SUBSIDIARY LEGISLATION 371.18

CREDIT INSTITUTIONS AND FINANCIAL INSTITUTIONS (PAYMENT ACCOUNTS) REGULATIONS*

7th December, 2016;
18th June, 2017;†
31st October, 2018‡

LEGAL NOTICE 411 of 2016, as amended by Legal Notices 324 and 354 of 2018 and 33 of 2024.

Citation and scope. *Amended by: L.N. 324 of 2018.*

1. (1) The title of these regulations is the Credit Institutions and Financial Institutions (Payment Accounts) Regulations.

(2) The purpose of these regulations is to implement the Payment Accounts Directive.

(3) These regulations lay down rules concerning the transparency and comparability of fees charged to consumers on their payment accounts held in Malta,rules concerning the switching of payment accounts within Malta and rules to facilitate cross-border payment account-opening for consumers.

(4) These regulations also define a framework for the rules and conditions according to which Malta is required to guarantee a right for consumers to open and use payment accounts with basic features in Malta.

(5) Parts 2 and 3 of these regulations shall apply to payment service providers, whereas Part 4 of these regulations shall apply to credit institutions.

(6)§ These regulations apply to payment accounts through which consumers are able at least to:

(a) place funds in a payment account;

(b) withdraw cash from a payment account; and

(c) execute and receive payment transactions, including credit transfers, to and from a third party.

(7)** The opening and use of a payment account with basic features pursuant to these regulations shall be in conformity with any anti-money laundering and combating the funding of terrorism obligation arising from applicable law.

Interpretation. *Amended by: L.N. 324 of 2018.*

2. (1) For the purposes of these regulations the following definitions shall apply:

"bundling" means the offering of one or more ancillary service with a payment account in a package, where the payment account

*Repealed by Legal Notice 258 of 2026.
† See regulation 1(6) of Legal Notice 411 of 2017.
‡ See Legal Notice 354 of 2018.
§ Originally numbered as sub-regulation (7).
** Originally numbered as sub-regulation (8).

or the ancillary service may also be made available to the consumer separately, but not necessarily on the same terms or conditions as when offered bundled;

''business day'' means a day on which the relevant payment service provider is open for business as required for the execution of a payment transaction;

"Central Bank" shall have the same meaning as that assigned to it in the Banking Act;

''Charter'' means the Charter of Fundamental Rights of the European Union;

"combined account" means a type of account which comprises a payment account, an overdraft and a loan facility simultaneously;

''competent authority'' means the Malta Financial Services Authority established by the Malta Financial Services Authority Act; Cap. 330.

"consumer" means any natural person who is acting for purposes which are outside his trade, business, craft or profession;

''credit institution'' has the same meaning as is assigned to the term in the Banking Act; Cap. 371.

"credit interest rate" means any rate at which interest is paid to the consumer in respect of funds held in a payment account;

''credit transfer'' means a national payment service or a cross-border payment service in and outside Malta, 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;

''creditor-driven direct debit'' means a payment service for debiting a consumer's payment account where the creditor, following receipt of the direct debit mandate from the consumer, will be responsible for the storing of such mandate whilst also initiating the payment transaction. The payment service provider does not receive any mandate related information from the consumer and nor is responsible for the verification of the creditor's right to collect payment;

''debtor-driven direct debit'' means a payment service for debiting a consumer's payment account where a payment transaction is initiated by the creditor informing the payer's payment service provider of the consumer's intention to make payments by direct debit. The mandate issued by the payment service provider following the payer's authorisation for a direct debit collection stays with the same payment service provider. When the creditor presents a direct debit collection to the payment service provider, the latter may choose to obtain the creditor's authorisation to collect payment based on the mandate;

"direct debit" means a national payment service or a cross-border payment service in and outside Malta,for debiting a payer's payment account, where a payment transaction is initiated by the payee on

the basis of the payer's consent;

"Directive 2007/64/EC" means Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC, as amended from time to time, and includes any implementing measures, implementing technical standards, regulatory technical standards, guidelines and similar measures that have been or may be issued thereunder;

"Directive 2008/48/EC" means Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;

"Directive 2009/110/EC" means Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;

"durable medium" means any instrument which enables the consumer to store information addressed personally to that consumer in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;

"electronic money" has the same meaning as that assigned to the term in the Third Schedule of the Financial Institutions Act; Cap. 376.

"EBA" means the European Banking Authority established by Regulation (EU) No 1093/2010;

"EEA State" means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on the 2nd May 1992, as amended by the protocol signed at Brussels on 17th March 1993, and as amended by any subsequent acts;

"EU standardised terminology" means the terms set out in any regulatory technical standards adopted by the European Commission in accordance with Article 3(4) of the Payment Accounts Directive;

"European regulatory authority" means a public authority or a body in another Member State, which is empowered by law or regulation to ensure the application and enforcement of the Payment Accounts Directive;

"European Union" or "EU" means the European Union as defined in article 2 of the European Union Act; Cap. 460.

"fees" means all charges, tariffs, and penalties, if any, payable by the consumer to the payment service provider for or in relation to services linked to a payment account;

"fee information document" means the fee information document

referred to in regulation 8;

Cap. 373. "Financial Intelligence Analysis Unit" means the Financial Intelligence Analysis Unit established by the Prevention of Money Laundering Act;

"framework contract" means a payment service contract which governs the future execution of individual and successive payment transactions and which may contain the obligation and conditions for setting up a payment account;

"funding of terrorism" has the same meaning as is assigned to it by the Prevention of Money Laundering Act;

Cap. 373.

"funds" means banknotes and coins, scriptural money and Cap. 376. electronic money as defined in the Financial Institutions Act;

"legally resident in Malta or in another Member State" means where a natural person has the right to reside in Malta or in another Member State by virtue of EU or national law, including consumers with no fixed address and persons seeking asylum under the Geneva Convention of 28 July 1951 relating to the Status of Refugees, the Protocol thereto of 31 January 1967 and other relevant international treaties;

"Member State" means a Member State of the European Union and includes an EEA State;

"Minister" means the Minister responsible for the regulation of Financial Services;

"money laundering" has the same meaning as is assigned to it by the Cap. 373. Prevention of Money Laundering Act;

"Office of the Arbiter for Financial Services" means the Office of the Arbiter for Financial Services as established under article 10 Cap. 555. of the Arbiter for Financial Services Act;

"overdraft facility" means an explicit credit agreement whereby a payment service provider makes available to a consumer funds which exceed the current balance in the consumer's payment account;

"overrunning" means a tacitly accepted overdraft whereby a payment service provider makes available to a consumer funds which exceed the current balance in the consumer's payment account or the agreed overdraft facility;

"payee" means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction;

"payer" means a natural or legal person who holds a payment account and allows a payment order from that payment account or, where there is no payer's payment account, a natural or legal person who makes a payment order to a payee's payment account;

"payment account" means an account held in the name of one or more consumers which is used for the execution of payment transactions;

"Payment Accounts Directive" means Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features, as amended from time to time, and includes any implementing measures, implementing technical standards, regulatory technical standards, guidelines and similar measures that have been or may be issued thereunder;

"payment instrument" has the same meaning as that assigned to it in the Financial Institutions Act;"; Cap. 376.

