument, duly taking into account the provisions set out in Directive 2011/83/EU. However, the right of the payee to request a surcharge should only apply to those payment instruments

for which interchange fees are not regulated. This should act as a steering mechanism towards the cheapest means of payments.

Or. en

Amendment 22

Proposal for a directive Recital 74 a (new)

Text proposed by the Commission

Amendment

(74a) In the light of the ECB's commitment to establish and chair the successor of the SEPA Council, the Euro Retail Payments Board (ERPB) and of the Commission's commitment to participate actively in the ERPB, the Commission should ensure that SEPA governance is strengthened without undue delay after entry into force of this Directive. It should ensure that the Union method is applied wher possible and, at the same time, ownership by stakeholders, on the supply and on the demand side, should be sought through active involvement, consultation and full transparency. In particular, payment service providers and users should be represented on the same footing, ensuring active involvement of stakeholders, contributing to sufficient communication of the SEPA process to end-users and monitoring the implementation of the SEPA process

Or. en

Amendment 23

Proposal for a directive Article 2 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to payment services provided within the Union, where both the payer's payment service provider and the payee's payment service provider are, or the sole payment service provider in the payment transaction is, located therein. **Article 78** and **Title III** shall also apply to payment transactions where only one of the payment service providers is located within the Union, in respect to those parts of the payments transaction which are carried out in the Union.

Amendment

1. This Directive shall apply to payment services provided within the Union, where both the payer's payment service provider and the payee's payment service provider are, or the sole payment service provider in the payment transaction is, located therein. **Titles III and IV, except for Article 72 and Article 74(1)** shall also apply to payment transactions where only one of the payment service providers is located within the Union, in respect to those parts of the payments transaction which are carried out in the Union.

Or. en

Amendment 24

Proposal for a directive
Article 3 – point k

Text proposed by the Commission

(k) services based on specific instruments that are designed to address precise needs that can be used only in a limited way, because they allow the specific instrument holder to acquire goods or services only **in the premises of the** issuer or within a limited network of service providers under direct commercial agreement with a professional issuer or because they can be used only to acquire a limited range of goods or services;

Amendment

(k) services based on specific instruments that are designed to address precise needs that can be used only in a limited way, because they allow the specific instrument holder to acquire goods or services **of only one issuer and its affiliates** or within a limited network of service providers under direct commercial agreement with a professional issuer **and its affiliates** or because they can be used only to acquire a limited range of goods or services;

Or. en

Amendment 25

Proposal for a directive
Article 3 – paragraph 1 – point k a (new)

Text proposed by the Commission

Amendment

(ka) an instrument valid only in a single Member State and regulated by a specific social or tax framework, provided on request of an enterprise or a public entity, carrying a right for an individual to receive goods or services from suppliers having a commercial agreement with the issuer and which cannot be exchanged for money;

Or. en

Amendment 26

Proposal for a directive Article 4 – point 11

Text proposed by the Commission

Amendment

11. ‘third party payment service provider’ means a payment service provider pursuing business activities referred to in point 7 of Annex I;

11. ‘third party payment service provider’ means a payment service provider pursuing business activities referred to in point 7 of Annex I. ***The third party payment service provider shall not be considered a payment service user;***

Or. en

Amendment 27

Proposal for a directive Article 4 – point 21

Text proposed by the Commission

Amendment

21. ‘authentication’ means a procedure which allows the payment service provider to verify the identity of a user of a specific payment instrument, including the use of its personalised security features or the checking of personalised identity

21. ‘authentication’ means a procedure which allows the payment service provider to verify the identity of a user ***or of a TPP where permitted under this Directive,*** , of a specific payment instrument, including the use of its personalised security features

documents;

or the checking of personalised identity documents;

Or. en

Amendment 28

Proposal for a directive Article 4 – point 22

Text proposed by the Commission

22. ‘strong customer authentication’ means a procedure *for the validation* of the identification *of a natural or legal person based on the use of two or more elements categorised as knowledge, possession and inherence that are* independent, *in that* the breach of one does not compromise the *reliability of the others and is* designed in such a way as to protect the confidentiality of the authentication data.

Amendment

22. ‘strong customer authentication’ means a procedure *based on the use of two or more* of the *following elements*:

(a) something only the user knows, e.g. a static password, a code or a personal identification number (knowledge);

(b) something only the user possesses, e.g. a token, a smart card or a mobile phone (ownership);

(c) something the user is, e.g. biometric characteristic, such as a fingerprint (inherence).

The elements selected shall be mutually independent, i.e. the breach of one does not compromise a breach of the other(s). The procedure shall be designed in such a way as to protect the confidentiality of the authentication data. This definition shall be in line with the ECB Eurosystem's recommendations for the security of internet payments under the SecuRe Pay Forum.

