

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 (Text with EEA relevance)

TITLE I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter

1 This Directive establishes the rules in accordance with which Member States shall distinguish between the following categories of payment service provider:

- a credit institutions as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council⁽¹⁾, including branches thereof within the meaning of point (17) Article 4(1) of that Regulation where such branches are located in the Union, whether the head offices of those branches are located within the Union or, in accordance with Article 47 of Directive 2013/36/EU and with national law, outside the Union;
- b electronic money institutions within the meaning of point (1) of Article 2 of Directive 2009/110/EC, including, in accordance with Article 8 of that Directive and with national law, branches thereof, where such branches are located within the Union and their head offices are located outside the 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 ECB 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.

2 This Directive also establishes rules concerning:

- a the transparency of conditions and information requirements for payment services; and
- b the respective rights and obligations of payment service users and payment service providers in relation to the provision of payment services as a regular occupation or business activity.

Article 2

Scope

1 This Directive applies to payment services provided within the Union.

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2 Titles III and IV apply to payment transactions in the currency of a Member State where both the payer's payment service provider and the payee's payment service provider are, or the sole payment service provider in the payment transaction is, located within the Union.

3 Title III, except for point (b) of Article 45(1), point (2)(e) of Article 52 and point (a) of Article 56, and Title IV, except for Articles 81 to 86, apply to payment transactions in a currency that is not the currency of a Member State where both the payer's payment service provider and the payee's payment service provider are, or the sole payment service provider in the payment transaction is, located within the Union, in respect to those parts of the payments transaction which are carried out in the Union.

4 Title III, except for point (b) of Article 45(1), point (2)(e) of Article 52, point (5)(g) of Article 52 and point (a) of Article 56, and Title IV, except for Article 62(2) and (4), Articles 76, 77, 81, 83(1), 89 and 92, apply to payment transactions in all currencies where only one of the payment service providers is located within the Union, in respect to those parts of the payments transaction which are carried out in the Union.

5 Member States may exempt institutions referred to in points (4) to (23) of Article 2(5) of Directive 2013/36/EU from the application of all or part of the provisions of this Directive.

Article 3

Exclusions

This Directive does not apply to the following:

- (a) payment transactions made exclusively in cash directly from the payer to the payee, without any intermediary intervention;
- (b) payment transactions from the payer to the payee through a commercial agent authorised via an agreement to negotiate or conclude the sale or purchase of goods or services on behalf of only the payer or only the payee;
- (c) professional physical transport of banknotes and coins, including their collection, processing and delivery;
- (d) payment transactions consisting of the non-professional cash collection and delivery within the framework of a non-profit or charitable activity;
- (e) services where cash is provided by the payee to the payer as part of a payment transaction following an explicit request by the payment service user just before the execution of the payment transaction through a payment for the purchase of goods or services;
- (f) cash-to-cash currency exchange operations where the funds are not held on a payment account;
- (g) payment transactions based on any of the following documents drawn on the payment service provider with a view to placing funds at the disposal of the payee:
 - (i) paper cheques governed by the Geneva Convention of 19 March 1931 providing a uniform law for cheques;
 - (ii) paper cheques similar to those referred to in point (i) and governed by the laws of Member States which are not party to the Geneva Convention of 19 March 1931 providing a uniform law for cheques;

- (iii) paper-based drafts in accordance with the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;
 - (iv) paper-based drafts similar to those referred to in point (iii) and governed by the laws of Member States which are not party to the Geneva Convention of 7 June 1930 providing a uniform law for bills of exchange and promissory notes;
 - (v) paper-based vouchers;
 - (vi) paper-based traveller's cheques;
 - (vii) paper-based postal money orders as defined by the Universal Postal Union;
- (h) payment transactions carried out within a payment or securities settlement system between settlement agents, central counterparties, clearing houses and/or central banks and other participants of the system, and payment service providers, without prejudice to Article 35;
- (i) payment transactions related to securities asset servicing, including dividends, income or other distributions, or redemption or sale, carried out by persons referred to in point (h) or by investment firms, credit institutions, collective investment undertakings or asset management companies providing investment services and any other entities allowed to have the custody of financial instruments;
- (j) services provided by technical service providers, which support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and privacy protection services, data and entity authentication, information technology (IT) and communication network provision, provision and maintenance of terminals and devices used for payment services, with the exclusion of payment initiation services and account information services;
- (k) services based on specific payment instruments that can be used only in a limited way, that meet one of the following conditions:
 - (i) instruments allowing the holder to acquire goods or services only in the premises of the issuer or within a limited network of service providers under direct commercial agreement with a professional issuer;
 - (ii) instruments which can be used only to acquire a very limited range of goods or services;
 - (iii) instruments valid only in a single Member State provided at the request of an undertaking or a public sector entity and regulated by a national or regional public authority for specific social or tax purposes to acquire specific goods or services from suppliers having a commercial agreement with the issuer;
- (l) payment transactions by a provider of electronic communications networks or services provided in addition to electronic communications services for a subscriber to the network or service:
 - (i) for purchase of digital content and voice-based services, regardless of the device used for the purchase or consumption of the digital content and charged to the related bill; or