"payment order" means any instruction by a payer or payee to his payment service provider requesting the execution of a payment transaction;

"payment service" has the same meaning as that assigned to it in the Financial Institutions Act; Cap. 376.

"payment service provider" payment service provider" refers to the following categories:

(a) credit institutions, including branches thereof as defined in article 2(1) of the Banking Act where such branches are located in the European Union, irrespective of whether the head offices of those branches are located within the European Union or, in accordance with Article 47 of Directive 2013/36/EU and with national law, outside the European Union; Cap. 371.

(b) electronic money institutions, being legal persons, that have been granted authorisation under Title II of Directive 2009/110/EC to issue electronic money, including, in accordance with Article 8 of that Directive and with national law, branches thereof, where such branches are located within the European Union and their head offices are located outside the European Union, in as far as the payment services provided by those branches are linked to the issuance of electronic money;

(c) post office giro institutions which are entitled under national law to provide payment services;

(d) payment institutions;

(e) the European Central Bank and national central banks when not acting in their capacity as monetary authority or other public authorities;

(f) Member States or their regional or local authorities when not acting in their capacity as public authorities; or

(g) A legal person benefiting from an exemption pursuant to Article 32 or 33 of Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC, as

amended from time to time and including any implementing measures that have been or may be issued thereunder;";

"payment transaction" means an act, initiated by the payer or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee;

"prescribed" means prescribed by regulations made under the Banking Act or the Financial Institutions Act;

Cap. 371.
Cap. 376.

"receiving payment service provider" means the payment service provider to which the information required to perform the switching is transferred;

"Regulation (EU) No 1093/2010" means Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, as amended from time to time, and includes any implementing measures that have been or may be issued thereunder;

"relevant period" means the period to which the statement of fees relate;

"services linked to the payment account" means all services related to the opening, operating and closing of a payment account, including payment services and payment transactions falling within the scope of point (g) of Article 3 of Directive 2007/64/EC, overdraft facilities and overrunning;

"standing order" means an instruction given by the payer to the payment service provider which holds the payer's payment account to execute credit transfers at regular intervals or on predetermined dates;

"statement of fees" means the statement of fees referred to in regulation 10;

"switching" or "switching service" means, upon a consumer's request, transferring from one payment service provider to another either the information about all or some standing orders for credit transfers, recurring direct debits and recurring incoming credit transfers executed on a payment account, or any positive payment account balance from one payment account to the other, or both, with or without closing the former payment account;

"transferring payment service provider" means the payment service provider from which the information required to perform the switching is transferred;

"Tribunal" means the Financial Services Tribunal as established under the Malta Financial Services Authority Act.

Cap. 330.

(2) For the purpose of these regulations:

(*a*) combined accounts and payment accounts holding electronic money shall not be deemed to be payment accounts, unless such types of accounts are used for

day-to-day payment transactions; and

(*b*) the Central Bank shall not be deemed to be a payment service provider.

PART 2

Comparability of fees connected with payment accounts

Publication of the list of the most representative services linked to payment accounts.

3. (1) Following adoption by the European Commission of regulatory technical standards setting out EU standardised terminology in accordance with Article 3(4) of the Payment Accounts Directive, the competent authority shall without delay, and at the latest within three months of entry into force of the EU standardised terminology, publish a list of the most representative services linked to a payment account and subject to a fee.

(2) The list of the most representative services linked to a payment account shall:

(*a*) feature at least 10 and no more than 20 of the most representative services linked to a payment account and subject to a fee, offered by at least one payment service provider in Malta;

(*b*) contain terms and definitions for each of the services identified;

(*c*) include only one term for each service in both Maltese and English;

(d) have regard to the services that are most commonly used by consumers in relation to their payment account; and

(e) have regard to the services that generate the highest cost for consumers, both overall as well as per unit.

Information for consumers
Amended by: L.N. 324 of 2018.

4. Where applicable, a payment service provider shall use the standardised terminology set out in the list of the most representative services linked to a payment account in its contractual, commercial and marketing information.

Periodic review of the list of the most representative services linked to a payment account.
Amended by: L.N. 324 of 2018.

5. (1) Every four years, following publication of the list referred to in regulation 3(1), the competent authority shall assess, and where appropriate, update the list of the most representative services established pursuant to regulation 3.

(2) The competent authority shall notify to the European Commission and to EBA the outcome of its assessment and, where applicable, provide them with the updated list of the most representative services.

Revision of the list of the most representative services linked to a payment account.
Amended by: L.N. 324 of 2018.

6. (1) Upon the European Commission adopting any change to the regulatory technical standards setting out the EU standardised terminology, the competent authority shall update the list of the most representative services linked to a payment account and publish on its website such updated list without delay, and at the latest within three months of entry into force of the changes adopted by the European Commission to the regulatory technical standards

setting out the EU standardised terminology.

(2) Payment service providers shall adopt and use the updated list of the most representative services linked to a payment account published by the competent authority in accordance with sub-regulation (1).

Glossary. *Amended by: L.N. 324 of 2018.*

7. (1) A payment service provider shall make available to consumers a glossary of at least the standardised terms set out in the list of the most representative services linked to a payment account established pursuant to regulation 3, as may be amended from time to time in accordance with regulation 6(1), and the related definitions.

(2) The glossary shall be available in English and Maltese and in any other language agreed upon by the payment service provider and the consumer.

(3) The glossary referred to in sub-regulation (1), including other definitions, if any,shall be in a clear, unambiguous and non-technical language and shall not be misleading.

Fee information document. *Amended by: L.N. 324 of 2018.*

8. (1) Without prejudice to Article 42(3) of Directive 2007/64/EC and Chapter II of Directive 2008/48/EC, a payment service provider shall, in good time before entering into a contract for a payment account with a consumer, provide the consumer with a fee information document.

(2) The fee information document shall meet the requirements set out in Schedule 1.

Availability of the fee information document and glossary. *Amended by: L.N. 324 of 2018.*

9. (1) A payment service provider shall ensure that the fee information document and the glossary are:

(*a*) made available to consumers at any time;

(*b*) provided in an easily accessible manner, including to the general public:

(i) in electronic form on the payment service provider's websites where available; and

(ii) made accessible to consumers in the premises of the payment service provider.

(2) Upon request by a consumer, the payment service provider shall provide the fee information document and the glossary on paper or another durable medium free of charge.

Statement of fees. *Amended by: L.N. 324 of 2018.*

10. (1) Without prejudice to Articles 47 and 48 of Directive 2007/64/EC and Article 12 of Directive 2008/48/EC, a payment service provider shall provide consumers, at least annually and free of charge, with a statement of fees.

(2) The method of communication used to provide the statement of fees shall be agreed with the consumer and, upon the request of the consumer, the statement of fees shall be provided on paper, free of charge.

(3) The statement of fees shall meet the requirements set out in Schedule 2.

Provision of information.

11. For the avoidance of doubt, the provisions of these regulations relating to the statement of fees and the fee information document shall apply *mutatis mutandis* in regard to payment accounts with basic features.

Branding. *Amended by: L.N. 324 of 2018.*

12. (1) A payment service provider may use brand names to designate its services in its contractual, commercial and marketing information to consumers, provided that it clearly identifies, where applicable, the corresponding standardised terms set out in the list of the most representative services linked to a payment account established pursuant to regulation 3, as may be amended from time to time in accordance with regulation 6(1).

