

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 VI

### FINAL PROVISIONS

#### *Article 107*

##### **Full harmonisation**

1 Without prejudice to Article 2, Article 8(3), Article 32, Article 38(2), Article 42(2), Article 55(6), Article 57(3), Article 58(3), Article 61(2) and (3), Article 62(5), Article 63(2) and (3), [<sup>X1</sup>the fourth subparagraph of Article 74(1)] and Article 86, insofar as this Directive contains harmonised provisions, Member States shall not maintain or introduce provisions other than those laid down in this Directive.

2 Where a Member State makes use of any of the options referred to in paragraph 1, it shall inform the Commission thereof as well as of any subsequent changes. The Commission shall make the information public on a website or other easily accessible means.

3 Member States shall ensure that payment service providers do not derogate, to the detriment of payment service users, from the provisions of national law transposing this Directive except where explicitly provided for therein.

However, payment service providers may decide to grant more favourable terms to payment service users.

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#### **Editorial Information**

**X1** Substituted by [Corrigendum to 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 \(Official Journal of the European Union L 337 of 23 December 2015\)](#).

#### *Article 108*

##### **Review clause**

The Commission shall, by 13 January 2021, submit to the European Parliament, the Council, the ECB and the European Economic and Social Committee, a report on the application and impact of this Directive, and in particular on:

- (a) the appropriateness and the impact of the rules on charges as set out in Article 62(3), (4) and (5);

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- (b) the application of Article 2(3) and (4), including an assessment of whether Titles III and IV can, where technically feasible, be applied in full to payment transactions referred to in those paragraphs;
- (c) access to payment systems, having regard in particular to the level of competition;
- (d) the appropriateness and the impact of the thresholds for the payment transactions referred to in point (l) of Article 3;
- (e) the appropriateness and the impact of the threshold for the exemption referred to in point (a) of Article 32(1);
- (f) whether, given developments, it would be desirable, as a complement to the provisions in Article 75 on payment transactions where the amount is not known in advance and funds are blocked, to introduce maximum limits for the amounts to be blocked on the payer's payment account in such situations.

If appropriate, the Commission shall submit a legislative proposal together with its report.

#### *Article 109*

#### **Transitional provision**

1 Member States shall allow payment institutions that have taken up activities in accordance with the national law transposing Directive 2007/64/EC by 13 January 2018, to continue those activities in accordance with the requirements provided for in Directive 2007/64/EC without being required to seek authorisation in accordance with Article 5 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive until 13 July 2018.

Member States shall require such payment institutions to submit all relevant information to the competent authorities in order to allow the latter to assess, by 13 July 2018, whether those payment institutions comply with the requirements laid down in Title II and, if not, which measures need to be taken in order to ensure compliance or whether a withdrawal of authorisation is appropriate.

Payment institutions which upon verification by the competent authorities comply with the requirements laid down in Title II shall be granted authorisation and shall be entered in the registers referred to in Articles 14 and 15. Where those payment institutions do not comply with the requirements laid down in Title II by 13 July 2018, they shall be prohibited from providing payment services in accordance with Article 37.

2 Member States may provide for payment institutions referred to in paragraph 1 of this Article to be automatically granted authorisation and entered in the registers referred to in Articles 14 and 15 if the competent authorities already have evidence that the requirements laid down in Articles 5 and 11 are complied with. The competent authorities shall inform the payment institutions concerned before the authorisation is granted.

3 This paragraph applies to natural or legal persons who benefited under Article 26 of Directive 2007/64/EC before 13 January 2018, and pursued payment services activities within the meaning of Directive 2007/64/EC.

Member States shall allow those persons to continue those activities within the Member State concerned in accordance with Directive 2007/64/EC, until 13 January 2019 without being required to seek authorisation under Article 5 of this Directive or, to

obtain an exemption pursuant to Article 32 of this Directive, or to comply with the other provisions laid down or referred to in Title II of this Directive.

Any person referred to in the first subparagraph who has not, by 13 January 2019, been authorised or exempted under this Directive shall be prohibited from providing payment services in accordance with Article 37 of this Directive.

4 Member States may allow natural and legal persons benefiting from an exemption as referred to in paragraph 3 of this Article to be deemed to benefit from an exemption and automatically entered in the registers referred to in Articles 14 and 15 where the competent authorities have evidence that the requirements laid down in Article 32 are complied with. The competent authorities shall inform the payment institutions concerned.

5 Notwithstanding paragraph 1 of this Article, payment institutions that have been granted authorisation to provide payment services as referred to in point (7) of the Annex to Directive 2007/64/EC shall retain that authorisation for the provision of those payment services which are considered to be payment services as referred to in point (3) of the Annex I to this Directive where, by 13 January 2020, the competent authorities have the evidence that the requirements laid down in point (c) of Article 7 and in Article 9 of this Directive are complied with.

#### *Article 110*

#### **Amendments to Directive 2002/65/EC**

In Article 4 of Directive 2002/65/EC, paragraph 5 is replaced by the following:

5. Where Directive (EU) 2015/2366 of the European Parliament and of the Council<sup>(4)</sup> is also applicable, the information provisions under Article 3(1) of this Directive, with the exception of points (2)(c) to (g), (3)(a), (d) and (e), and (4)(b), shall be replaced with Articles 44, 45, 51 and 52 of Directive (EU) 2015/2366..

