VERŻJONI ELETTRONIKA

Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 20,069, 12 ta' Ottubru, 2018
Taqsima B

L.N. 324 of 2018

BANKING ACT
(CAP. 371)

FINANCIAL INSTITUTIONS ACT
(CAP. 376)

Credit Institutions and Financial Institutions (Payment Accounts) (Amendment) Regulations, 2018

IN EXERCISE of the powers conferred by article 3 of the Banking Act and article 12 of the Financial Institutions Act, the Minister responsible for the regulation of Financial Services, acting on the advice of the Malta Financial Services Authority, has made the following regulations:-

Citation.

1. The title of these regulations is the Credit Institutions and Financial Institutions (Payment Accounts) (Amendment) Regulations, 2018 and they shall be read and construed as one with the Credit Institutions and Financial Institutions (Payment Accounts) Regulations, hereinafter referred to as "the principal regulations".

S.L. 371.18.

Amends regulation 1 of the principal regulations.

2. Regulation 1 of the principal regulations shall be amended as follows:

(a) in sub-regulation (3) thereof, for the words "rules concerning the switching of payment accounts within Malta and other Member States", there shall be substituted the words, "rules concerning the switching of payment accounts within Malta";

(b) in sub-regulation (4) thereof, for the words "rules and conditions to which Malta is required to guarantee a right for consumers", there shall be substituted the words, "rules and conditions according to which Malta is required to guarantee a right for consumers";

(c) for sub-regulation (5) thereof, there shall be substituted the following:

"(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.";

(d) immediately after sub-regulation (5) thereof, there shall be added the following new sub-regulations (6), (7) and (8):

VERŻJONI ELETTRONIKA

"(6) Regulations 8, 10, 12 and 13 shall enter into force on such date as the Minister may by notice in the Gazette establish.

(7) 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.

(8) 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.".

Amends regulation 2 of the principal regulations.

3. Regulation 2 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof:

(i) the definition "branch" shall be deleted;

(ii) immediately after the definition "business day", there shall be added the following new definition:

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

(iii) in the definition "credit transfer", for the words "means a national or cross-border payment service", there shall be substituted the words, "means a national payment service or a cross-border payment service in and outside Malta,";

(iv) in the definition "direct debit", for the words "means a national or cross-border payment service", there shall be substituted the words, "means a national payment service or a cross-border payment service in and outside Malta,";

(v) the definition "Directive 2005/60/EC" shall be deleted;

VERŻJONI ELETTRONIKA

(vi) immediately after the definition "Directive 2008/48/EC", there shall be added the following new definition:

" "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;";

(vii) in the definition "EU standardised terminology", for the words "in accordance with regulation 3(1);", there shall be substituted the words, "in accordance with Article 3(4) of the Payment Accounts Directive;";

(viii) immediately after the definition "EU standardised terminology" as amended, there shall be added the following new definition:

" "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;";

(ix) for the definition "fee information document", there shall be substituted the following:

" "fee information document" means the fee information document referred to in regulation 8;";

(x) immediately after the definition "fee information document" as substituted, there shall be added the following new definition:

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

Cap. 373.

(xi) immediately after the definition "framework contract", there shall be added the following new

VERŻJONI ELETTRONIKA

definition:

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

(xii) in the definition "legally resident in Malta or in another Member State", for the words "means a natural person who has the right", there shall be substituted the words, "means where a natural person has the right";

(xiii) for the definition "Minister", there shall be substituted the following:

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

(xiv) immediately after the definition "Minister" as substituted, there shall be added the following new definition:

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

(xv) for the definition "payment instrument", there shall be substituted the following:

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

(xvi) for the definition "payment service", there shall be substituted the following:

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

(xvii) for the definition "payment service provider", there shall be substituted the following:

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

VERŻJONI ELETTRONIKA

(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

VERŻJONI ELETTRONIKA

(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;";

(xviii)for the definition "statement of fees", there shall be substituted the following:

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

(b) in paragraph (b) of sub-regulation (2) thereof, for the words "Central Bank of Malta", there shall be substituted the words "Central Bank".

Amends regulation 3 of the principal regulations.

4. Regulation 3 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, for the words "the EU standardised terminology", there shall be substituted the words, "EU standardised terminology in accordance with Article 3(4) of the Payment Accounts Directive,";

(b) in sub-regulation (2) thereof:

(i) in paragraph (a) thereof, for the words "payment service provider;", there shall be substituted the words, "payment service provider in Malta;";

(ii) in paragraph (b) thereof, for the words "services identified; and", there shall be substituted the words, "services identified;";

(iii) for paragraph (c) thereof, there shall be substituted the following:

"(c) include only one term for each service in

VERŻJONI ELETTRONIKA

both Maltese and English;"; and

(iv) immediately after paragraph (c) thereof, there shall be added the following new paragraphs (d) and (e):

" (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.".