(2) A payment service provider may use brand names in the fee information document and the statement of fees, provided that such brand names are used in addition to the standardised terms set out in the list of the most representative services linked to a payment account established pursuant to regulation 3, as may be amended from time to time in accordance with regulation 6(1), and as a secondary designation of those services.

Comparison websites. *Amended by: L.N. 324 of 2018.*

13. (1) The competent authority shall provide consumers with access, free of charge, to a website comparing fees charged by payment service providers for at least the services included in the list of the most representative services linked to a payment account established pursuant to regulation 3, as may be amended from time to time in accordance with regulation 6(1).

(2) The comparison website referred to in sub-regulation (1) shall:

(*a*) be operationally independent by ensuring that payment service providers are given equal treatment in search results;

(*b*) clearly disclose that it is compiled by the competent authority on the basis of information provided by payment service providers;

(*c*) set out clear, objective criteria on which the comparison will be based;

(*d*) use plain and unambiguous language and, where applicable, the standardised terms set out in the list of the most representative services linked to a payment account established pursuant to regulation 3, as may be amended from time to time in accordance with regulation 6(1);

(*e*) provide accurate and up to date information and state the time of the last update;

(*f*) include a broad range of payment accounts offered by payment service providers, covering a significant part of the market and, where the information presented is not a complete overview of the market, a clear statement to that effect should be made before displaying results; and

(*g*) provide an effective procedure to report incorrect information on published fees.

(2A) The competent authority may, in addition to the list of the most representative services linked to a payment account, compile and publish any other comparative information with respect to products and services offered by payment service providers.

(2B) For the purposes of establishing the comparison website referred to in sub-regulation (1), payment service providers shall:

(a) provide the competent authority with the fees charged for the services included in the list of the most representative services linked to a payment account established pursuant to regulation 3, as may be amended from time to time in accordance with regulation 6(1);

(b) provide to the competent authority any other information which may be requested by the competent authority for the purposes of publishing additional comparative information in accordance with sub-regulation (2A);

(c) update the competent authority about any changes to the information provided to the competent authority in accordance with paragraphs (a) and (b).

(3) (a) Private operators or other public authorities may also establish and operate a website comparing fees charged by payment service providers for at least the services included in the list of the most representative services linked to a payment account established pursuant to regulation 3, as may be amended from time to time in accordance with regulation 6(1).

(b) Any comparison websites established in accordance with paragraph (a) shall:

(i) Clearly disclose details of the owner, or owners, of the comparative website; and

(ii) Adhere to the minimum criteria laid out in sub-regulation (2)(a), (c), (d), (e), (f) and (g).

(c) Any entity wishing to operate and compile a comparison website shall notify the competent authority in writing.

(d) The competent authority may require private operators or other public authorities providing a comparison website in accordance with this sub-regulation to include further comparative determinants relating to the level of service offered by payment service providers.

(4) The competent authority shall publish online a list of the websites which comply with this regulation.

Bundling - Payment accounts packaged with another product or service.

14. (1) Where a payment account is offered as part of a package with another product or service which is not linked to a payment account, the payment service provider shall inform the consumer whether it is possible to purchase the payment account separately from such product or service.

(2) Where a payment service provider informs the consumer in

accordance with sub-regulation (1) that it is possible to purchase the payment account separately, the payment service provider shall additionally provide the consumer with separate information regarding the costs and fees associated with each of the other products and services offered in the package that can be purchased separately.

(3) Where a payment service provider does not offer such other products and services separately from the payment account, the payment service provider may unbundle any of such products and services from the package. In such case, the payment service provider shall provide separate information, including any applicable costs and fees, on the payment account as well as on the packaged payment account.

PART 3

Switching

Provision of the switching service. *Amended by: L.N. 324 of 2018.*

15. (1) A payment service provider shall offer a switching service as described in this regulation and in Schedule 3 between payment accounts held in the same currency to any consumer who opens or holds a payment account with a payment service provider located in Malta.

(2) A switching service shall be initiated by the receiving payment service provider at the request of the consumer and shall meet the requirements set out in Schedule 3.

Facilitation of cross-border account opening within the European Union for consumers. *Amended by: L.N. 324 of 2018.*

16. (1) Where a consumer indicates to a payment service provider located in Malta with whom that consumer holds a payment account that the consumer wishes to open a payment account with a payment service provider located in another Member State, the Maltese payment service provider shall, on receipt of such request, and subject to sub-regulation (2), provide the following assistance to the consumer:

(*a*) provide the consumer, free of charge, with:

(i) a list of all currently active standing orders for credit transfers and debtor-driven direct debit mandates, where available; and

(ii) available information about recurring incoming credit transfers and creditor-driven direct debits executed on the consumer's payment account in the previous thirteen months:

Provided that this shall not entail any obligation on the part of the payment service provider located in another Member State with which the consumer wishes to open a payment account, to set up services that it does not provide;

(*b*) transfer any positive balance remaining on the payment account held by the consumer to the payment account opened or held by the consumer with the new payment service provider located in another Member State; and

(*c*) close the payment account held by the consumer.

(2) Without prejudice to Articles 45(1) and 45(6) of Directive 2007/64/EC, and if the consumer does not have any outstanding obligations on a payment account, the Maltese payment service provider shall conclude the steps set out in sub-regulation (1) on the date specified by the consumer, which, unless otherwise agreed between the consumer and the Maltese payment service provider, shall be at least six business days after the Maltese payment service provider receives the consumer's request.

(3) The requirement in sub-regulation (1)(b) shall only apply where the consumer has:

(*a*) requested that the transfer be made; and

(*b*) provided full details of the account opened or held with another payment service provider in another Member State, including any necessary details which are required by the Maltese payment service provider in order to identify the new payment service provider located in another Member State and the payment account opened or held by the consumer with the new payment service provider.

(4) Where outstanding obligations prevent the Maltese payment service provider from closing the payment account in accordance with sub-regulation (1)(c), it shall immediately inform the consumer.

(5) For the purpose of this regulation, "Maltese payment service provider" means a payment service provider located in Malta with whom the consumer holds a payment account.

PART 4

Access to payment accounts

Non-discrimination in the provision of payment accounts.

Cap. 456.

17. (1) A credit institution shall not discriminate against consumers legally resident in Malta or in another Member State by reason of their nationality or place of residence or by reason of any other ground referred to in Article 21 of the Charter, the Equality for Men and Women Act and in other provisions contained in any other Maltese law as may be in force and amended from time to time, when those consumers apply for, or access, a payment account.

(2) The conditions applicable to holding a payment account with basic features within the meaning of regulation 25 shall be in no way discriminatory.

Right of access to a payment account with basic features.
Amended by: L.N. 324 of 2018.

18. (1) Credit institutions with a branch network in Malta having five or more branches shall offer a payment account with basic features and may also offer online accounts with the same basic features. Access to such payment account with basic features shall be provided through the entire branch network of the credit institution concerned. The competent authority shall ensure that payment accounts with basic features are not only offered by credit institutions that provide payment accounts with solely online facilities.