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- (ii) performed from or via an electronic device and charged to the related bill within the framework of a charitable activity or for the purchase of tickets;

provided that the value of any single payment transaction referred to in points (i) and (ii) does not exceed EUR 50 and:

 - the cumulative value of payment transactions for an individual subscriber does not exceed EUR 300 per month, or
 - where a subscriber pre-funds its account with the provider of the electronic communications network or service, the cumulative value of payment transactions does not exceed EUR 300 per month;
- (m) payment transactions carried out between payment service providers, their agents or branches for their own account;
- (n) payment transactions and related services between a parent undertaking and its subsidiary or between subsidiaries of the same parent undertaking, without any intermediary intervention by a payment service provider other than an undertaking belonging to the same group;
- (o) cash withdrawal services offered by means of ATM by providers, acting on behalf of one or more card issuers, which are not a party to the framework contract with the customer withdrawing money from a payment account, on condition that those providers do not conduct other payment services as referred to in Annex I. Nevertheless the customer shall be provided with the information on any withdrawal charges referred to in Articles 45, 48, 49 and 59 before carrying out the withdrawal as well as on receipt of the cash at the end of the transaction after withdrawal.

Article 4

Definitions

For the purposes of this Directive, the following definitions apply:

- (1) ‘home Member State’ means either of the following:
 - (a) the Member State in which the registered office of the payment service provider is situated; or
 - (b) if the payment service provider has, under its national law, no registered office, the Member State in which its head office is situated;
- (2) ‘host Member State’ means the Member State other than the home Member State in which a payment service provider has an agent or a branch or provides payment services;
- (3) ‘payment service’ means any business activity set out in Annex I;
- (4) ‘payment institution’ means a legal person that has been granted authorisation in accordance with Article 11 to provide and execute payment services throughout the Union;
- (5) ‘payment transaction’ means an act, initiated by the payer or on his behalf or by the payee, of placing, transferring or withdrawing funds, irrespective of any underlying obligations between the payer and the payee;

- (6) 'remote payment transaction' means a payment transaction initiated via internet or through a device that can be used for distance communication;
- (7) 'payment system' means a funds transfer system with formal and standardised arrangements and common rules for the processing, clearing and/or settlement of payment transactions;
- (8) '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 payment account, a natural or legal person who gives a payment order;
- (9) 'payee' means a natural or legal person who is the intended recipient of funds which have been the subject of a payment transaction;
- (10) 'payment service user' means a natural or legal person making use of a payment service in the capacity of payer, payee, or both;
- (11) 'payment service provider' means a body referred to in Article 1(1) or a natural or legal person benefiting from an exemption pursuant to Article 32 or 33;
- (12) 'payment account' means an account held in the name of one or more payment service users which is used for the execution of payment transactions;
- (13) 'payment order' means an instruction by a payer or payee to its payment service provider requesting the execution of a payment transaction;
- (14) 'payment instrument' means a personalised device(s) and/or set of procedures agreed between the payment service user and the payment service provider and used in order to initiate a payment order;
- (15) 'payment initiation service' means a service to initiate a payment order at the request of the payment service user with respect to a payment account held at another payment service provider;
- (16) 'account information service' means an online service to provide consolidated information on one or more payment accounts held by the payment service user with either another payment service provider or with more than one payment service provider;
- (17) 'account servicing payment service provider' means a payment service provider providing and maintaining a payment account for a payer;
- (18) 'payment initiation service provider' means a payment service provider pursuing business activities as referred to in point (7) of Annex I;
- (19) 'account information service provider' means a payment service provider pursuing business activities as referred to in point (8) of Annex I;
- (20) 'consumer' means a natural person who, in payment service contracts covered by this Directive, is acting for purposes other than his or her trade, business or profession;
- (21) '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;
- (22) 'money remittance' means a payment service where funds are received from a payer, without any payment accounts being created in the name of the payer or the payee, for the sole purpose of transferring a corresponding amount to a payee or to another

