

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 III

TRANSPARENCY OF CONDITIONS AND INFORMATION REQUIREMENTS FOR PAYMENT SERVICES

CHAPTER I

General rules

Article 38

Scope

1 This Title applies to single payment transactions, framework contracts and payment transactions covered by them. The parties may agree that it shall not apply in whole or in part when the payment service user is not a consumer.

2 Member States may apply the provisions in this Title to microenterprises in the same way as to consumers.

3 This Directive shall be without prejudice to Directive 2008/48/EC, other relevant Union law or national measures regarding conditions for granting credit to consumers not harmonised by this Directive that comply with Union law.

Article 39

Other provisions in Union law

The provisions of this Title are without prejudice to any Union law containing additional requirements on prior information.

However, where Directive 2002/65/EC is also applicable, the information requirements set out in Article 3(1) of that Directive, with the exception of points (2)(c) to (g), (3) (a), (d) and (e), and (4)(b) of that paragraph shall be replaced by Articles 44, 45, 51 and 52 of this Directive.

Article 40

Charges for information

1 The payment service provider shall not charge the payment service user for providing information under this Title.

2 The payment service provider and the payment service user may agree on charges for additional or more frequent information, or transmission by means of communication other than those specified in the framework contract, provided at the payment service user's request.

3 Where the payment service provider may impose charges for information in accordance with paragraph 2, they shall be reasonable and in line with the payment service provider's actual costs.

Article 41

Burden of proof on information requirements

Member States shall stipulate that the burden of proof lies with the payment service provider to prove that it has complied with the information requirements set out in this Title.

Article 42

Derogation from information requirements for low-value payment instruments and electronic money

1 In cases of payment instruments which, according to the relevant framework contract, concern only individual payment transactions that do not exceed EUR 30 or that either have a spending limit of EUR 150 or store funds that do not exceed EUR 150 at any time:

- a by way of derogation from Articles 51, 52 and 56, the payment service provider shall provide the payer only with information on the main characteristics of the payment service, including the way in which the payment instrument can be used, liability, charges levied and other material information needed to take an informed decision as well as an indication of where any other information and conditions specified in Article 52 are made available in an easily accessible manner;
- b it may be agreed that, by way of derogation from Article 54, the payment service provider is not required to propose changes to the conditions of the framework contract in the same way as provided for in Article 51(1);
- c it may be agreed that, by way of derogation from Articles 57 and 58, after the execution of a payment transaction:
 - (i) the payment service provider provides or makes available only a reference enabling the payment service user to identify the payment transaction, the amount of the payment transaction, any charges and/or, in the case of several payment transactions of the same kind made to the same payee, information on the total amount and charges for those payment transactions;
 - (ii) the payment service provider is not required to provide or make available information referred to in point (i) if the payment instrument is used anonymously or if the payment service provider is not otherwise technically in a position to provide it. However, the payment service provider shall provide the payer with a possibility to verify the amount of funds stored.

2 For national payment transactions, Member States or their competent authorities may reduce or double the amounts referred to in paragraph 1. For prepaid payment instruments, Member States may increase those amounts up to EUR 500.

CHAPTER 2

Single payment transactions

Article 43

Scope

- 1 This Chapter applies to single payment transactions not covered by a framework contract.
- 2 Where a payment order for a single payment transaction is transmitted by a payment instrument covered by a framework contract, the payment service provider shall not be obliged to provide or make available information which is already given to the payment service user on the basis of a framework contract with another payment service provider or which will be given to him according to that framework contract.

Article 44

Prior general information

- 1 Member States shall require that before the payment service user is bound by a single payment service contract or offer, the payment service provider makes available to the payment service user, in an easily accessible manner, the information and conditions specified in Article 45 with regard to its own services. At the payment service user's request, the payment service provider shall provide the information and conditions on paper or on another durable medium. The information and conditions shall be given in easily understandable words and in a clear and comprehensible form, in an official language of the Member State where the payment service is offered or in any other language agreed between the parties.
- 2 If the single payment service contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to comply with paragraph 1, the payment service provider shall fulfil its obligations under that paragraph immediately after the execution of the payment transaction.
- 3 The obligations under paragraph 1 of this Article may also be discharged by supplying a copy of the draft single payment service contract or the draft payment order including the information and conditions specified in Article 45.