Amends regulation 4 of the principal regulations.

5. In regulation 4 of the principal regulations, for the words "shall use the terminology set out in the list", there shall substituted the words "shall use the standardised terminology set out in the list".

Amends regulation 5 of the principal regulations.

6. Regulation 5 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, for the words "following publication of the list of the most representative services linked to a payment account,", there shall be substituted the words, "following publication of the list referred to in regulation 3(1),", and for the words "update the list.", there shall be substituted the words, "update the list of the most representative services established pursuant to regulation 3."; and

(b) in sub-regulation (2) thereof, for the words "and to EBA", there shall be substituted the words "and to the EBA", and for the words "with the updated list.", there shall be substituted the words, "with the updated list of the most representative services.".

Amends regulation 6 of the principal regulations.

7. Regulation 6 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, for the words, "the competent authority shall revise the list of the most representative services linked to a payment account and make any consequential amendments thereto.", there shall be substituted the words, "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

VERŻJONI ELETTRONIKA

terminology."; and

(b) for sub-regulation (2) thereof, there shall be substituted the following:

"(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).".

Amends regulation 7 of the principal regulations.

8. Regulation 7 of the principal regulations shall be amended as follows:

(a) for sub-regulation (1) thereof, there shall be substituted the following:

"(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.";

(b) in sub-regulation (2) thereof, for the words "in English and Maltese and may also be available in any other language as agreed by the payment service provider", there shall be substituted the words, "in English and Maltese and in any other language agreed upon by the payment service provider"; and

(c) in sub-regulation (3) thereof, for the words "The glossary, including other definitions,", there shall be substituted the words, "The glossary referred to in sub-regulation (1), including other definitions, if any,".

Amends regulation 8 of the principal regulations.

9. For sub-regulation (1) of regulation 8 of the principal regulations, there shall be substituted the following:

"(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.".

Amends regulation 9 of the principal regulations.

10. Regulation 9 of the principal regulations shall be amended as follows:

VERŻJONI ELETTRONIKA

(a) for paragraph (b)(ii) of sub-regulation (1) thereof, there shall be substituted the following:

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

(b) for sub-regulation (2) thereof, there shall be substituted the following:

"(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."; and

(c) sub-regulation (3) thereof shall be deleted.

Amends regulation 10 of the principal regulations.

11. In sub-regulation (1) of regulation 10 of the principal regulations, for the words "a payment service provider shall provide consumers with an annual or periodic statement of fees free of charge.", there shall be substituted the words, "a payment service provider shall provide consumers, at least annually and free of charge, with a statement of fees.".

Amends regulation 12 of the principal regulations.

12. Regulation 12 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, for the words "terms set out in the list of the most representative services linked to payment accounts.", there shall be substituted the words, "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

(b) in sub-regulation (2) thereof, for the words "provided such brand names are used in addition to the terms set out in the list of the most representative services linked to payment accounts", there shall be substituted the words, "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),".

Amends regulation 13 of the principal regulations.

13. Regulation 13 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, for the words "payment account.", there shall be substituted the words, "payment account

VERŻJONI ELETTRONIKA

established pursuant to regulation 3, as may be amended from time to time in accordance with regulation 6(1).";

(b) in sub-regulation (2) thereof:

(i) for the words "The comparison website shall:", there shall be substituted the words, "The comparison website referred to in sub-regulation (1) shall:";

(ii) in paragraph (c) thereof, for the words "the comparison shall be based;", there shall be substituted the words, "the comparison will be based;";

(iii) for paragraph (d) thereof, there shall be substituted the following:

"(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);";

(iv) in paragraph (f) thereof, for the words "covering a significant part of the market, and where the information presented is not a complete", there shall be substituted the words, "covering a significant part of the market and, where the information presented is not a complete";

(c) immediately after sub-regulation (2) thereof, there shall be added the following new sub-regulations (2A) and (2B):

"(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

VERŻJONI ELETTRONIKA

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).";

(d) for sub-regulation (3) thereof, there shall be substituted the following:

"(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.";

(e) for sub-regulation (4) thereof, there shall be substituted the following:

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

VERŻJONI ELETTRONIKA

(f) sub-regulation (5) thereof shall be deleted.

Amends regulation 15 of the principal regulations.

14. For sub-regulation (1) of regulation 15 of the principal regulations, there shall be substituted the following:

"(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.".

Amends regulation 16 of the principal regulations.