(2) Credit institutions with a network of four branches or less may also offer payment account with basic features:

Provided that in such case the provisions of Part 4 of these regulations shall apply to such credit institutions *mutatis mutandis*.

(3) It shall be the duty of the competent authority to prevent distortions of competition in regard to the manner in which credit institutions grant access to payment account with basic features, and to take action thereupon.

Eligibility criteria. *Amended by: L.N. 324 of 2018.*

19. (1) Consumers legally resident in Malta or in another Member State shall be eligible to open and use a payment account with basic features.

(2) Such a right to open and use a payment account with basic features as indicated in sub-regulation (1) shall apply irrespective of the consumer's place of residence.

(3) For the purposes of sub-regulation (1), consumers legally resident in Malta or in another Member State shall include:

(*a*) consumers with no fixed address;

(*b*) persons who may be granted any status as promulgated under the International Protection Act or any other national legislation, where such persons may include refugees, beneficiaries of subsidiary protection and, or beneficiaries of other forms of humanitarian or international protection, stateless persons, asylum seekers and failed or rejected asylum seekers; Cap. 420.

(*c*) consumers who have not been granted a residence permit but whose expulsion is impossible for legal or factual reasons; and

(*d*) consumers whose status is not covered under paragraphs (*a*) to (*c*) but whose expulsion is impossible for legal or factual reasons.

(3A) Credit institutions may, in full respect of the fundamental freedoms guaranteed by the Treaties , require consumers who wish to open a payment account with basic features, to show a genuine interest in doing so.

(4) Credit institutions that offer payment accounts with basic features may refuse an application for such an account where a consumer already holds a payment account with any credit institution located in Malta, and where that account has at least the features set out in regulation 25(1):

Provided that where a consumer declares that the credit institution with which the payment account is held has given notice in writing that the payment account will be closed.

(4A) Credit institutions shall not refuse to open a payment account with basic features on the basis of the consumers' financial circumstances, including their employment status, level of income, credit history or personal bankruptcy.

(5) Before opening a payment account with basic features, a credit institution may verify whether the consumer holds or does

not hold, with a credit institution located in Malta, a payment account which has at least the features set out in regulation 25(1). A credit institution may otherwise choose to rely on and accept a declaration of honour signed by the consumer for that purpose.

Cap. 377. Cap. 371.

(6) Notwithstanding the provisions of the the Professional Secrecy Act, article 34 of the Banking Act and any other relevant provisions contained in any other Maltese Law, credit institutions in Malta may, subject to the express written consent of the consumer to this effect, exchange information with other credit institutions which is reasonably required for the purpose of verifying the information provided in terms of sub-regulation (5).

(7) Credit institutions shall not introduce or implement any policies or procedures which may directly or indirectly impose any unnecessary, difficult, or burdensome restrictions or processes to dissuade the consumer from exercising such rights as they arise under this regulation.

Obligation to provide information about the application process.

20. Credit institutions offering a payment account with basic features shall provide detailed information about the application process for the opening of a payment account with basic features. Such information shall include an application form, as well as a list of any documents required to be submitted with the application. Such information shall be made available online on the credit institution's website and, if so requested by the consumer, on a durable medium, free of charge. It shall be the duty of the credit institution to keep such information updated at all times.

Time-scale for opening a payment account with basic features. *Amended by: L.N. 324 of 2018.*

21. Where an application for a payment account with basic features is made by a consumer to a credit institution, the credit institution shall open or refuse to open the account without undue delay, and no later than ten business days from recorded receipt of the completed application.

Refusal of application. *Substituted by: L.N. 324 of 2018.*

22. (1) A credit institution shall refuse to open a payment account with basic features for a consumer where to do so would result in a breach of any anti-money laundering and combating the funding of terrorism obligation arising from applicable law or from any other enforceable procedure, guidance or provision.

(2) Credit institutions shall consider whether there are any grounds for the circumstances surrounding a refusal to open a payment account with basic features as set out in sub-regulation (1) to be disclosed to the Financial Intelligence Analysis Unit in terms of applicable anti-money laundering and combating the funding of terrorism legislation.

Consumer to be informed in writing about refusal of application. *Amended by: L.N. 324 of 2018; L.N. 33 of 2024.*

23. (1) Where an application for a payment account with basic features is refused in accordance with regulations 19(4) and 22, the credit institution shall, after taking its decision, immediately inform the consumer in writing and free of charge of the refusal and of the specific reason for that refusal, unless such disclosure would be contrary to objectives of national security, public policy or would run counter to the obligations a credit institution is under in terms of any applicable anti-money laundering and combating the funding of

terrorism legislation.

(2) Where notification of the reason for refusal is given in accordance with sub-regulation (1), the credit institution shall advise the consumer of the following:

(*a*) the procedure for submitting a complaint to it against the refusal;

(*b*) the possibility to contact the competent authority and provide the relevant contact details; and

(*c*) the right to file a complaint with the Office of the Arbiter for Financial Services and provide the relevant contact details..

Access to and operation of a payment account. *Amended by: L.N. 324 of 2018.*

24. A credit institution shall ensure that access to and operation of a payment account with basic features is not made conditional on the purchase of any additional services or of shares in the credit institution, unless the latter is conditional for all customers of the credit institution.

Payment account with basic features. *Substituted by: L.N. 324 of 2018.*

25. (1) A payment account with basic features shall include the following services:

(*a*) services enabling all the operations required for the opening, operating, and closing of the payment account;

(*b*) services enabling funds to be placed in the payment account;

(*c*) services enabling cash withdrawals from the payment account within Malta and other Member States:

(i) at the counter of the publicly accessible premises of the credit institution, including any branches thereof, whether located in Malta or in any other Member State; and

(ii) at automated teller machines;

(*d*) execution of the following payment transactions in and outside Malta:

(i) payment transactions through the payment card, including online payments;

(ii) credit transfers, including standing orders, at, where available, terminals and counters and via the online facilities of the credit institution;

(*e*) execution of direct debits within the European Union.

(2) The services listed in sub-regulation (1) shall be offered by credit institutions to the extent that they already offer them to consumers holding payment accounts other than a payment account with basic features.

Payment accounts with basic features may also be offered in the currency of any other Member State. *Substituted by: L.N. 324 of 2018.*

26. Payment accounts with basic features shall be offered at least in Euro. Such payment accounts may, at the sole discretion of the credit institution, also be offered in the currency of any other Member State.

Unlimited number of operations. *Substituted by: L.N. 324 of 2018.*

27. Credit institutions shall allow consumers to execute an unlimited number of operations in relation to the services linked to a payment account with basic features as set out in regulation 25(1).

Consumers may manage and initiate payment transactions.

28. A credit institution shall allow consumers to manage and initiate payment transactions from the consumer's payment account with basic features:

(*a*) at its publicly accessible premises; and

(*b*) via online facilities, where available.

Overdraft facilities. S.L. 378.12. *Substituted by: L.N. 324 of 2018.*

29. Without prejudice to the requirements laid down in the provisions of Directive 2008/48/EC as transposed in the Consumer Credit Regulations, a credit institution may, upon the consumer's request, provide an overdraft facility in relation to a payment account with basic features:

Provided that, access to, or use of, the payment account with basic features shall not be restricted by, or made conditional on, the purchase of such an overdraft facility.