Article 45

Information and conditions

- 1 Member States shall ensure that the following information and conditions are provided or made available by the payment service provider to the payment service user:
 - a a specification of the information or unique identifier to be provided by the payment service user in order for a payment order to be properly initiated or executed;
 - b the maximum execution time for the payment service to be provided;
 - c all charges payable by the payment service user to the payment service provider and, where applicable, a breakdown of those charges;
 - d where applicable, the actual or reference exchange rate to be applied to the payment transaction.

2 In addition, Member States shall ensure that payment initiation service providers shall, prior to initiation, provide the payer with, or make available to the payer, the following clear and comprehensive information:

- a the name of the payment initiation service provider, the geographical address of its head office and, where applicable, the geographical address of its agent or branch established in the Member State where the payment service is offered, and any other contact details, including electronic mail address, relevant for communication with the payment initiation service provider; and
- b the contact details of the competent authority.

3 Where applicable, any other relevant information and conditions specified in Article 52 shall be made available to the payment service user in an easily accessible manner.

Article 46

Information for the payer and payee after the initiation of a payment order

In addition to the information and conditions specified in Article 45, where a payment order is initiated through a payment initiation service provider, the payment initiation service provider shall, immediately after initiation, provide or make available all of the following data to the payer and, where applicable, the payee:

- (a) confirmation of the successful initiation of the payment order with the payer's account servicing payment service provider;
- (b) a reference enabling the payer and the payee to identify the payment transaction and, where appropriate, the payee to identify the payer, and any information transferred with the payment transaction;
- (c) the amount of the payment transaction;
- (d) where applicable, the amount of any charges payable to the payment initiation service provider for the transaction, and where applicable a breakdown of the amounts of such charges.

Article 47

Information for payer's account servicing payment service provider in the event of a payment initiation service

Where a payment order is initiated through a payment initiation service provider, it shall make available to the payer's account servicing payment service provider the reference of the payment transaction.

Article 48

Information for the payer after receipt of the payment order

Immediately after receipt of the payment order, the payer's payment service provider shall provide the payer with or make available to the payer, in the same way as provided for in Article 44(1), all of the following data with regard to its own services:

- (a) a reference enabling the payer to identify the payment transaction and, where appropriate, information relating to the payee;
- (b) the amount of the payment transaction in the currency used in the payment order;
- (c) the amount of any charges for the payment transaction payable by the payer and, where applicable, a breakdown of the amounts of such charges;
- (d) where applicable, the exchange rate used in the payment transaction by the payer's payment service provider or a reference thereto, when different from the rate provided in accordance with point (d) of Article 45(1), and the amount of the payment transaction after that currency conversion;
- (e) the date of receipt of the payment order.

Article 49

Information for the payee after execution

Immediately after the execution of the payment transaction, the payee's payment service provider shall provide the payee with, or make available to, the payee, in the same way as provided for in Article 44(1), all of the following data with regard to its own services:

- (a) a reference enabling the payee to identify the payment transaction and, where appropriate, the payer and any information transferred with the payment transaction;
- (b) the amount of the payment transaction in the currency in which the funds are at the payee's disposal;
- (c) the amount of any charges for the payment transaction payable by the payee and, where applicable, a breakdown of the amounts of such charges;
- (d) where applicable, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before that currency conversion;
- (e) the credit value date.

CHAPTER 3

Framework contracts

Article 50

Scope

This Chapter applies to payment transactions covered by a framework contract.

Article 51

Prior general information

1 Member States shall require that, in good time before the payment service user is bound by any framework contract or offer, the payment service provider provide the payment service user on paper or on another durable medium with the information and conditions specified in Article 52. The information and conditions shall be given in easily understandable words and in a clear and comprehensible form, in an official language of the Member State where the payment service is offered or in any other language agreed between the parties.

2 If the framework contract has been concluded at the request of the payment service user using a means of distance communication which does not enable the payment service provider to comply with paragraph 1, the payment service provider shall fulfil its obligations under that paragraph immediately after conclusion of the framework contract.

3 The obligations under paragraph 1 may also be discharged by providing a copy of the draft framework contract including the information and conditions specified in Article 52.

