

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 IV

ACCESS TO PAYMENT ACCOUNTS

Article 15

Non-discrimination

Member States shall ensure that credit institutions do not discriminate against consumers legally resident in the Union by reason of their nationality or place of residence or by reason of any other ground as referred to in Article 21 of the Charter, when those consumers apply for or access a payment account within the Union. The conditions applicable to holding a payment account with basic features shall be in no way discriminatory.

Article 16

Right of access to a payment account with basic features

1 Member States shall ensure that payment accounts with basic features are offered to consumers by all credit institutions or a sufficient number of credit institutions to guarantee access thereto for all consumers in their territory, and to prevent distortions of competition. Member States shall ensure that payment accounts with basic features are not only offered by credit institutions that provide payment accounts with solely online facilities.

2 Member States shall ensure that consumers legally resident in the Union, including consumers with no fixed address and asylum seekers, and consumers who are not granted a residence permit but whose expulsion is impossible for legal or factual reasons, have the right to open and use a payment account with basic features with credit institutions located in their territory. Such a right shall apply irrespective of the consumer's place of residence.

Member States may, in full respect of the fundamental freedoms guaranteed by the Treaties, require consumers who wish to open a payment account with basic features in their territory to show a genuine interest in doing so.

Member States shall ensure that the exercise of the right is not made too difficult or burdensome for the consumer.

3 Member States shall ensure that credit institutions offering payment accounts with basic features open the payment account with basic features or refuse a consumer's application for a payment account with basic features, in each case without undue delay and at the latest 10 business days after receiving a complete application.

4 Member States shall ensure that credit institutions refuse an application for a payment account with basic features where opening such an account would result in an infringement of the provisions on the prevention of money laundering and the countering of terrorist financing laid down in Directive 2005/60/EC.

5 Member States may permit credit institutions that offer payment accounts with basic features to refuse an application for such an account where a consumer already holds a payment account with a credit institution located in their territory which allows him to make use of the services listed in Article 17(1), save where a consumer declares that he has received notice that a payment account will be closed.

In such cases, before opening a payment account with basic features, the credit institution may verify whether the consumer holds or does not hold a payment account with a credit institution located in the same Member State which enables consumers to make use of the services listed in Article 17(1). Credit institutions may rely on a declaration of honour signed by consumers for that purpose.

6 Member States may identify limited and specific additional cases where credit institutions may be required or may choose to refuse an application for a payment account with basic features. Such cases shall be based on provisions of national law applicable in their territory and shall be aimed either at facilitating access by the consumer to a payment account with basic features free of charge under the mechanism of Article 25 or at avoiding abuses by consumers of their right to access a payment account with basic features.

7 Member States shall ensure that, in the cases referred to in paragraphs 4, 5 and 6, after taking its decision, the credit institution immediately informs the consumer of the refusal and of the specific reason for that refusal, in writing and free of charge, unless such disclosure would be contrary to objectives of national security, public policy or Directive 2005/60/EC. In the event of refusal, the credit institution shall advise the consumer of the procedure to submit a complaint against the refusal, and of the consumer's right to contact the relevant competent authority and designated alternative dispute resolution body and provide the relevant contact details.

8 Member States shall ensure that, in the cases referred to in paragraph 4, the credit institution adopts appropriate measures pursuant to Chapter III of Directive 2005/60/EC.

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

10 Member States shall be deemed to comply with the obligations laid down in Chapter IV where an existing binding framework ensures its full application in a sufficiently clear and precise manner so that the persons concerned can ascertain the full extent of their rights and rely on them before the national courts.

Article 17

Characteristics of a payment account with basic features

1 Member States shall ensure that a payment account with basic features includes the following services:

- a services enabling all the operations required for the opening, operating and closing of a payment account;
- b services enabling funds to be placed in a payment account;
- c services enabling cash withdrawals within the Union from a payment account at the counter or at automated teller machines during or outside the credit institution's opening hours;
- d execution of the following payment transactions within the Union:
 - (i) direct debits;

- (ii) payment transactions through a payment card, including online payments;
- (iii) credit transfers, including standing orders, at, where available, terminals and counters and via the online facilities of the credit institution.

The services listed in points (a) to (d) of the first subparagraph 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.

2 Member States may establish an obligation requiring credit institutions established in their territory to provide additional services, which are considered essential for consumers based on common practice at national level, with a payment account with basic features.

3 Member States shall ensure that payment accounts with basic features are offered by credit institutions established in their territory at least in the national currency of the Member State concerned.

4 Member States shall ensure that a payment account with basic features allows consumers to execute an unlimited number of operations in relation to the services referred to in paragraph 1.