15. Regulation 16 of the principal regulations shall be amended as follows:

(a) for the marginal note thereof, there shall be substituted the following:

"Facilitation of cross-border account opening within the European Union for consumers.";

(b) in sub-regulation (1) thereof:

(i) for the words "with a payment service provider located outside Malta, but within another Member State, the Maltese payment service provider shall, on a date specified by the consumer:", there shall be substituted the words, "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:";

(ii) in the proviso to paragraph (a)(ii) thereof, for the words "Provided that there is no obligation", there shall be substituted the words, "Provided that this shall not entail any obligation";

(iii) for paragraph (b) thereof, there shall be substituted the following:

"(*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";

(iv) in paragraph (c) thereof, for the words "by the consumer with the Maltese payment service provider.",

VERŻJONI ELETTRONIKA

there shall be substituted the following, "by the consumer.";

(c) for sub-regulation (2) thereof, there shall be substituted the following:

"(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."; and

(d) for sub-regulation (3) thereof, there shall be substituted the following:

"(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.".

Amends regulation 18 of the principal regulations.

16. In the proviso to sub-regulation (2) of regulation 18 of the principal regulations, for the words "the provisions of these regulations", there shall be substituted the words, "the provisions of Part 4 of these regulations".

Amends regulation 19 of the principal regulations.

17. Regulation 19 of the principal regulations shall be amended as follows:

(a) for sub-regulation (1) thereof, there shall be substituted the following:

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

(b) immediately after sub-regulation (3) thereof, there

VERŻJONI ELETTRONIKA

shall be added the following new sub-regulation (3A):

"(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.";

(c) for sub-regulation (4) thereof, there shall be substituted the following:

"(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.";

(d) immediately after sub-regulation (4) thereof, there shall be added the following new sub-regulation (4A):

"(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."; and

(e) in sub-regulation (6) thereof, for the words "the Professional Secrecy Act and other provisions contained in any other Maltese Law,", there shall be substituted the words, "the Professional Secrecy Act, article 34 of the Banking Act and any other relevant provisions contained in any other Maltese Law,", and for the words "information provided by their prospective consumers in terms of sub-regulation (5).", there shall be substituted the words, "information provided in terms of sub-regulation (5)."

Cap. 377.

Cap. 377.
Cap. 371.

Amends regulation 21 of the principal regulations.

18. In regulation 21 of the principal regulations, for the words "ten business days from recorded receipt", there shall be substituted the words, "ten business days from the recorded receipt".

Substitutes regulation 22 of the principal regulations.

19. For regulation 22 of the principal regulations there shall be substituted the following:

"22. (1)A credit institution shall refuse to open a payment

VERŻJONI ELETTRONIKA

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.".

Amends regulation 23 of the principal regulations.

20. Regulation 23 of the principal regulations shall be amended as follows:

(a) for sub-regulation (1) thereof, there shall be substituted the following:

"(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."; and

(b) in sub-regulation (2) thereof, for the words "submitting a complaint to it and provide details about the consumer's rights to lodge a complaint with the Office of the Arbiter for Financial Services." there shall be substituted the words, "submitting a complaint to it and of the consumer's rights to lodge a complaint with the Office of the Arbiter for Financial Services and provide the relevant contact details.".

Substitutes regulation 25 of the principal regulations.

21. For regulation 25 of the principal regulations there shall be substituted the following:

"(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;

VERŻJONI ELETTRONIKA

(*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.".

Substitutes regulation 26 of the principal regulations.

22. For regulation 26 of the principal regulations, there shall be substituted the following:

"Payment accounts with basic features may also be offered in the currency of any other Member State.

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.".

Substitutes regulation 27 of the principal regulations.

23. For regulation 27 of the principal regulations, there shall be substituted the following:

"Unlimited number of operations.

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).".

VERŻJONI ELETTRONIKA

24. For regulation 29 of the principal regulations, there shall be substituted the following: Substitutes regulation 29 of the principal regulations.

"Overdraft facilities.

S.L. 378.12.

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.".

25. For regulation 30 of the principal regulations there shall be substituted the following: Substitutes regulation 30 of the principal regulations.

"(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.".

26. Regulation 31 of the principal regulations, shall be amended as follows: Amends regulation 31 of the principal regulations.