Associated fees. *Substituted by: L.N. 324 of 2018.*

30. (1) Credit institutions shall offer the services linked to a payment account with basic features referred to in regulations 25 to 29 free of charge or for a reasonable fee, irrespective of the number of operations executed on the payment account with basic features.

(2) Credit institutions shall ensure that any fees charged to the consumer for non-compliance with the consumer's commitments laid down in the framework contract are reasonable.

(3) Credit institutions shall ensure that the reasonable fees referred to in sub-regulations (1) and (2) are established taking into account at least the following criteria:

(a) national income levels;

(b) average fees charged by other credit institutions in Malta for services provided on payment accounts.

Framework contracts and termination. *Amended by: L.N. 324 of 2018; L.N. 33 of 2024.*

31. (1) Without prejudice to sub-regulations (2)(a), (3) and (4), framework contracts for the provision of a payment account with basic features shall comply with the provisions laid down in Maltese law transposing the requirements of Directive 2007/64/EC.

(2) (*a*) Without prejudice to any other law, a credit institution may only unilaterally terminate a framework contract for the provision of a payment account with basic

features where at least one of the following conditions is met:

(i) the consumer has deliberately used the payment account for illegal purposes;

(ii) there has been no transaction on the account, save for any interest debited or credited from the account, for more than twenty-four consecutive months;

(iii) the consumer provided incorrect information when applying for the payment account with basic features, and had the correct information been provided, the application would have been refused;

(iv) the consumer is no longer legally resident in Malta or in another Member State; and

(v) the consumer has subsequently opened a second payment account in Malta which allows for the use of the services listed in regulation 25(1).

(*b*) Additional limited and specific cases where a framework contract for a payment account with basic features may be unilaterally terminated by credit institutions may be identified and further prescribed by the Minister:

Provided that any additional limited and specific cases as may be further prescribed by the Minister shall, in terms of Article 19(3) of the Payment Accounts Directive, be aimed at avoiding abuses by customers of their right to access a payment account with basic features.

(3) Any termination in accordance with sub-regulation (2)(*a*) (i) and (iii) shall have immediate effect.

(4) Where a credit institution decides that it should terminate a framework contract for a payment account with basic features on one or more of the grounds mentioned in sub-regulation (2)(a)(ii), (2)(a)(iv) or (2)(a)(v), or in any additional limited and specific cases as may be prescribed by the Minister in accordance with sub-regulation (2)(b), the credit institution shall, unless such disclosure would be contrary to objectives of national security or public policy, inform the consumer of the grounds and the justification for termination:

(i) at least two months before the termination enters into force;

(ii) free of charge; and

(iii) in writing, by means of registered mail and recorded delivery mail to the last known address:

Provided that, if, after three attempts by the credit institution to inform the consumer of such termination in accordance with point (iii), such attempts prove to be futile or are rejected by the consumer, or if the consumer fails to act in terms of the said notice, the

payment service provider has the right to terminate the framework contract within ninety days from the date of the third notice.

(5) Where a credit institution decides that it should terminate a framework contract for a payment account with basic features on one or more of the grounds mentioned in sub-regulation (2)(*a*)(i) or (iii), the credit institution shall, upon termination of the framework contract, inform the consumer of the grounds and the justification for termination in writing, by means of registered mail and recorded delivery mail to the last known address.

(6) Deleted by Legal Notice 324 of 2018.

(7) Any notification given by the credit institution under sub-regulation (4) shall advise the consumer of:

(*a*) the procedure for submitting a complaint to it against the termination, if any;

(*b*) the possibility to contact the competent authority and provide the relevant contact details; and

(*c*) the right to file a complaint with the Office of the Arbiter for Financial Services and provide the relevant contact details.

(8) The credit institution shall keep proper records of its decision for termination and any notifications thereto.

General information on payment accounts with basic features. *Amended by: L.N. 324 of 2018.*

32. (1) The competent authority shall raise awareness among the public about:

(*a*) the availability of payment accounts with basic features and their general pricing conditions;

(*b*) the procedures to be followed in order to exercise the right to access a payment account with basic features; and

(*c*) the consumer's right to complain to the Office of the Office of the Arbiter for Financial Services, and the relevant procedure to be followed, where the consumer considers that a credit institution has not complied with the requirements of these regulations.

(2) The competent authority shall employ sufficient and well-targeted communication media for the purposes of its obligations arising from sub-regulation (1), particularly reaching out to the unbanked, vulnerable and mobile consumers.

(3) Credit institutions shall make available to consumers, free of charge, accessible information and assistance about:

(*a*) the specific features of the payment account with basic features on offer; and

(*b*) the associated fees and conditions of use.

(4) Credit institutions shall ensure that the information and assistance provided in accordance with sub-regulation (3) makes it clear that the purchase of additional services is not compulsory in

order to access a payment account with basic features.

Definition of branch for the purposes of this Part. *Added by: L.N. 324 of 2018.* Cap. 371.

32A. For the purposes of this Part, "branch" shall have the same meaning as that assigned to it in article 2(1) of the Banking Act.

PART 5

The Competent Authority

Competent authority. *Substituted by: L.N. 324 of 2018.*

33. (1) The competent authority shall be fully responsible for the application and enforcement of these regulations.

(2) The competent authority shall be the single contact point for the purpose of these regulations."

Monitoring and enforcement.

34. Deleted by Legal Notice 324 of 2018.

Obligation to cooperate. *Amended by: L.N. 324 of 2018.* Cap. 371. Cap. 376.

35. (1)Without prejudice to any powers and duties of co-operation arising under the Banking Act and the Financial Institutions Act, the competent authority shall:

(*a*) cooperate closely with European regulatory authorities for the purpose of carrying out their duties under the Payment Accounts Directive;

(*b*) render assistance to European regulatory authorities, and in particular, exchange information with such authorities and cooperate in any investigation or supervisory activities;

(*c*) without undue delay, supply European regulatory authorities designated as the single contact point for the purposes of the Payment Accounts Directive, with the information required for the purpose of carrying out their duties as set out in the measures adopted pursuant to the Payment Accounts Directive:

Provided that when exchanging information with European regulatory authorities in accordance with these regulations, the competent authority may indicate, at the time of communication, that the information being exchanged must not be disclosed without its express agreement.

Cap. 371. Cap. 376.

(2) Without prejudice to any powers and duties of co-operation arising under the Banking Act and the Financial Institutions Act, where the competent authority receives information from a European regulatory authority, and where such an authority indicates to the competent authority, at the time of communication, that such information must not be disclosed without its express agreement, the competent authority shall not disclose any such information without the express agreement of the European regulatory authority providing the information. In such case, the competent authority may exchange such information solely for the purposes for which the European regulatory authority disclosing the information gave its agreement.

Cap. 371. Cap. 376.