Or. en

Amendment 29

Proposal for a directive Article 4 – point 30

Text proposed by the Commission

30. 'business day' means a day on which the relevant payment service provider of the payer or the payment service provider of the payee involved in the execution of a payment transaction is open for business as required for the execution of a payment transaction;

Amendment

30. 'business day' means a day on which the relevant payment service provider of the payer or the payment service provider of the payee involved in the execution of a payment transaction is open for business as required for the execution of a payment transaction ***in accordance with the Eurosystem's payment system Target2;***

Or. en

Amendment 30

Proposal for a directive Article 4 – point 32

Text proposed by the Commission

32. 'payment initiation service' means a ***payment*** service ***enabling*** access to a payment account ***provided*** by a third party payment service provider, ***where*** the payer can be ***actively*** involved in the payment initiation or the third party payment service ***provider's software, or where*** payment ***instruments*** can be used by the payer or the payee to transmit the payer's ***credentials*** to the account servicing payment service provider;

Amendment

32. 'payment initiation service' means a service ***based on*** access to a payment account by a third party payment service provider ***upon request and express consent by the payer, whereby either*** the payer can be ***directly*** involved in the payment initiation, or the ***payment order is transmitted by the*** third party payment service ***provider to the account servicing payment service provider, or a payment instrument*** can be used by the payer or the payee to transmit the payer's ***instructions*** to the account servicing payment service provider ***and access to the payer's account information by a third party payment service provider is limited to the information on the availability of funds for the specified payment transaction.***

Amendment 31

Proposal for a directive Article 4 – point 33

Text proposed by the Commission

33. ‘account information service’ means a payment service ***where consolidated and user-friendly information is provided to a payment service user on one or several payment accounts held by the payment service user with one or several account servicing payment service providers;***

Amendment

33. ‘account information service’ means a payment service ***based on access to one or more payment accounts by a third party payment service provider to provide aggregation services where information is collected from one or more payment accounts at the disposal of the payment service user with one or several account servicing payment service providers for the purpose of enabling the execution of a payment transaction which is specified in terms both of value and of moment in time where it is to be executed;***

Amendment 32

Proposal for a directive Article 4 – point 38 a (new)

Text proposed by the Commission

Amendment

38a. 'third party payment instrument issuer' means a payment service provider pursuing business activities referred to in point 5 of Annex I;

Amendment 33

Proposal for a directive Article 4 – point 38 b (new)

Text proposed by the Commission

Amendment

38b. 'card-based payment transaction' means a service used to complete a payment transaction by means of any card, telecommunication, digital or IT device, or software if this results in a payment card transaction, not including transactions based on other kinds of payment services;

Or. en

Amendment 34

**Proposal for a directive
Article 4 – point 38 c (new)**

Text proposed by the Commission

Amendment

38c. 'payment initiation' means the preparation of a payment order by gathering information and filling them out in paper or digital form before its receipt and execution by the payer's account-holding payment service provider. A payment initiation can be carried out by the payer's account-holding payment service provider in the case of credit transfer, by the payee's account-holding payment service provider in the case of direct debit, or by a third party payment service provider in either case;

Or. en

Amendment 35

**Proposal for a directive
Article 4 – point 38 d (new)**

Text proposed by the Commission

Amendment

38d. 'acquiring of payment transactions' means a payment service provided by a payment service provider contracting a payee directly or indirectly to accept and process the payee's payment transactions initiated by a payer's payment instrument, including providing authentication, authorisation, and settling services resulting in the transfer of funds to the payee irrespective of whether the acquirer is holding the funds on behalf of the payee;

Or. en

Amendment 36

**Proposal for a directive
Article 4 – point 38 e (new)**

Text proposed by the Commission

Amendment

38e. 'issuing of payment instruments' means a payment service where a payment service provider directly or indirectly provides the payer with a payment instrument to initiate, process and settle the payer's payment transactions;

Or. en

Amendment 37

**Proposal for a directive
Article 4 – point 38 f (new)**

Text proposed by the Commission

Amendment

38f. 'credit transfer' means a national or cross-border payment service for crediting

a payee's payment account with a payment transaction or a series of payment transactions from a payer's payment account by the payment service provider which holds the payer's payment account, based on an instruction given by the payer;

Or. en

Amendment 38

Proposal for a directive Article 4 – point 38 g (new)

Text proposed by the Commission

Amendment

38g. 'sensitive payment data' means data which could be used to carry out fraud, excluding the name of the account owner and the account number, including data enabling a payment order to be initiated (e.g. PAN, card expiry date, CVx2), data used for authentication (customer identifiers, birth date, passwords, codes, personal identification numbers, secret questions, passwords/codes for reset, telephone number, certificates), data used for ordering payment instruments or authentication tools to be sent to customers (customer's physical address, telephone number, e-mail address), as well as data, parameters and software which, if modified, may affect the legitimate party's ability to verify payment transactions, authorise e-mandates or control the account (such as "black" and "white" lists or customer-defined limits), browser plug-ins and java applets provided by payment service providers to their customers;