(a) for sub-regulation (1) thereof, there shall be substituted the following:

"(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.";

VERŻJONI ELETTRONIKA

(b) in sub-regulation (2) thereof:

(i) paragraph (a) thereof shall be amended as follows:

(a) in sub-paragraph (iv) thereof, for the words, "Member State;", there shall be substituted the words, "Member State; and";

(b) in sub-paragraph (v) thereof, for the words, "regulation 25(1); and", there shall be substituted the words, "regulation 25(1)."; and

(c) sub-paragraph (vi) thereof shall be deleted;

(ii) in paragraph (b) thereof, for the words "prescribed by the Minister.", there shall be substituted the words, "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.";

(c) in sub-regulation (3) thereof, for the words "with sub-regulation (2)(a), (i) and (iii)", there shall be substituted the words, "with sub-regulation (2)(a)(i) and (iii)";

(d) for sub-regulation (4) thereof, there shall be substituted the following:

"(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;

VERŻJONI ELETTRONIKA

(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.";

(e) sub-regulation (6) thereof shall be deleted; and

(f) immediately after sub-regulation (7) thereof, there shall be added the following new sub-regulation (8):

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

Amends regulation 32 of the principal regulations.

27. Regulation 32 of the principal regulations shall be amended as follows:

(a) in paragraph (c) of sub-regulation (1) thereof, for the words "the Office of the Arbiter for Financial Services", there shall be substituted the words, "the Office of the Arbiter for Financial Services, and the relevant procedure to be followed,"; and

(b) in sub-regulation (4) thereof, for the words "shall ensure that information and assistance provided in accordance with sub-regulation (3) make it clear", there shall be substituted the words, "shall ensure that the information and assistance provided in accordance with sub-regulation (3) makes it clear".

Addition of new regulation 32A of the principal regulations.

28. Immediately after regulation 32 of the principal regulations, there shall be added the following new regulation 32A:

"Definition of branch for the purposes of this Part. 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.".

Substitutes regulation 33 of the principal regulations.

29. For regulation 33 of the principal regulations, there shall be

VERŻJONI ELETTRONIKA

substituted the following:

"Competent authority.

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.".

Deletion of regulation 34 of the principal regulations.

30. Regulation 34 of the principal regulations shall be deleted.

Amends regulation 35 of the principal regulations.

31. Regulation 35 of the principal regulations shall be amended as follows:

(a) for sub-regulation (1) thereof, there shall be substituted the following:

Cap. 371. Cap. 376.

"(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.";

(b) for sub-regulation (2) thereof, there shall be

VERŻJONI ELETTRONIKA

substituted the following:

"(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.

(c) for sub-regulation (3) thereof, there shall be substituted the following:

"(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:

Cap. 371.
Cap. 376.

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:

VERŻJONI ELETTRONIKA

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.";

(d) in sub-regulation (4) thereof, for the words "in sub-regulations (1)(c) and (3),", there shall be substituted the words, "in sub-regulations (1) to (3),"; and

(e) in sub-regulation (5) thereof, for the words "sub-regulation (2), the competent authority must notify", there shall be substituted the words, "sub-regulation (4), the competent authority shall notify".

Amends regulation 38 of the principal regulations.

32. In regulation 38 of the principal regulations, for the words "may issue a directive", there shall be substituted the words, "may issue, amend, or revoke a directive".

Amends regulation 39 of the principal regulations.

33. In sub-regulation (2) of regulation 39 of the principal regulations, for the words "issues a directive to a payment service provider under regulation 38, or issues a directive with immediate effect,", there shall be substituted the words, "issues a directive to a payment service provider under regulation 38,".

Amends regulation 40 of the principal regulations.

34. Regulation 40 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, for the word "rules", there shall be substituted the word "Rules"; and

(b) in sub-regulation (2) thereof, for the word "rules", there shall be substituted the word "Rules".

Amends regulation 41 of the principal regulations.

35. Regulation 41 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, for the words "under these regulations.", there shall be substituted the words, "under these regulations or any Rules issued thereunder."; and

VERŻJONI ELETTRONIKA

(b) immediately after sub-regulation (1) thereof, there shall be added the following new sub-regulation (1A):

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

36. Regulation 42 of the principal regulations, shall be amended as follows:

Amends regulation 42 of the principal regulations.

(a) for sub-regulation (1) thereof, there shall be substituted the following:

"(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.";

(b) immediately after sub-regulation (1) thereof, there shall be added the following new sub-regulation (1A):

"(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.";

(c) in sub-regulation (2) thereof, for the words "the publication or issue of public statements or notices pursuant to this regulation,", there shall be substituted the words, "any publication pursuant to this regulation,"; and

VERŻJONI ELETTRONIKA

(d) for sub-regulation (3) thereof, there shall be substituted the following:

"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.".

Substitutes regulation 45 of the principal regulations.

37. For regulation 45 of the principal regulations, there shall be substituted the following:

"Evaluation.

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).".

Amends the First Schedule to the principal regulations.