(3) Without prejudice to sub-regulation (2) and to any powers and duties of co-operation arising under the Banking Act and the Financial Institutions Act, the competent authority may transmit information received in accordance with sub-regulation (2) to other European regulatory authorities:

Provided that, the competent authority shall not, except in duly justified circumstances, transmit the information received in accordance with sub-regulation (2):

(*a*) to other bodies or natural or legal persons without the express agreement of the authority which disclosed the information;

(*b*) for purposes other than those for which the authority disclosing the information gave its consent:

Provided further that, where the competent authority, in duly justified circumstances, transmits information received in accordance with sub-regulation (2) to other bodies or natural or legal persons without the express agreement of the European regulatory authority disclosing the information, or for purposes other than those for which the European regulatory authority disclosing the information gave its consent, the competent authority shall immediately inform the contact point that supplied the information.

(4) The competent authority may refuse to act on a request for cooperation in carrying out an investigation or supervisory activity, or to exchange information as provided for in sub-regulations (1) to (3), only where:

(*a*) such an investigation, on-the-spot verification, supervisory activity or exchange of information might adversely affect the sovereignty, security or public policy of Malta;

(*b*) judicial proceedings have already been initiated in Malta in respect of the same actions and the same persons;

(*c*) final judgement in respect of the same persons and the same actions has already been delivered in Malta.

(5) In the event of refusal in terms of sub-regulation (4), the competent authority shall notify the requesting authority accordingly whilst providing as detailed information as possible.

Settlement of disagreement between authorities.

36. (1) The competent authority may refer the situation to the EBA where a request for cooperation, in particular, the exchange of information, has been rejected or has not been acted upon within a reasonable time, and may request EBA's assistance in accordance with Article 19 of Regulation (EU) No 1093/2010.

(2) Any binding decision made by EBA in accordance with Article 19 of Regulation (EU) No 1093/2010 further to a referral by the competent authority in accordance with sub-regulation (1), or to a referral by an authority of another Member State in accordance with Article 23 of the Payment Accounts Directive, shall be

binding on the competent authority.

Reporting requirements.

37. (1) A payment service provider shall give the competent authority such information in respect of its compliance with the requirements imposed on it by these regulations as the competent authority may direct.

(2) Information required under this regulation shall be given at such times and in such form, and verified in such manner, as the competent authority may direct.

Power to issue directives. *Amended by: L.N. 324 of 2018.*

38. (1) The competent authority may issue, amend, or revoke a directive to a payment service provider to take such steps as are necessary for the purposes of securing compliance with the requirements as set out in these regulations.

(2) A directive under sub-regulation (1) may, in particular, require the payment service provider to:

(*a*) take specified action;

(*b*) refrain from taking specified action;

(*c*) review or take remedial action in respect of past conduct.

(3) A payment service provider to which a directive under sub-regulation (1) is given shall comply with the directive.

Power to issue directives: procedure. *Amended by: L.N. 324 of 2018.*

39. (1) A directive given under regulation 38(1) shall take effect:

(*a*) immediately, if the notice given under sub-regulation (3) states that this is the case; or

(*b*) on such date as may be specified in the notice.

(2) If the competent authority issues a directive to a payment service provider under regulation 38, it shall give the payment service provider written notice.

(3) The notice referred to in sub-regulation (2) shall:

(*a*) give details of the directive;

(*b*) state the competent authority's reasons for giving the directive;

(*c*) inform the payment service provider by when to implement and, or be compliant with the directive; and

(*d*) inform the payment service provider of the right to refer a matter to the Tribunal in accordance with regulation 43.

Power to issue rules. *Amended by: L.N. 324 of 2018.*

40. (1) The competent authority may issue Rules to payment service providers for the purpose of these regulations.

(2) Such Rules may contain such incidental, supplementary and consequential provisions as appear to the competent authority to be expedient for the purpose of these regulations.

Administrative penalties. *Amended by: L.N. 324 of 2018.*

41. (1) Without prejudice to any other provision of these regulations, the competent authority may impose an administrative penalty not exceeding one hundred and fifty thousand euro

(€150,000) on a payment service provider that has contravened a requirement imposed upon it by or under these regulations or any Rules issued thereunder.

(1A) Any administrative penalty imposed on a payment service provider in accordance with sub-regulation (1) shall be effective, proportionate and dissuasive.

(2) Where an administrative penalty has been imposed by the competent authority in terms of this regulation, an appeal shall lie to the Tribunal in accordance with regulation 43.

(3) Where the competent authority decides to impose an administrative penalty, it shall notify the person on whom the penalty is being imposed by means of a notice in writing.

(4) Where the person upon whom the notice referred to in sub-regulation (3) is served:

(*a*) fails to pay to the competent authority the amount of the penalty within a period of thirty days of the service of the notice, and fails to appeal from the decision of the competent authority to the Financial Services Tribunal; or

(*b*) appeals to the Financial Service Tribunal and fails within a period of fifteen days from the decision of the Tribunal to pay the administrative penalty as confirmed or as reduced by that Tribunal,

then, in every case, the amount of the administrative penalty, as originally imposed or as reduced, as the case may be, shall be due to the competent authority as a civil debt, and the provisions of sub-regulation (5) shall apply.

(5) A notice as is referred to in sub-regulation (3), or the decision of the Financial Services Tribunal, as the case may be, shall, upon the service by judicial act of a copy thereof on the person indicated in the notice, constitute an executive title for all effects and purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure.

Cap. 12.

(6) The imposition by the competent authority of an administrative penalty in terms of this regulation shall be without prejudice to any other consequences of the act or omission of the offender under civil or criminal law:

Provided that in all cases where the competent authority imposes an administrative penalty in respect of anything done or omitted to be done by any person and such act or omission also constitutes a criminal offence, no proceedings may be taken or continued against the said person in respect of such criminal offence.

Public notice.
Amended by: L.N. 324 of 2018.

42. (1) The competent authority may publish on its official website and in any other media as it considers appropriate, any administrative penalty imposed in terms of regulation 41, any directive issued in terms of regulation 38, or any other administrative measure imposed in terms of these regulations:

Provided that in cases where an appeal has been filed by the person on whom such administrative penalty or measure has been imposed or against whom a directive has been issued, the competent authority shall, without undue delay, also publish on its official website and in any other media as it considers appropriate, information on the status of the appeal and the outcome thereof.

(1A) Publications referred to in this regulation shall include:

(i) the name of the payment service provider upon which an administrative penalty has been imposed;

(ii) the provision or provisions breached; and

(iii) the administrative penalty imposed.

(2) The competent authority may require the payment service provider concerned to pay all the expenses of, and incidental to, any publication pursuant to this regulation,or such part thereof as it may deem appropriate; and any sum so due shall be recoverable by the competent authority in the same manner as an administrative penalty imposed under these regulations.

(3) The competent authority shall withhold any public disclosure referred to this regulation where it deems that such disclosure would be of detriment to the interests of consumers, seriously jeopardise the financial markets or cause disproportionate damage to the parties involved.

Right to refer matter to the Tribunal.

43. A payment service provider who is aggrieved by any decision of the competent authority under these regulations may refer the matter to the Tribunal and the provisions of article 10 of the Banking Act and article 21 of the Financial Institutions Act shall apply *mutatis mutandis*.

Cap. 371.
Cap. 376.

Complaints.

44. (1) Further to any Rules which the competent authority may issue from time to time, payment service providers shall have their own internal complaints-handling procedures, which should be made available to their consumers at all time and free of charge.

(2) Following the investigation of the complaint by the payment service provider, the final response should be provided to the consumer within fifteen days after receipt of the complaint.