Or. en

Amendment 39

Proposal for a directive Article 4 – point 38 h (new)

Text proposed by the Commission

Amendment

38h. 'debit card transaction' means a card payment transaction included with prepaid cards linked to a current or deposit access account to which a transaction is debited in less than or 48 hours after the transaction has been cleared;

Or. en

Amendment 40

Proposal for a directive Article 4 – point 38 i (new)

Text proposed by the Commission

Amendment

38i. 'credit card transaction' means a card payment transaction where the transaction is settled more than 48 hours after the transaction has been cleared;

Or. en

Amendment 41

Proposal for a directive Article 4 – point 38 j (new)

Text proposed by the Commission

Amendment

38j. 'commercial card' means any payment cards issued to undertakings or public sector entities that are limited in use for business expenses of employees or civil servants or cards issued to self-employed natural persons engaged in a business activity that are limited in use for

business expenses of those self-employed natural persons or their employees.

Or. en

Amendment 42

Proposal for a directive Article 5 – paragraph 1 – point e

Text proposed by the Commission

(e) a description of the applicant's governance arrangements and internal control mechanisms, including administrative, risk management and accounting procedures, which demonstrates that these governance arrangements, control mechanisms and procedures are proportionate, appropriate, sound and adequate;

Amendment

(e) a description of the applicant's governance arrangements and internal control mechanisms, including administrative, risk management and accounting procedures, which demonstrates that these governance arrangements, control mechanisms and procedures are proportionate, appropriate, sound and adequate, ***including an explanation on how 'Know Your Customer' and suspicious transaction reporting rules are applied;***

Or. en

Amendment 43

Proposal for a directive Article 5 – paragraph 1 – point k

Text proposed by the Commission

(k) a description of the internal control mechanisms which the applicant has established in order to comply with obligations in relation to money laundering and terrorist financing under Directive 2005/60/EC of the European Parliament and of the Council⁴⁵ and Regulation (EC) No 1781/2006 of the European Parliament and of the Council⁴⁶ ;

Amendment

(k) ***for payment institutions holding funds,*** a description of the internal control mechanisms which the applicant has established in order to comply with obligations in relation to money laundering and terrorist financing under Directive 2005/60/EC of the European Parliament and of the Council⁴⁵ and Regulation (EC) No 1781/2006 of the European Parliament and of the Council⁴⁶ ;

⁴⁵ Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p.15)

⁴⁶ Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds (OJ L 345, 8.12.2006, p.1).

⁴⁵ Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p.15)

⁴⁶ Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds (OJ L 345, 8.12.2006, p.1).

Or. en

Amendment 44

Proposal for a directive Article 5 – paragraphs 1 a, 1b and 1c (new)

Text proposed by the Commission

Amendment

EBA shall develop draft regulatory technical standards specifying the information to be provided to the competent authorities in the application for the authorisation of payment institutions, including the requirements provided for in points (a), (b), (c), (e), (g), (h), (i) and (j) of the first paragraph.

EBA shall submit those draft regulatory technical standards to the Commission by

...

The Commission shall adopt the draft regulatory standards referred to in the second paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Or. en

Amendment 45

Proposal for a directive

Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The competent authorities may require that payment institutions which are not engaged in other business activities referred to in Article 16(1)(c) must also comply with the requirements under paragraph 1.

Or. en

Amendment 46

Proposal for a directive

Article 9 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The competent authorities may limit the requirements under paragraph 1 to funds of payment service users whose funds individually exceed a threshold of EUR 600.

Or. en

Amendment 47

Proposal for a directive

Article 12 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) no longer fulfils the conditions for granting the authorisation or fails to inform the competent authority on major developments in this respect;

(c) no longer fulfils the conditions for granting the authorisation or fails to inform the competent authority on major developments in this respect ***or to provide accurate statistical reporting;***

Amendment 48

**Proposal for a directive
Article 13 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. The register shall also identify and give reasons for each withdrawal of authorisation by the competent authorities.

Or. en

Amendment 49

**Proposal for a directive
Article 17 – paragraph 2**

Text proposed by the Commission

Amendment

2. When payment institutions engage in the provision of one or more of the payment services, they may hold only payment accounts used exclusively for payment transactions. ***Member States shall ensure that*** access to ***those*** payment accounts ***is*** proportionate.

2. When payment institutions engage in the provision of one or more of the payment services, they may hold only payment accounts used exclusively for payment transactions. ***For payment institutions and their agents to be able to provide payment services, they require*** access to payment accounts. ***Member States shall ensure that such access is provided in a*** proportionate ***manner.***

Or. en

Amendment 50

**Proposal for a directive
Article 21 – paragraph 3**

Text proposed by the Commission

3. Where ***there is more than one*** competent ***authority*** for matters covered by this Title ***on its territory***, Member States shall ensure that those authorities cooperate closely so that they can discharge their respective duties effectively. ***The same applies in cases where the authorities competent for matters covered by this Title are not the competent authorities responsible for the supervision of credit institutions.***

Amendment

3. Where ***the authority*** competent for matters covered by this Title ***is not the competent authority responsible for the supervision of credit institutions*** Member States shall ensure that those authorities cooperate closely so that they can discharge their respective duties effectively.