Article 52

Information and conditions

Member States shall ensure that the following information and conditions are provided to the payment service user:

1. on the payment service provider:
 - (a) the name of the payment service provider, the geographical address of its head office and, where applicable, the geographical address of its agent or branch established in the Member State where the payment service is offered, and any other address, including electronic mail address, relevant for communication with the payment service provider;
 - (b) the particulars of the relevant supervisory authorities and of the register provided for in Article 14 or of any other relevant public register of authorisation of the payment service provider and the registration number or equivalent means of identification in that register;
2. on use of the payment service:
 - (a) a description of the main characteristics of the payment service to be provided;
 - (b) a specification of the information or unique identifier that has to be provided by the payment service user in order for a payment order to be properly initiated or executed;
 - (c) the form of and procedure for giving consent to initiate a payment order or execute a payment transaction and withdrawal of such consent in accordance with Articles 64 and 80;

- (d) a reference to the time of receipt of a payment order in accordance with Article 78 and the cut-off time, if any, established by the payment service provider;
 - (e) the maximum execution time for the payment services to be provided;
 - (f) whether there is a possibility to agree on spending limits for the use of the payment instrument in accordance with Article 68(1);
 - (g) in the case of co-badged, card-based payment instruments, the payment service user's rights under Article 8 of Regulation (EU) 2015/751;
3. on charges, interest and exchange rates:
- (a) all charges payable by the payment service user to the payment service provider including those connected to the manner in and frequency with which information under this Directive is provided or made available and, where applicable, the breakdown of the amounts of such charges;
 - (b) where applicable, the interest and exchange rates to be applied or, if reference interest and exchange rates are to be used, the method of calculating the actual interest, and the relevant date and index or base for determining such reference interest or exchange rate;
 - (c) if agreed, the immediate application of changes in reference interest or exchange rate and information requirements relating to the changes in accordance with Article 54(2);
4. on communication:
- (a) where applicable, the means of communication, including the technical requirements for the payment service user's equipment and software, agreed between the parties for the transmission of information or notifications under this Directive;
 - (b) the manner in, and frequency with which, information under this Directive is to be provided or made available;
 - (c) the language or languages in which the framework contract will be concluded and communication during this contractual relationship undertaken;
 - (d) the payment service user's right to receive the contractual terms of the framework contract and information and conditions in accordance with Article 53;
5. on safeguards and corrective measures:
- (a) where applicable, a description of the steps that the payment service user is to take in order to keep safe a payment instrument and how to notify the payment service provider for the purposes of point (b) of Article 69(1);
 - (b) the secure procedure for notification of the payment service user by the payment service provider in the event of suspected or actual fraud or security threats;

- (c) if agreed, the conditions under which the payment service provider reserves the right to block a payment instrument in accordance with Article 68;
 - (d) the liability of the payer in accordance with Article 74, including information on the relevant amount;
 - (e) how and within what period of time the payment service user is to notify the payment service provider of any unauthorised or incorrectly initiated or executed payment transaction in accordance with Article 71 as well as the payment service provider's liability for unauthorised payment transactions in accordance with Article 73;
 - (f) the liability of the payment service provider for the initiation or execution of payment transactions in accordance with Article 89;
 - (g) the conditions for refund in accordance with Articles 76 and 77;
6. on changes to, and termination of, the framework contract:
- (a) if agreed, information that the payment service user will be deemed to have accepted changes in the conditions in accordance with Article 54, unless the payment service user notifies the payment service provider before the date of their proposed date of entry into force that they are not accepted;
 - (b) the duration of the framework contract;
 - (c) the right of the payment service user to terminate the framework contract and any agreements relating to termination in accordance with Article 54(1) and Article 55;
7. on redress:
- (a) any contractual clause on the law applicable to the framework contract and/or the competent courts;
 - (b) the ADR procedures available to the payment service user in accordance with Articles 99 to 102.

Article 53

Accessibility of information and conditions of the framework contract

At any time during the contractual relationship the payment service user shall have a right to receive, on request, the contractual terms of the framework contract as well as the information and conditions specified in Article 52 on paper or on another durable medium.

Article 54

Changes in conditions of the framework contract

1 Any changes in the framework contract or in the information and conditions specified in Article 52 shall be proposed by the payment service provider in the same way as provided for in Article 51(1) and no later than 2 months before their proposed date of application. The

payment service user can either accept or reject the changes before the date of their proposed date of entry into force.

Where applicable in accordance with point (6)(a) of Article 52, the payment service provider shall inform the payment service user that it is to be deemed to have accepted those changes if it does not notify the payment service provider before the proposed date of their entry into force that they are not accepted. The payment service provider shall also inform the payment service user that, in the event that the payment service user rejects those changes, the payment service user has the right to terminate the framework contract free of charge and with effect at any time until the date when the changes would have applied.

2 Changes in the interest or exchange rates may be applied immediately and without notice, provided that such a right is agreed upon in the framework contract and that the changes in the interest or exchange rates are based on the reference interest or exchange rates agreed on in accordance with point (3)(b) and (c) of Article 52. The payment service user shall be informed of any change in the interest rate at the earliest opportunity in the same way as provided for in Article 51(1), unless the parties have agreed on a specific frequency or manner in which the information is to be provided or made available. However, changes in interest or exchange rates which are more favourable to the payment service users, may be applied without notice.