5 With respect to the services referred to in points (a), (b), (c) and (d)(ii) of paragraph 1 of this Article excluding payment transactions through a credit card, Member States shall ensure that credit institutions do not charge any fees beyond the reasonable fees, if any, referred to in Article 18, irrespective of the number of operations executed on the payment account.

6 With respect to the services referred to in point (d)(i) of paragraph 1 of this Article, point d(ii) of paragraph 1 of this Article only as regards payment transactions through a credit card and point (d)(iii) of paragraph 1 of this Article, Member States may determine a minimum number of operations for which credit institutions can only charge the reasonable fees, if any, referred to in Article 18. Member States shall ensure that the minimum number of operations is sufficient to cover the personal use by the consumer, taking into account existing consumer behaviour and common commercial practices. The fees charged for operations above the minimum number of operations shall never be higher than those charged under the usual pricing policy of the credit institution.

7 Member States shall ensure that the consumer is able to manage and initiate payment transactions from the consumer's payment account with basic features in the credit institution's premises and/or via online facilities, where available.

8 Without prejudice to the requirements laid down in Directive 2008/48/EC, Member States may allow credit institutions to provide, upon the consumer's request, an overdraft facility in relation to a payment account with basic features. Member States may define a maximum amount and a maximum duration of any such overdraft. Access to, or use of, the payment account with basic features shall not be restricted by, or made conditional on, the purchase of such credit services.

Article 18

Associated fees

1 Member States shall ensure that the services referred to in Article 17 are offered by credit institutions free of charge or for a reasonable fee.

2 Member States shall ensure that the fees charged to the consumer for non-compliance with the consumer's commitments laid down in the framework contract are reasonable.

3 Member States shall ensure that the reasonable fees referred to in paragraphs 1 and 2 are established taking into account at least the following criteria:

- a national income levels;
- b average fees charged by credit institutions in the Member State concerned for services provided on payment accounts.

4 Without prejudice to the right referred to in Article 16(2) and the obligation contained in paragraph 1 of this Article, Member States may require credit institutions to implement various pricing schemes depending on the level of banking inclusion of the consumer, allowing for, in particular, more advantageous conditions for unbanked vulnerable consumers. In such cases, Member States shall ensure that consumers are provided with guidance, as well as adequate information, on the available options.

Article 19

Framework contracts and termination

1 Framework contracts providing access to a payment account with basic features shall be subject to Directive 2007/64/EC unless otherwise specified in paragraphs 2 and 4 of this Article.

2 The credit institution may unilaterally terminate a framework contract only where at least one of the following conditions is met:

- a the consumer deliberately used the payment account for illegal purposes;
- b there has been no transaction on the payment account for more than 24 consecutive months;
- c the consumer provided incorrect information in order to obtain the payment account with basic features where the correct information would have resulted in the absence of such a right;
- d the consumer is no longer legally resident in the Union;
- e the consumer has subsequently opened a second payment account which allows him to make use of the services listed in Article 17(1) in the Member State where he already holds a payment account with basic features.

3 Member States may identify additional limited and specific cases where a framework contract for a payment account with basic features may be unilaterally terminated by the credit institution. Such cases shall be based on provisions of national law applicable in their territory and shall be aimed at avoiding abuses by consumers of their right to access a payment account with basic features.

4 Member States shall ensure that, where a credit institution terminates the contract for a payment account with basic features on one or more of the grounds mentioned in points (b), (d) and (e) of paragraph 2 and in paragraph 3, it informs the consumer of the grounds and the justification for the termination at least two months before the termination enters into force, in writing and free of charge, unless such disclosure would be contrary to objectives of national security or public policy. Where the credit institution terminates the contract in accordance with point (a) or (c) of paragraph 2, its termination shall take effect immediately.

5 The notification of termination shall advise the consumer of the procedure to submit a complaint against the termination, if any, and of the consumer's right to contact the competent

authority and designated alternative dispute resolution body and provide the relevant contact details.

Article 20

General information on payment accounts with basic features

1 Member States shall ensure that adequate measures are in place to raise awareness among the public about the availability of payment accounts with basic features, their general pricing conditions, the procedures to be followed in order to exercise the right to access a payment account with basic features and the methods for having access to alternative dispute resolution procedures for the settlement of disputes. Member States shall ensure that communication measures are sufficient and well-targeted, in particular reaching out to unbanked, vulnerable and mobile consumers.

2 Member States shall ensure that credit institutions make available to consumers, free of charge, accessible information and assistance about the specific features of the payment account with basic features on offer, their associated fees and the conditions of use. Member States shall also ensure that the information makes clear that the purchase of additional services is not compulsory in order to access a payment account with basic features.