Or. en

Amendment 51

Proposal for a directive

Article 25 – paragraph 2 - point d a (new)

Text proposed by the Commission

Amendment

(da) Europol, in its capacity as the Union's law enforcement agency and responsible for assisting and coordinating a common approach among competent police authorities of the Member States in combatting organised and other serious crimes and terrorism including euro counterfeiting, forgery of money and other means of payment.

Or. en

Amendment 52

Proposal for a directive

Article 29 – paragraph 2 – subparagraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) payment systems where a sole

payment service provider (whether as a single entity or as a group):

– acts as the payment service provider for both the payer and the payee and is exclusively responsible for the management of the system, and

– licences other payment service providers to participate in the system and the latter have no right to negotiate fees between or amongst themselves in relation to the payment system although they may establish their own pricing in relation to payers and payees.

Or. en

Amendment 53

Proposal for a directive Article 37 – paragraph 1

Text proposed by the Commission

1. Member States shall require that before the payment service user is bound by any single payment service contract or offer, the payment service provider, in an easily accessible manner, makes available to the payment service user the information and conditions specified in Article 38. At the payment service user's request, the payment service provider shall provide the information and conditions on paper or on another durable medium. 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.

Amendment

1. Member States shall require that before the payment service user is bound by any single payment service contract or offer, the payment service provider, in an easily accessible manner, makes available to the payment service user the information and conditions specified in Article 38 **with regard to its own services**. At the payment service user's request, the payment service provider shall provide the information and conditions on paper or on another durable medium. 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.

Or. en

Amendment 54

Proposal for a directive Article 37 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall require that, where a payment order is initiated by a third party payment service provider, it makes available to the payment service user and to the account servicing payment service provider the information and conditions referred to in Article 38. The information and conditions shall be given in a clear and understandable form and in an official language of the Member State where the payment service is offered or in any other language agreed between the parties.

Or. en

Amendment 55

Proposal for a directive Article 38 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall ensure that for payment initiation services, the third party payment service provider shall provide the payer with information **about the service offered and** contact information **to** the third party payment service provider.

2. Member States shall ensure that for payment initiation services, the third party payment service provider shall, **prior to initiation**, provide the payer with **the following** information:

(a) the registration number of the third party payment service provider, and the name of the responsible supervisory authority;

(b) the maximum time-limit within which the payment order is to be transmitted;

(c) all possible charges payable by the payment service user to the third party payment service provider and, where

applicable, the breakdown of the amounts of any charges;

(d) where applicable, the actual or reference exchange rate to be applied;

(e) contact information of the third party payment service provider to resolve any issue with the service offered.

Or. en

Amendment 56

Proposal for a directive Article 39 – introductory part

Text proposed by the Commission

Where a third party payment service provider, at the request of the payer, initiates a payment order, it shall provide **or make available** to the payer and, where applicable, the payee, immediately after initiation, the following data:

Amendment

Where a third party payment service provider, at the request of the payer, initiates a payment order, it shall provide to the payer and, where applicable, the payee, immediately after initiation, the following data:

Or. en

Amendment 57

Proposal for a directive Article 39 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

This Article is without prejudice to the data protection obligations applicable to the third party payment service provider and the payee.

Or. en

Amendment 58

Proposal for a directive Article 40

Text proposed by the Commission

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.

Amendment

Where a payment order is initiated by the third party payment service provider's own system, it shall **when requested to do so, and** 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 information **confirming the payer's consent in accordance with Article 57**.

Or. en

Amendment 59

Proposal for a directive Article 41 – introductory part

Text proposed by the Commission

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:

Amendment

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 **with regard to its own services**:

Or. en

Amendment 60

Proposal for a directive Article 42 – paragraph 1 – introductory part

Text proposed by the Commission

Immediately after the execution of the payment transaction, the payee's payment service provider shall provide or make

Amendment

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:

available to the payee, in the same way as provided for in Article 37(1), all of the following data *with regard to its own services*:

Or. en

Amendment 61

Proposal for a directive Article 44 – paragraph 1

Text proposed by the Commission

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.

Amendment

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 ***makeavailable or, on the request of the payment service user***, 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.

Or. en

Amendment 62

Proposal for a directive Article 45 – paragraph 1 – point 6 – point a

Text proposed by the Commission

(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

Amendment

(a) if agreed, ***except where the change is clearly and unambiguously more favourable to payment service users under Article 47(2)***, information that the payment

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

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;

Or. en

Amendment 63

Proposal for a directive

Article 47 – paragraph 1 – subparagraph 1

Text proposed by the Commission

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.