3 Changes in the interest or exchange rate used in payment transactions shall be implemented and calculated in a neutral manner that does not discriminate against payment service users.

Article 55

Termination

1 The payment service user may terminate the framework contract at any time, unless the parties have agreed on a period of notice. Such a period shall not exceed 1 month.

2 Termination of the framework contract shall be free of charge for the payment service user except where the contract has been in force for less than 6 months. Charges, if any, for termination of the framework contract shall be appropriate and in line with costs.

3 If agreed in the framework contract, the payment service provider may terminate a framework contract concluded for an indefinite period by giving at least 2 months' notice in the same way as provided for in Article 51(1).

4 Charges for payment services levied on a regular basis shall be payable by the payment service user only proportionally up to the termination of the contract. If such charges are paid in advance, they shall be reimbursed proportionally.

5 The provisions of this Article are without prejudice to the Member States' laws and regulations governing the rights of the parties to declare the framework contract unenforceable or void.

6 Member States may provide for more favourable provisions for payment service users.

Article 56

Information before execution of individual payment transactions

In the case of an individual payment transaction under a framework contract initiated by the payer, a payment service provider shall, at the payer's request for this specific payment transaction, provide explicit information on all of the following:

- (a) the maximum execution time;
- (b) the charges payable by the payer;
- (c) where applicable, a breakdown of the amounts of any charges.

Article 57

Information for the payer on individual payment transactions

1 After the amount of an individual payment transaction is debited from the payer's account or, where the payer does not use a payment account, after receipt of the payment order, the payer's payment service provider shall provide the payer, without undue delay and in the same way as laid down in Article 51(1), with all of the following information:

- a a reference enabling the payer to identify each payment transaction and, where appropriate, information relating to the payee;
- b the amount of the payment transaction in the currency in which the payer's payment account is debited or in the currency used for the payment order;
- c the amount of any charges for the payment transaction and, where applicable, a breakdown of the amounts of such charges, or the interest payable by the payer;
- d where applicable, the exchange rate used in the payment transaction by the payer's payment service provider, and the amount of the payment transaction after that currency conversion;
- e the debit value date or the date of receipt of the payment order.

2 A framework contract shall include a condition that the payer may require the information referred to in paragraph 1 to be provided or made available periodically, at least once a month, free of charge and in an agreed manner which allows the payer to store and reproduce information unchanged.

3 However, Member States may require payment service providers to provide information on paper or on another durable medium at least once a month, free of charge.

Article 58

Information for the payee on individual payment transactions

1 After the execution of an individual payment transaction, the payee's payment service provider shall provide the payee without undue delay in the same way as laid down in Article 51(1) with all of the following information:

- a a reference enabling the payee to identify the payment transaction and the payer, and any information transferred with the payment transaction;

- b the amount of the payment transaction in the currency in which the payee's payment account is credited;
- c the amount of any charges for the payment transaction and, where applicable, a breakdown of the amounts of such charges, or the interest payable by the payee;
- d where applicable, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before that currency conversion;
- e the credit value date.

2 A framework contract may include a condition that the information referred to in paragraph 1 is to be provided or made available periodically, at least once a month and in an agreed manner which allows the payee to store and reproduce information unchanged.

3 However, Member States may require payment service providers to provide information on paper or on another durable medium at least once a month, free of charge.

CHAPTER 4

Common provisions

Article 59

Currency and currency conversion

1 Payments shall be made in the currency agreed between the parties.

2 Where a currency conversion service is offered prior to the initiation of the payment transaction and where that currency conversion service is offered at an ATM, at the point of sale or by the payee, the party offering the currency conversion service to the payer shall disclose to the payer all charges as well as the exchange rate to be used for converting the payment transaction.

The payer shall agree to the currency conversion service on that basis.

Article 60

Information on additional charges or reductions

1 Where, for the use of a given payment instrument, the payee requests a charge or offers a reduction, the payee shall inform the payer thereof prior to the initiation of the payment transaction.

2 Where, for the use of a given payment instrument, the payment service provider or another party involved in the transaction requests a charge, it shall inform the payment service user thereof prior to the initiation of the payment transaction.

3 The payer shall only be obliged to pay for the charges referred to in paragraphs 1 and 2 if their full amount was made known prior to the initiation of the payment transaction.