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- payment service provider acting on behalf of the payee, and/or where such funds are received on behalf of and made available to the payee;
- (23) ‘direct debit’ means a payment service for debiting a payer’s payment account, where a payment transaction is initiated by the payee on the basis of the consent given by the payer to the payee, to the payee’s payment service provider or to the payer’s own payment service provider;
- (24) ‘credit transfer’ means a payment service for crediting a payee’s payment account with a payment transaction or a series of payment transactions from a payer’s payment account by the payment service provider which holds the payer’s payment account, based on an instruction given by the payer;
- (25) ‘funds’ means banknotes and coins, scriptural money or electronic money as defined in point (2) of Article 2 of Directive 2009/110/EC;
- (26) ‘value date’ means a reference time used by a payment service provider for the calculation of interest on the funds debited from or credited to a payment account;
- (27) ‘reference exchange rate’ means the exchange rate which is used as the basis to calculate any currency exchange and which is made available by the payment service provider or comes from a publicly available source;
- (28) ‘reference interest rate’ means the interest rate which is used as the basis for calculating any interest to be applied and which comes from a publicly available source which can be verified by both parties to a payment service contract;
- (29) ‘authentication’ means a procedure which allows the payment service provider to verify the identity of a payment service user or the validity of the use of a specific payment instrument, including the use of the user’s personalised security credentials;
- (30) ‘strong customer authentication’ means an authentication based on the use of two or more elements categorised as knowledge (something only the user knows), possession (something only the user possesses) and inherence (something the user is) that are independent, in that the breach of one does not compromise the reliability of the others, and is designed in such a way as to protect the confidentiality of the authentication data;
- (31) ‘personalised security credentials’ means personalised features provided by the payment service provider to a payment service user for the purposes of authentication;
- (32) ‘sensitive payment data’ means data, including personalised security credentials which can be used to carry out fraud. For the activities of payment initiation service providers and account information service providers, the name of the account owner and the account number do not constitute sensitive payment data;
- (33) ‘unique identifier’ means a combination of letters, numbers or symbols specified to the payment service user by the payment service provider and to be provided by the payment service user to identify unambiguously another payment service user and/or the payment account of that other payment service user for a payment transaction;
- (34) ‘means of distance communication’ means a method which, without the simultaneous physical presence of the payment service provider and the payment service user, may be used for the conclusion of a payment services contract;
- (35) ‘durable medium’ means any instrument which enables the payment service user to store information addressed personally to that payment service user in a way accessible

- for future reference for a period of time adequate to the purposes of the information and which allows the unchanged reproduction of the information stored;
- (36) ‘microenterprise’ means an enterprise, which at the time of conclusion of the payment service contract, is an enterprise as defined in Article 1 and Article 2(1) and (3) of the Annex to Recommendation 2003/361/EC;
- (37) ‘business day’ means a day on which the relevant payment service provider of the payer or the payment service provider of the payee involved in the execution of a payment transaction is open for business as required for the execution of a payment transaction;
- (38) ‘agent’ means a natural or legal person who acts on behalf of a payment institution in providing payment services;
- (39) ‘branch’ means a place of business other than the head office which is a part of a payment institution, which has no legal personality and which carries out directly some or all of the transactions inherent in the business of a payment institution; all of the places of business set up in the same Member State by a payment institution with a head office in another Member State shall be regarded as a single branch;
- (40) ‘group’ means a group of undertakings which are linked to each other by a relationship referred to in Article 22(1), (2) or (7) of Directive 2013/34/EU or undertakings as defined in Articles 4, 5, 6 and 7 of Commission Delegated Regulation (EU) No 241/2014⁽²⁾, which are linked to each other by a relationship referred to in Article 10(1) or in Article 113(6) or (7) of Regulation (EU) No 575/2013;
- (41) ‘electronic communications network’ means a network as defined in point (a) of Article 2 of Directive 2002/21/EC of the European Parliament and of the Council⁽³⁾;
- (42) ‘electronic communications service’ means a service as defined in point (c) of Article 2 of Directive 2002/21/EC;
- (43) ‘digital content’ means goods or services which are produced and supplied in digital form, the use or consumption of which is restricted to a technical device and which do not include in any way the use or consumption of physical goods or services;
- (44) ‘acquiring of payment transactions’ means a payment service provided by a payment service provider contracting with a payee to accept and process payment transactions, which results in a transfer of funds to the payee;
- (45) ‘issuing of payment instruments’ means a payment service by a payment service provider contracting to provide a payer with a payment instrument to initiate and process the payer’s payment transactions;
- (46) ‘own funds’ means funds as defined in point 118 of Article 4(1) of Regulation (EU) No 575/2013 where at least 75 % of the Tier 1 capital is in the form of Common Equity Tier 1 capital as referred to in Article 50 of that Regulation and Tier 2 is equal to or less than one third of Tier 1 capital;
- (47) ‘payment brand’ means any material or digital name, term, sign, symbol or combination of them, capable of denoting under which payment card scheme card-based payment transactions are carried out;
- (48) ‘co-badging’ means the inclusion of two or more payment brands or payment applications of the same payment brand on the same payment instrument.

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- (1) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).
- (2) Commission Delegated Regulation (EU) No 241/2014 of 7 January 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for Own Funds requirements for institutions (OJ L 74, 14.3.2014, p. 8).
- (3) Directive 2002/21/EC of the European Parliament of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33).