Amendment

Any changes in the framework contract ***which are not clearly and unambiguously more favourable to payment service users*** 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) no later than two months before their proposed date of application.

Or. en

Amendment 64

Proposal for a directive

Article 47 – paragraph 2

Text proposed by the Commission

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

Amendment

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 ***in the interest or exchange rates*** 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

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.

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, ***and changes to the framework contract which are clearly and unambiguously more favourable to payment service users***, may be applied without notice.

Or. en

Amendment 65

Proposal for a directive Article 53 a (new)

Text proposed by the Commission

Amendment

Article 53a

IBAN readability

Issuers of debit cards or of mobile or online payment applications based on payment cards excluding prepaid cards shall ensure that the IBAN , of the current or deposit access account which is debited by the debit card or payment application are visibly identifiable and can be read electronically by the merchant on the terminal or device enabling card-based payment transactions.

Or. en

Amendment 66

Proposal for a directive Article 54 – paragraph 1

Text proposed by the Commission

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.

Amendment

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), **Article 58(a)** 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.

Or. en

Amendment 67

**Proposal for a directive
Article 55 – paragraph 3**

Text proposed by the Commission

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 the** specific payment instrument.

Amendment

3. The payment service provider shall not prevent the payee from **offering** the payer a reduction **for** use of a specific payment instrument.

Or. en

Amendment 68

**Proposal for a directive
Article 55 – paragraph 3 a (new)**

Text proposed by the Commission

Amendment

3a. Member States may allow payees to request charges to payers provided that such charges will not exceed the costs

borne by the payee for the use of the specific payment instrument.

Or. en

Amendment 69

Proposal for a directive Article 55 – paragraph 4

Text proposed by the Commission

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]

Amendment

However, Member States **may** 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]

Or. en

Amendment 70

Proposal for a directive Article 57 – paragraph 2 – subparagraph 1

Text proposed by the Commission

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.

Amendment

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, ***the consent of the payer is transmitted to the account servicing payment service provider, and the resulting transaction initiation is transmitted by the third party payment***

service provider to the account servicing payment service provider.

Or. en

Amendment 71

Proposal for a directive Article 58 – title

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 72

Proposal for a directive Article 58 – paragraph 1

Text proposed by the Commission

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.

Amendment

1. Member States shall ensure that a payer, ***provided that he holds a payment account that can be accessed via online banking,*** has the right to make use of a ***third party payment service provider, pursuant an agreement between the payer and the*** third party payment service provider to obtain payment services enabling access to payment accounts as referred to in point (7) of Annex I.

Or. en

Amendment 73

Proposal for a directive Article 58 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The account servicing payment service provider shall not deny access to the third party payment service provider when it has been authorised to carry a specific payment on behalf of the payer provided that the payer gives its consent in accordance with Article 57 in an express manner.

Or. en

Amendment 74

Proposal for a directive Article 58 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Payees who offer to payers the option of making use of third party payment service providers or third party payment instrument issuers shall unambiguously provide to payers information about such third party payment service provider(s), including their registration number and the name of their responsible supervisory authority.

Or. en

Amendment 75

Proposal for a directive Article 58 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) when communicating with the account servicing payment service provider, in order to authenticate itself in an unequivocal manner, to use the procedures and standards defined by the account servicing payment service provider;

Or. en

Amendment 76

Proposal for a directive Article 58 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) to authenticate itself in an unequivocal manner towards the account servicing payment service provider(s) of the account owner.

(b) to authenticate itself in an unequivocal manner towards the account servicing payment service provider(s) of the account owner ***and to transmit the consent of the payer to the account servicing payment service provider prior to requesting the payer for its personalised security features;***

Or. en

Amendment 77

Proposal for a directive Article 58 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) not to store ***sensitive payment data or*** personalised security credentials of the payment service user.

(c) not to store personalised security credentials of the payment service user ***and not use any such data for purposes other than those explicitly requested by the payer.***

Amendment 78

Proposal for a directive Article 58 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. 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.

Or. en

Amendment 79

Proposal for a directive Article 58 – paragraph 4

Text proposed by the Commission

Amendment

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.

4. Account servicing payment service providers shall treat payment orders transmitted through the services of a third party payment service provider ***or by a third party payment instrument issuer*** without any discrimination for other than objective reasons ***in particular*** in terms of timing and priority vis-à-vis payment orders transmitted directly by the payer himself.

Or. en

Amendment 80

**Proposal for a directive
Article 58 a (new)**

Text proposed by the Commission

Amendment

Article 58a

***Limits of access to, and use of, payment
account information***

1. A payer may instruct its account servicing payment service provider(s) to block any payment initiation services from the payer's payment account, to block any payment initiation services initiated by one or more specified third party payment service providers, or to authorise payment initiation services only initiated by one or more specified third party payment service providers expressly designated by the payer to access the payer's payment account.