(3) In the event that the consumer does not accept the redress proposed by the payment service provider or where a complaint has not been upheld, the payment service provider is required to notify the consumer of the right to lodge a complaint in writing with the Office of the Arbiter for Financial Services.

Evaluation.
Amended by: L.N. 324 of 2018

45. (1) The competent authority shall provide the European Commission with information on the following, for the first time by 18th September 2018 and thereafter at intervals not exceeding two years:

(*a*) compliance by payment service providers with regulations 4, 7 to 10, and 12;

(*b*) compliance by the same competent authority with the requirements of regulation 13;

(*c*) the number of payment accounts that have been switched;

(*d*) the proportion of applications for switching that have been refused;

(*e*) the number of credit institutions offering payment accounts with basic features;

(*f*) the number of payment accounts with basic features that have been opened and closed; and

(*g*) the proportion of applications for payment accounts with basic features that have been refused.

(2) A payment service provider shall provide to the competent authority any information which it may reasonably require in order to fulfil its obligations under sub-regulation (1).".

SCHEDULE 1

Amended by: L.N. 324 of 2018.

[Regulation 8(2)]

Content and presentational format of the fee information document

Compliance with implementing technical standards

1. The fee information document shall comply with the requirements of any implementing technical standards adopted by the European Commission in accordance with Article 4(6) of the Payment Accounts Directive regarding a standardised presentational format of the fee information document and its common symbol, as amended from time to time in accordance with Article 4(7) of the same Directive.

Content

2. (a) The fee information document shall use the standardised terms contained in the list of the most representative services linked to a payment account established pursuant to regulation 3, as may be amended from time to time in accordance with regulation 6(1).

(b) Where the payment service provider offers any service featured in the list of the most representative services linked to a payment account, the corresponding fee for that service shall also be quoted in the fee information document.

(c) The fee information document shall also include a list of penalties which may be incurred by the consumer for the use of a payment account.

Packages of services

3. Where one or more services are offered as part of a package of services linked to a payment account, the fee information document shall disclose:

(*a*) the fee for the entire package;

(b) the services included in the package and their quantity; and

(c) the additional fee for any service that exceeds the quantity covered by the package fee.

Presentational format

4. The fee information document shall:

(*a*) upon request by the consumer, be provided on paper or another durable medium;

(*b*) be a short and stand-alone document;

(*c*) be presented and laid out in a way that is clear and easy to read using characters of a reasonable size;

(*d*) be no less comprehensible in the event that, having been originally produced in colour, it is printed or photocopied in black and white;

(*e*) be written in English and, if requested by the consumer, in Maltese or, in any other language agreed upon by the consumer and the payment service provider;

(*f*) be accurate, not misleading, and expressed in the currency of the payment account or, if agreed by the consumer and the payment service

provider, in another currency of the European Union;

(*g*) contain the title "Fee Information Document" at the top of the first page next to the common symbol referred to in paragraph 1 to distinguish the fee information document from other documentation; and

(*h*) include a statement that it contains fees for the most representative services linked to a payment account, any penalties which may be incurred for the use of the payment account, and that complete pre-contractual and contractual information on all the services is provided in other documents.

5. The fee information document shall be provided together with the information required pursuant to other European Union or national legislation on payment accounts and related services, provided that all the requirements set out in paragraph 4 are met.

SCHEDULE 2

Amended by: L.N. 324 of 2018.

[Regulation 10(3)]

Content and presentational format of the statement of fees

Compliance with implementing technical standards

1. The statement of fees shall comply with the requirements of any implementing technical standards regarding a standardised presentational format of the statement of fees and its common symbol adopted by the European Commission in accordance with Article 5(4) of the Payment Accounts Directive, as amended from time to time in accordance with Article 5(5) of the same Directive.

Content

2. (*a*) The statement of fees shall:

(i) state all fees incurred during the relevant period for services linked to a payment account;

(ii) where applicable, use the standardised terms set out in the list of the most representative services linked to a payment account established pursuant to regulation 3, as may be amended from time to time in accordance with regulation 6(1); and

(iii) be accurate, not misleading, and expressed in the currency of the payment account or, if agreed by the consumer and the payment service provider, in another currency.

(*b*) The statement of fees shall also include all penalties incurred related to the use of a payment account.

Mandatory information

3. The statement of fees shall specify at least the following information:

(*a*) the unit fee charged for each service and the number of times the service was used during the relevant period;

(*b*) where the services are combined in a package:

(i) the fee charged for the package as a whole;

(ii) the number of times the package fee was charged during the relevant period; and

(iii) the additional fee charged for any service exceeding the quantity covered by the package fee;

(*c*) the total amount of fees incurred during the relevant period for:

(i) each service;

(ii) each package of service provided; and

(iii) services exceeding the quantity covered by the package fee;

(*d*) the overdraft facility interest rate or rates applied to the payment account during the relevant period, where applicable;

(*e*) the total amount of interest charged relating to the overdraft facility during the relevant period, where applicable;

(*f*) the credit interest rate or rates applied to the payment account during the relevant period, where applicable;

(*g*) the total amount of interest earnedduring the relevant period, where applicable; and

(*h*) the total amount of fees charged for all services provided during the relevant period.

Presentational format

4. *(a)* be presented and laid out in a way that is clear and easy to read, using characters of a reasonable size;

(b) contain the title "Statement of Fees" at the top of the first page of the statement next to the common symbol referred to in paragraph 1 to distinguish the document from other documentation; and

(c) be written in English and, if requested by the consumer, in Maltese or, in any other language agreed upon by the consumer and the payment service provider.

5. The statement of fees shall be provided together with any information required pursuant to other European Union or national legislation on payment accounts and related services, provided that the requirements set out in paragraphs 2(a)(iii) and 4 are met.

SCHEDULE 3

Amended by: L.N. 324 of 2018.

[Regulation 15(2)]

Switching service

Authorisation

1. (*a*) The receiving payment service provider shall perform the switching service upon receipt of the authorisation from the consumer, which shall be in such form as may be suggested by the receiving payment service provider.

(*b*) In the case of two or more holders of the same account, the authorisation

referred to in point (a) shall be obtained from each of such holders.

(*c*) The authorisation shall be drawn up in Maltese or English and, if requested by the consumer, in Maltese or, in any other language agreed upon by the consumer and the payment service provider.

(*d*) The authorisation shall allow the consumer to:

(i) provide specific consent to the performance by the transferring payment service provider of each of the tasks set out in paragraph 2 (a) to (f);

(ii) provide specific consent to the performance by the receiving payment service provider of each of the tasks referred to in paragraph 4(*a*)(i) to (vii);

(iii) specifically identify incoming credit transfers, standing orders for credit transfers and direct debit mandates that are to be switched; and

(iv) specify the date from which standing orders for credit transfers and direct debits are to be executed from the payment account opened or held with the receiving payment service provider.

(*e*) The date specified in accordance with point (d)(iv) shall be at least six business days after the date on which the receiving payment service provider receives the documents transferred from the transferring payment service provider in accordance with paragraph 3(*a*)(i).

(*f*) The receiving payment service provider shall require the authorisation from the consumer to be in writing and that a copy of the authorisation be provided to the consumer.