38. The First Schedule to the principal regulations shall be amended as follows:

(a) for paragraph 2 thereof, there shall be substituted the following:

"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

VERŻJONI ELETTRONIKA

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.";

(b) in paragraph 3 thereof, for the words "services featured in the list of the most representative services linked to a payment account are offered as part of a package of services,", there shall be substituted the words "services are offered as part of a package of services linked to a payment account,";

(c) in paragraph 4 thereof:

(i) for paragraph (a) thereof, there shall be substituted the following:

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

(ii) for paragraph (e) thereof, there shall be substituted the following:

"(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;"; and

(d) in paragraph 5 thereof, for the words "pursuant to other EU", there shall be substituted the words, "pursuant to other European Union", and for the words "requirements in paragraph 4", there shall be substituted the words, "requirements set out in paragraph 4".

39. The Second Schedule to the principal regulations shall be amended as follows:

Amends the Second Schedule to the principal regulations.

(a) in paragraph 1 thereof, for the words "by the European Commission under Article 5(4) of the Payment Accounts Directive.", there shall be substituted the words, "by

VERŻJONI ELETTRONIKA

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.";

(b) in paragraph 2(ii) thereof, for the words "the terms set out in the list of the most representative services linked to a payment account;", there shall be substituted the words, "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);";

(c) in paragraph 3 thereof:

(i) for paragraph (c)(ii) thereof, there shall be substituted the following:

"(ii) each package of service provided; and";

(ii) in paragraph (f) thereof, for the words "during the relevant period;", there shall be substituted the words, "during the relevant period, where applicable;";

(iii) in paragraph (g) thereof, for the words "during the relevant period; and", there shall be substituted the words, "during the relevant period, where applicable; and";

(d) for paragraph 4 thereof, there shall be substituted the following:

"The statement of fees shall:

(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."; and

(e) immediately after paragraph 4 thereof as amended,

VERŻJONI ELETTRONIKA

there shall be inserted the following new paragraph 5:

"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.".

Amends the Third Schedule to the principal regulations.

40. The Third Schedule to the principal regulations shall be amended as follows:

(a) in paragraph 1 thereof:

(i) for paragraph (b) thereof, there shall be substituted the following:

"(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.";

(ii) for paragraph (c) thereof, there shall be substituted the following:

"(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.";

(iii) in paragraph (e) thereof, for the words "in accordance with sub-paragraph (d)(iv)", there shall be substituted the words, "in accordance with point (d)(iv)";

(b) in paragraph 3 thereof:

(i) in paragraph (a) thereof, for the words "the receiving service provider,", there shall be substituted the words, "the receiving payment service provider,";

(c) in paragraph 4 thereof:

(i) in paragraph (a)(iv) thereof, for the words "making recurrent incoming credit transfers", there shall be substituted the words, "making recurring incoming credit transfers";

(ii) in paragraph (a)(v) thereof, for the words "in sub-paragraph (iv),", there shall be substituted the words, "in point (iv),";

VERŻJONI ELETTRONIKA

(iii) in paragraph (b) thereof, for the words "in sub-paragraph (a)(iv) or (vi)", there shall be substituted the words, "in points (a)(iv) or (vi)", and for the words "with paragraph 2", there shall be substituted the words, "with paragraph 1";

(iv) in paragraph (b)(ii) thereof, for the words "the deadline referred to in paragraph (1)(d)(iv).", there shall be substituted the words, "the deadline referred to in point 4(a).";

(d) in paragraph 5 thereof:

(i) in paragraph (a) thereof, for the words "to details of any standing orders", there shall be substituted the words, "to personal information regarding any existing standing orders";

(ii) in paragraph (d) thereof, for the words "in sub-paragraphs (a) to (c)", there shall be substituted the words, "in points (a) to (c)";

(e) in paragraph 6 thereof:

(i) in paragraph (a) thereof, for the words "the payment service provider shall reimburse", there shall be substituted the words, "that payment service provider shall reimburse";

(ii) in paragraph (b) thereof, for the words "in sub-paragraph (a)", there shall be substituted the words, "in point (a)"; and

(f) for paragraph 7 thereof, there shall be substituted the following:

"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;

VERŻJONI ELETTRONIKA

(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.".

VERŻJONI ELETTRONIKA

Ippubblikat mid-Dipartiment tal-Informazzjoni (doi.gov.mt) — Valletta — ***Published by the Department of Information (doi.gov.mt) — Valletta***
Mitbugħ fl-Istamperija tal-Gvern fuq karta FSC — ***Printed at the Government Printing Press on FSC certified paper***

Prezz/*Price*
€1.35