2. Payers may also limit access to their payment account by third party payment service providers to transactions for which the payers set an amount cap.

Or. en

Amendment 81

**Proposal for a directive
Article 59**

Text proposed by the Commission

Amendment

Article 59

deleted

***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.

Or. en

Amendment 82

Proposal for a directive Article 63 – paragraph 2

Text proposed by the Commission

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).

Amendment

2. Where *the payment service user has chosen to make use of* a third party payment service provider the payment service user shall *notify the latter and inform* the account servicing payment service provider. *It is for the third party payment service provider to rectify, unless it can demonstrate that the responsibility lies with either the payment service user or the account servicing payment service provider*, without prejudice to Article

Amendment 83

**Proposal for a directive
Article 63 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. The payment service user shall report to its account servicing payment service provider any incident that affects the former in the context of its use of a third party payment service provider or third party payment instrument issuer. Notwithstanding Article 58, any account servicing payment service provider who records either a number of unauthorised payment transactions introduced by a given third party payment provider or a report of incidents by one or several payment service users which exceeds the proportion of incidents that can be expected under normal circumstances may suspend any further payment orders submitted through the given third party provider. The account servicing payment service provider will immediately report the suspension of the third party provider's payment transaction attempts to the competent authority which will then decide whether to block that third party payment provider.

Amendment 84

**Proposal for a directive
Article 63 – paragraph 2 b (new)**

Text proposed by the Commission

Amendment

2b. Where the competent authority decides to block a third party payment provider, it shall immediately notify EBA, which will initiate a procedure that may lead to the definitive blocking of the activity carried out by that third party payment provider and to the withdrawal of its authorisation.

Or. en

Amendment 85

Proposal for a directive Article 64 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

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.

If the payment **service user initiates the payment transaction** through a third party payment service provider, the burden shall be on the latter to prove that the payment transaction was **authenticated, accurately recorded and** not affected by a technical breakdown or other deficiencies linked to the payment service it is in charge of.

Or. en

Amendment 86

Proposal for a directive Article 65 – paragraph 1

Text proposed by the Commission

Amendment

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

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, **within one business day**, 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.

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 **is** no later than the date the amount had been debited. ***Where this is no longer technically possible, the payer shall also be compensated for loss of interest.***

Or. en

Amendment 87

Proposal for a directive Article 65 – paragraph 2

Text proposed by the Commission

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.**

Amendment

2. Where a third party payment service provider is involved, the account servicing payment service provider shall **inform the payment service user of any** unauthorised payment transaction **caused by a payment order transmitted by a third party payment service provider. In such a case, the latter shall, within one business day, refund the amount of the unauthorised payment transaction on the payer's account held by the account servicing payment service provider and, where applicable, compensation for loss of interest in order to restore the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place.**

Or. en

Amendment 88

Proposal for a directive Article 70 – paragraph 1 – subparagraph 1

Text proposed by the Commission

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.

Amendment

Where the payment service provider ***including, as appropriate, the third party 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.

Or. en

Amendment 89

Proposal for a directive Article 73 – paragraph 2

Text proposed by the Commission

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.

Amendment

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 ***(or seven business days for payment transactions the nature of which requires that the payee's payment service provider perform fraud and security checks before releasing the funds to the payee)*** following the point in time of receipt in accordance with Article 69 ***in so far as the longer period adopted by the payment***

service provider complies with other legal obligations covered by national and Union law.

Or. en

Amendment 90

Proposal for a directive Article 76 – paragraph 1

Text proposed by the Commission

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.

Amendment

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 ***or in the case of operations the nature of which requires the payment service provider to perform fraud and security checks before releasing the funds to the payee***, the amount shall be made available and value dated at the latest on the next business day after the receipt of the funds.

Or. en

Amendment 91

Proposal for a directive Article 78 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. In the case of a transaction carried out by commercial agents negotiating or concluding the sale or purchase of goods or services on behalf of both the payer and the payee, the parties can agree that the amount of the payment transaction is

at the payee's disposal within the timeframe or the specific conditions that the payee and payment service provider have previously agreed upon.

Or. en

Amendment 92

Proposal for a directive Article 80 – paragraph 1 – subparagraph 3

Text proposed by the Commission

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.

Amendment

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. *Where this is no longer technically possible, the payer shall also be compensated for loss of interest.*

Or. en

Amendment 93

Proposal for a directive Article 80 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Where a payment order is initiated by or through the payee, the payment service provider shall, without prejudice to Article

Amendment

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.

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. ***Where this is no longer technically possible, the payer shall also be compensated for loss of interest.***

Or. en

Amendment 94

Proposal for a directive Article 80 – paragraph 2 – subparagraph 2

Text proposed by the Commission

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.

Amendment

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. ***Where this is no longer technically possible, the payer shall also be compensated for loss of interest.***

Amendment 95**Proposal for a directive****Article 80 – paragraph 2 – subparagraph 3***Text proposed by the Commission*

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.

