

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 (Text with EEA relevance)

CHAPTER III

SWITCHING

Article 9

Provision of the switching service

Member States shall ensure that payment service providers provide a switching service as described in Article 10 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 the territory of the Member State concerned.

Article 10

The switching service

1 Member States shall ensure that the switching service is initiated by the receiving payment service provider at the request of the consumer. The switching service shall at least comply with paragraphs 2 to 6.

Member States may establish or maintain measures alternative to those referred to in paragraphs 2 to 6, provided that:

- a it is clearly in the interest of the consumer;
- b there is no additional burden for the consumer; and
- c the switching is completed within, as a maximum, the same overall time-frame as that indicated in paragraphs 2 to 6.

2 The receiving payment service provider shall perform the switching service upon receipt of the authorisation from the consumer. In the case of two or more holders of the account, authorisation shall be obtained from each of them.

The authorisation shall be drawn up in an official language of the Member State where the switching service is being initiated or in any other language agreed between the parties.

The authorisation shall allow the consumer to provide specific consent to the performance by the transferring payment service provider of each of the tasks referred to in paragraph 3 and to provide specific consent to the performance by the receiving payment service provider of each of the tasks referred to in paragraph 5.

The authorisation shall allow the consumer to specifically identify incoming credit transfers, standing orders for credit transfers and direct debit mandates that are to be switched. The authorisation shall also allow consumers to 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. That date shall

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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 pursuant to paragraph 4. Member States may require the authorisation from the consumer to be in writing and that a copy of the authorisation be provided to the consumer.

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

- a transmit to the receiving payment service provider and, if specifically requested by the consumer, to the consumer, a list of the existing standing orders for credit transfers and available information on direct debit mandates that are being switched;
- b transmit to the receiving payment service provider and, if specifically requested by the consumer, to the consumer, the available information about recurring incoming credit transfers and creditor-driven direct debits executed on the consumer's payment account in the previous 13 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 cancel standing orders with effect from the date specified in the authorisation;
- e transfer 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 close the payment account held with the transferring payment service provider on the date specified by the consumer.

4 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:

- a send the receiving payment service provider the information referred to in points (a) and (b) of paragraph 3 within five business days;
- b 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 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. Member States may require the transferring payment service provider to inform the payer or the payee of the reason for not accepting the payment transaction;
- c cancel standing orders with effect from the date specified in the authorisation;
- d 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;
- e 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 provided that the actions listed in points (a), (b) and (d) of this paragraph have been completed. The payment service provider shall immediately inform the consumer where such outstanding obligations prevent the consumer's payment account from being closed.

5 Within five business days of receipt of the information requested from the transferring payment service provider as referred to in paragraph 3, the receiving payment service provider

shall, as and 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:

- a set up the standing orders for credit transfers requested by the consumer and execute them with effect from the date specified in the authorisation;
- b make any necessary preparations to accept direct debits and accept them with effect from the date specified in the authorisation;
- c where relevant, inform consumers of their rights pursuant to point (d) of Article 5(3) of Regulation (EU) No 260/2012;
- d 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 the payers a copy of the consumer's authorisation. If the receiving payment service provider does not have all the information it needs to inform the payers, it shall ask the consumer or the transferring payment service provider to provide the missing information;
- e 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 the payees a copy of the consumer's authorisation. If the receiving payment service provider does not have all the information it needs to inform the payees, it shall ask the consumer or the transferring payment service provider to provide the missing information.

Where the consumer chooses to personally provide the information referred to in points (d) and (e) of the first subparagraph of this paragraph to the payers or payees rather than provide specific consent in accordance with paragraph 2 to the receiving payment service provider to do so, the receiving payment service provider shall provide the consumer with standard letters providing details of the payment account and the starting date specified in the authorisation within the deadline referred to in the first subparagraph of this paragraph.

6 Without prejudice to Article 55(2) of Directive 2007/64/EC, the transferring payment service provider shall not block payment instruments 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.

Article 11

Facilitation of cross-border account-opening for consumers

1 Member States shall ensure that where a consumer indicates to his payment service provider that he wishes to open a payment account with a payment service provider located in another Member State, the payment service provider with which the consumer holds a payment account shall on receipt of such request provide the following assistance to the consumer:

- a provide the consumer free of charge with a list of all the currently active standing orders for credit transfers and debtor-driven direct debit mandates, where available, and with available information about recurring incoming credit transfers and creditor-driven direct debits executed on the consumer's payment account in the previous 13 months. That list shall not entail any obligation on the part of the new payment service provider 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

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- provider, provided that the request includes full details allowing the new payment service provider and the consumer's payment account to be identified;
- 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 has no outstanding obligations on a payment account, the payment service provider with which the consumer holds that payment account shall conclude the steps set out in points (a), (b) and (c) of paragraph 1 of this Article on the date specified by the consumer, which shall be at least six business days after that payment service provider receives the consumer's request unless otherwise agreed between the parties. The payment service provider shall immediately inform the consumer where outstanding obligations prevent his payment account from being closed.

Article 12

Fees connected with the switching service

1 Member States shall ensure that consumers are able to access free of charge their personal information regarding existing standing orders and direct debits held by either the transferring or the receiving payment service provider.

2 Member States shall ensure that the transferring payment service provider provides the information requested by the receiving payment service provider pursuant to point (a) of Article 10(4) without charging the consumer or the receiving payment service provider.

3 Member States shall ensure that fees, if any, applied by the transferring payment service provider to the consumer for the termination of the payment account held with it are determined in accordance with Article 45(2), (4) and (6) of Directive 2007/64/EC.

4 Member States shall ensure that fees, if any, applied by the transferring or the receiving payment service provider to the consumer for any service provided under Article 10, other than those referred to in paragraphs 1, 2 and 3 of this Article, are reasonable and in line with the actual costs of that payment service provider.

Article 13

Financial loss for consumers

1 Member States shall ensure that any financial loss, including charges and interest, incurred by the consumer and resulting directly from the non-compliance of a payment service provider involved in the switching process with its obligations under Article 10 is refunded by that payment service provider without delay.

2 Liability under paragraph 1 shall not apply in cases of 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 where a payment service provider is bound by other legal obligations covered by Union or national legislative acts.

3 Member States shall ensure that liability under paragraphs 1 and 2 is established in accordance with the legal requirements applicable at national level.

Article 14

Information about the switching service

1 Member States shall ensure that payment service providers make available to consumers the following information about the switching service:

- a the roles of the transferring and receiving payment service provider for each step of the switching process, as indicated in Article 10;
- b the time-frame for completion of the respective steps;
- c the fees, if any, charged for the switching process;
- d any information that the consumer will be asked to provide; and
- e the alternative dispute resolution procedures referred to in Article 24.

Member States may require that payment service providers also make available other information, including, where applicable, the information necessary for the identification of the deposit guarantee scheme within the Union of which the payment service provider is a member.

2 The information referred to in paragraph 1 shall be made available free of charge on paper or another durable medium at all premises of the payment service provider accessible to consumers, shall be available in electronic form on its website at all times, and shall be provided to consumers on request.