Request from the receiving payment service provider

2. Within two business days from receipt of the authorisation referred to in paragraph 1, the receiving payment service provider shall request that the transferring payment service provider carry out each of the following tasks, if provided for in the consumer's authorisation:

(*a*) transmission to the receiving payment service provider and, if specifically requested by the consumer, to the consumer, of a list of the existing standing orders for credit transfers and available information on direct debit mandates that are being switched;

(*b*) transmission to the receiving payment service provider and, if specifically requested by the consumer, to the consumer, of the available information about recurring incoming credit transfers and creditor-driven direct debits executed on the consumer's payment account during the previous thirteen months;

(*c*) where the transferring payment service provider does not provide a system for automated redirection of the incoming credit transfers and direct debits to the payment account held by the consumer with the receiving payment service provider, stop accepting direct debits and incoming credit transfers with effect from the date specified in the authorisation;

(*d*) cancellation of standing orders with effect from the date specified in the authorisation;

(*e*) transfer of any remaining positive balance to the payment account opened or held with the receiving payment service provider on the date

specified by the consumer; and

(*f*) closure of the account held by the consumer with the transferring payment service provider on the date specified by the consumer.

Tasks for the transferring payment service provider

3. (*a*) Upon receipt of a request from the receiving payment service provider, the transferring payment service provider shall carry out the following tasks, if provided for in the consumer's authorisation:

(i) send the information described in paragraphs (2)(*a*) and (*b*) to the receiving payment service provider within five business days;

(ii) where the transferring payment service provider does not provide a system for automated redirection of incoming credit transfers and direct debits to the payment account held or opened by the consumer with the receiving payment service provider, stop accepting incoming credit transfers and direct debits on the payment account with effect from the date specified in the authorisation;

(iii) cancel standing orders from the date specified in the authorisation;

(iv) transfer any remaining positive balance from the payment account to the payment account opened or held with the receiving payment service provider on the date specified in the authorisation;

(v) without prejudice to Article 45(1) and (6) of Directive 2007/64/EC, close the payment account on the date specified in the authorisation if the consumer has no outstanding obligations on that payment account and the actions described in sub-paragraphs (i), (ii), and (iv) have been completed.

(*b*) Where any outstanding obligations on the payment account prevent closure of the account in accordance with sub-paragraph (*a*)(v), the transferring payment service provider shall immediately inform the consumer that this is the case.

(*c*) Where the transferring payment service provider stops accepting incoming credit transfers and direct debits in accordance with sub-paragraph (*a*)(ii), it shall inform the payer and the payee in writing and within five business days, of the reason for not completing the payment transaction.

Tasks for the receiving payment service provider

4. (*a*) Within five business days of receipt of the information requested from the transferring payment service provider as referred to in paragraph 2, the receiving payment service provider shall, if provided for in the authorisation and to the extent that the information provided by the transferring payment service provider or the consumer enables the receiving payment service provider to do so, carry out the following tasks:

(i) set up the standing orders for credit transfers requested by the consumer and execute them with effect from the date specified in the authorisation;

(ii) make any necessary preparations to accept direct debits and accept them with effect from the date specified in the authorisation;

(iii) where relevant, inform consumers of their rights in accordance with Article 5(3)(d) of Regulation (EU) 260/2012 which establishes technical and business requirements for credit transfers and direct debits in euro;

(iv) inform payers specified in the authorisation and making recurring incoming credit transfers into a consumer's payment account of the details of the consumer's payment account with the receiving payment service provider and transmit to such payers a copy of the consumer's authorisation;

(v) where the receiving payment service provider does not have all the information it needs to complete the task referred to in point (iv), ask the consumer or the transferring payment service provider to provide the missing information;

(vi) inform payees specified in the authorisation and using a direct debit to collect funds from the consumer's payment account of the details of the consumer's payment account with the receiving payment service provider and the date from which direct debits are to be collected from that payment account and transmit to such payees a copy of the consumer's authorisation;

(vii) where the receiving payment service provider does not have all the information that it needs to inform the payees, it shall ask the consumer or the transferring payment service provider to provide the missing information.

(*b*) Where the consumer chooses to personally provide the information referred to in points (a)(iv) or (vi) to the payers or payees rather than provide specific consent in accordance with paragraph 1 allowing the receiving payment service provider to do so, the receiving payment service provider shall provide the consumer with standard letters providing details of:

(i) the payment account; and

(ii) the starting date specified in the authorisation within the deadline referred to in point 4(a).

(*c*) Any requirements imposed on the receiving payment service provider shall start to apply when such payment service provider has all information and documentation necessary to discharge its duties under this section.

(*d*) Without prejudice to Article 55(2) of Directive 2007/64/EC, the transferring payment service provider shall not block any payment instrument before the date specified in the consumer's authorisation, so that the provision of payment services to the consumer is not interrupted in the course of the provision of the switching service.

Fees connected with the switching service

5. (*a*) Transferring and receiving payment service providers shall provide the consumer with access, free of charge, to personal information regarding any existing standing orders and direct debits applicable to the accounts the consumer holds with them.

(*b*) The transferring payment service provider shall not charge the consumer or the receiving payment service provider for the provision of information requested from it by the receiving payment service provider in accordance with paragraphs 2(*a*) and (*b*).

(*c*) Any fee payable by the consumer applied by the transferring payment service provider in respect of the termination of the framework contract for the payment account held with the transferring payment service provider shall be determined in accordance with Article 45(2), (4) and (6) of Directive 2007/64/EC.

(*d*) Transferring or receiving payment service providers may charge the consumer a fee for any service referred to in paragraphs 2 to 4 - other than those referred to in points (a) to (c) of this paragraph - provided that any such fee is:

(i) reasonable; and

(ii) in line with the actual costs to the payment service provider of providing the relevant service.

Financial loss for consumers

6. (*a*) Subject to sub-paragraph (*b*), where a consumer suffers any financial loss, as a direct result of the non-compliance of a payment service provider with any requirement provided for in paragraphs 2 to 4, that payment service provider shall reimburse the full extent of the loss, including charges and interest, without delay.

(*b*) The duty to reimburse provided forin point (a) shall not apply in the case of unavoidable losses arising as a result of:

(i) abnormal and unforeseeable circumstances beyond the control of the payment service provider pleading for the application of those circumstances, the consequences of which would have been unavoidable despite all efforts to the contrary; or

(ii) the payment service provider's compliance with other legal obligations pursuant to other European Union or national legislative acts.

Information about the switching service

7. (*a*) Payment service providers shall make available to consumers the following information about the switching service:

(i) the roles of the transferring and receiving payment service provider for each step of the switching process as provided for in this Schedule;

(ii) the time-frames for completion of the respective steps;

(iii) any fees that shall be charged for the switching process;

(iv) any information that the consumer will be asked to provide;

(v) the alternative dispute resolution procedures referred to in regulation 44.

(*b*) The information referred to in sub-paragraph (a) shall:

(i) be made available free of charge, on paper or another durable medium, at all premises of the payment service provider accessible to consumers;

(ii) be available in electronic form on the payment service provider's website at all times; and

(iii) be provided to consumers upon request.

(*c*) Payment service providers shall also make available such information

required pursuant to other European Union or national legislation on payment accounts and related services.