Amendment

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. ***Where this is no longer technically possible, the payer shall also be compensated for loss of interest.***

Amendment 96**Proposal for a directive****Article 80 – paragraph 2 – subparagraph 4***Text proposed by the Commission*

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

Amendment

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. ***Where this is no***

case of correct execution.

longer technically possible, the payer shall also be compensated for loss of interest.

Or. en

Amendment 97

Proposal for a directive Article 82 – paragraph 1

Text proposed by the Commission

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.

Amendment

1. Where the liability of a payment service provider under *Articles 65 and 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 *Articles 65 and 80*. This shall include compensation where any of the payment service providers fail to use strong customer authentication.

Or. en

Amendment 98

Proposal for a directive Article 85 – paragraph 1

Text proposed by the Commission

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.*

Amendment

1. Payment service providers *shall establish a framework with appropriate mitigation measures and control mechanisms to manage the operational risks, including security risks, relating to the payment services they provide. As part of that framework payment service providers shall establish and maintain effective incident management procedures, including the classification of*

major incidents.

Or. en

Amendment 99

Proposal for a directive Article 85 – paragraph 2

Text proposed by the Commission

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.

Amendment

2. , Payment service providers shall, without undue delay, notify any major operational incident, including security incidents, to the competent authority in the home Member State of the payment service provider.

Or. en

Amendment 100

Proposal for a directive Article 85 – paragraph 2 a (new)

Text proposed by the Commission

2a. Upon the receipt of the notification, the competent authority in the home Member State shall assess the relevance of the incident for other authorities, and, based on that assessment, shall share the relevant details of the incident notification with EBA and the ECB.

Amendment

Or. en

Amendment 101

Proposal for a directive Article 85 – paragraph 3

Text proposed by the Commission

3. Upon receipt of the notification, **and where relevant**, EBA shall notify **the** competent authorities **in the** other Member States.

Amendment

3. Upon receipt of the notification EBA shall notify competent authorities **of** other Member States.

Or. en

Amendment 102

Proposal for a directive Article 85 – paragraph 4

Text proposed by the Commission

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.

Amendment

4. **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 **the** possible mitigation measures that they can take on their side to mitigate the adverse effects of the incident

Or. en

Amendment 103

Proposal for a directive Article 85 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. By the ... [insert date] EBA shall, after consulting the ECB, issue guidelines in

accordance with the procedure laid down in Article 16 of Regulation (EU) No 1093/2010 for payment service providers on the classification of major incidents referred to in paragraph 1, on the content, the format and the procedures of incident notifications referred to in paragraph 2, and for the competent authorities on the criteria how to assess which incident notifications are of relevance for other authorities, and which details of the incident reports shall be shared with the other authorities.

Or. en

Amendment 104

Proposal for a directive
Article 85 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. EBA shall, after consulting with the ECB, review the guidelines referred to in paragraph 6 on a regular basis, but at least every two years.

While issuing and reviewing the guidelines referred to in paragraph 6, EBA shall take into account the Commission's implementing act pursuant to Article 14(7) of Directive [NIS Directive] [OP please insert number of Directive once adopted] and standards or specifications developed and published by ENISA for sectors pursuing activities other than payment service provision.

Or. en

Amendment 105

Proposal for a directive
Article 86 – paragraph 1

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Text proposed by the Commission

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.**

Amendment

1. Member States shall ensure that payment service providers provide to the **competent** authority 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.

Or. en

Amendment 106

**Proposal for a directive
Article 86 – paragraph 2**

Text proposed by the Commission

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].

Amendment

2. 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].

Amendment 107**Proposal for a directive
Article 86 – paragraph 4***Text proposed by the Commission*

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).*

Amendment

4. EBA shall *coordinate the sharing of information in the area of operational and security risks associated with payment services with the competent authorities the ECB, the competent authorities under the [NIS] Directive., and, where relevant, with ENISA.*

Amendment 108**Proposal for a directive
Article 87 – paragraph 1***Text proposed by the Commission*

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

Amendment

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 *requirement should apply proportionately to different business models. Where* a third party payment service provider *initiates* a payment transaction on behalf of the payer *it shall support the same strong authentication offered by the account holding payment service provider and* the account servicing payment service provider

behalf of the payment service user.

shall ***not deny*** the third party payment service provider to rely on the authentication methods of the former when acting on behalf of the payment service user.

Or. en

Amendment 109

Proposal for a directive Article 87 – paragraph 3

Text proposed by the Commission

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.

Amendment

3. EBA shall, in close cooperation with the ECB, ***in particular with respect to the "SecuRePay Recommendations"***, 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 (two years from the date of entry into force of this Directive) and be updated on a regular basis as appropriate.

Or. en

Amendment 110

Proposal for a directive Article 89 – paragraph 1

Text proposed by the Commission

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

Amendment

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**.

independent from payment service providers. They shall be competent authorities within the meaning of Article 4(2) of Regulation (EU) **1093/2010**.

Or. en

Amendment 111

Proposal for a directive Article 89 – paragraph 2

Text proposed by the Commission

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.***

Amendment

2. The authorities referred to in paragraph 1 shall possess all the powers necessary for the performance of their duties.

Or. en

Amendment 112

Proposal for a directive Article 89 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. EBA shall, after consulting the ECB, issue guidelines addressed to the competent authorities in accordance with Article 16 of Regulation (EU) No 1093/2010, on the complaints procedures to be taken into consideration to ensure compliance with the relevant provisions under this Directive as set out under paragraph 1 above. Those guidelines shall be issued by ... * [insert date - two years

from the date of entry into force of this Directive] and shall be updated on a regular basis, as appropriate.

Or. en

Amendment 113

Proposal for a directive Article 90 – paragraph 2

Text proposed by the Commission

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.

Amendment

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. ***Where a Member State has more comprehensive complaint resolution procedures governed by the national competent authority the Member State's rules may be applied.***

Or. en

Amendment 114

Proposal for a directive Article 94 a (new)

Text proposed by the Commission

Amendment

Article 94a

SEPA Governance

1 In order to achieve a truly integrated, competitive and innovative market for retail payments in the Union, the Commission shall ensure that SEPA governance is reinforced in order to empower all stakeholders, on the supply and on the demand side, to take a more active role in the conception and realisation of retail payments policy.

2 SEPA Governance shall be closely monitored by the Commission in order to ensure that the Union method is applied wherever possible and, in particular, that the revised SEPA Council is represented by payment service providers and users on the same footing, ensures the active involvement of stakeholders, contributes to sufficient communication of the SEPA process to end-users and monitors the implementation of the SEPA process.

Or. en

Amendment 115

**Proposal for a directive
Article 94 b (new)**

Text proposed by the Commission

Amendment

Article 94b

Single European interface

1. EBA shall create a panel under Article 41 of Regulation (EU) 1093/2010 to develop a single European payments interface focused in achieving a maximum security level for all payments services in the Union and to allow third party payment services providers to access

the information necessary to authorise a payment on behalf of the payer without disclosing all the account data or involving the transmission of all the payer's credentials.

2. The panel will consist of representatives of the Commission, EBA and different market players from all Member States, and shall ensure that the entire market for payments services is represented.

3. EBA shall develop draft regulatory technical standards in order to specify the requirements for the single European payments interface.

EBA shall submit those draft regulatory technical standards to the Commission by ... [OJ please insert date: 12 months after the date of entry into force of this Directive].*

Power is conferred on the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

6. This Article shall not preclude the application of other obligations laid down in this Directive.

Or. en

Amendment 116

Proposal for a directive Article 94 c (new)

Text proposed by the Commission

Amendment

Article 94c

EBA shall make available on its website the list of all the certified payment services providers and third party payment providers registered within the Union.

That list should refer to all certified

payment services providers and third party payment providers whose registration as being revoked and the reasons for such.

All payment institutions shall offer direct links on their websites to the website of the competent authority that lists all the certified payment services providers and third party payment services providers.

Or. en

Amendment 117

Proposal for a directive Article 94 d (new)

Text proposed by the Commission

Amendment

Article 94d

Obligation to inform consumers of their rights

1. By ...* [two years after the entry into force of this Directive], the Commission shall, following a public consultation on a draft, produce a user friendly electronic leaflet listing in a clear and easy to understand manner the rights of consumers under this Directive and related Union law.

2. The leaflet referred to in paragraph 1 shall be made available to all consumers in the Union and other interested parties on the websites of the Commission, EBA and national banking regulators shall be easy to download and to transfer to other websites. The Commission shall inform Member States, payment institutions and consumer associations of the publication of the leaflet.

3. All payment institutions including payment services providers and third party payment services providers shall ensure that the leaflet in its original format is made available to all their clients

electronically on their websites and on paper at their branches, their agents and the entities to which their activities are outsourced.

At those branches, agents and entities, the following clearly legible notice containing the following text shall be displayed in a manner clearly visible to consumers: 'Ask at the counter for the text stating your rights as a payment services user'.

On their websites, the following clearly visible notice shall be displayed: 'Click here for your rights as a payment services user'. The payment institutions shall also ensure that such information is easily accessible by its clients at all times via their online accounts, when available.

4. The leaflet shall, in particular, be distributed electronically or on paper when the client enters into any type of contract or, for clients who are existing clients at the date of publication of the leaflet, by notifying them within one year of publication by the Commission of the leaflet.

5. All payment institutions shall offer direct links on their websites to the website of the competent authority that lists all the certified payment services providers and third party payment services providers.

6. Payment institutions shall not charge their clients for providing information under this Article.

7. In respect of blind and visually impaired persons, the provisions of this Article shall be applied using appropriate alternative means.

Or. en