#### *Article 111*

#### **Amendments to Directive 2009/110/EC**

Directive 2009/110/EC is amended as follows:

(1) Article 3 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. Without prejudice to this Directive, Article 5, Articles 11 to 17, Article 19(5) and (6) and Articles 20 to 31 of Directive (EU) 2015/2366 of the European Parliament and of the Council<sup>(2)</sup>, including the delegated acts adopted under Article 15(4), Article 28(5) and Article 29(7) thereof, shall apply to electronic money institutions *mutatis mutandis*..;

(b) paragraphs 4 and 5 are replaced by the following:

4. Member States shall allow electronic money institutions to distribute and redeem electronic money through natural or legal persons which act on their behalf. Where the electronic money institution distributes electronic money in another Member State by engaging such a natural or legal person, Articles 27 to 31, with exception of Article 29(4) and

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(5), of Directive (EU) 2015/2366, including the delegated acts adopted in accordance with Article 28(5) and Article 29(7) thereof, shall apply *mutatis mutandis* to such electronic money institution.

5 Notwithstanding paragraph 4 of this Article, electronic money institutions shall not issue electronic money through agents. Electronic money institutions shall be allowed to provide payment services referred to in point (a) of Article 6(1) of this Directive through agents subject to the conditions laid down in Article 19 of Directive (EU) 2015/2366.;

(2) in Article 18, the following paragraph is added:

4. Member States shall allow electronic money institutions that have, before 13 January 2018, taken up activities in accordance with this Directive and with Directive 2007/64/EC in the Member State in which their head office is located to continue those activities in that Member State or in another Member State without being required to seek authorisation in accordance with Article 3 of this Directive or to comply with other requirements laid down or referred to in Title II of this Directive until 13 July 2018.

Member States shall require electronic money institutions referred to in the first subparagraph to submit all relevant information to the competent authorities in order to allow the later to assess, by 13 July 2018, whether those electronic money institutions comply with the requirements laid down in Title II of this Directive, and, if not, which measures need to be taken in order to ensure compliance or whether a withdrawal of authorisation is appropriate.

Electronic money institutions referred to in the first subparagraph which upon verification by the competent authorities comply with the requirements laid down in Title II shall be granted authorisation and shall be entered in the register. Where those electronic money institutions do not comply with the requirements laid down in Title II by 13 July 2018 they shall be prohibited from issuing electronic money..

#### *Article 112*

#### **Amendments to Regulation (EU) No 1093/2010**

Regulation (EU) No 1093/2010 is amended as follows:

(1) in Article 1, paragraph 2 is replaced by the following:

2. The Authority shall act within the powers conferred by this Regulation and within the scope of, Directive 2002/87/EC, Directive 2009/110/EC, Regulation (EU) No 575/2013 of the European Parliament and of the Council<sup>(3)</sup>, Directive 2013/36/EU of the European Parliament and of the Council<sup>(4)</sup>, Directive 2014/49/EU of the European Parliament and of the Council<sup>(5)</sup>, Regulation (EU) 2015/847 of the European Parliament and the Council<sup>(6)</sup>, Directive (EU) 2015/2366 of the European Parliament and of the Council<sup>(7)</sup> and, to the extent that those acts apply to credit and financial institutions and the competent authorities that supervise them, within the relevant parts of Directive 2002/65/EC and Directive (EU)2015/849 of the European Parliament and of the Council<sup>(8)</sup>, including all directives, regulations, and decisions based on those acts, and of any further legally binding Union act which confers tasks on the Authority. The Authority shall also act in accordance with Council Regulation (EU) No 1024/2013<sup>(9)</sup>.;

(2) Article 4(1) is replaced by the following:

(1) “financial institutions” means credit institutions as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013, investment firms as defined in point (2) of Article 4(1) of Regulation (EU) No 575/2013, financial conglomerates as defined in Article 2(14) of Directive 2002/87/EC, payment service providers as defined in point (11) of Article 4 of Directive (EU) 2015/2366 and electronic money institutions as defined in point (1) of Article 2 of Directive 2009/110/EC, save that, with regard to Directive (EU) 2015/849, ‘financial institutions’ means credit institutions and financial institutions as defined in points (1) and (2) of Article 3 of Directive (EU) 2015/849;.

#### *Article 113*

### **Amendment to Directive 2013/36/EU**

In Annex I to Directive 2013/36/EU, point (4) is replaced by the following:

(4) Payment services as defined in point (3) of Article 4 of Directive (EU) 2015/2366 of the European Parliament and of the Council<sup>(10)</sup>;

#### *Article 114*

### **Repeal**

Directive 2007/64/EC is repealed with effect from 13 January 2018.

Any reference to the repealed Directive shall be construed as a reference to this Directive and shall be read in accordance with the correlation table in Annex II to this Directive.

#### *Article 115*

### **Transposition**

1 By 13 January 2018, Member States shall adopt and publish the measures necessary to comply with this Directive. They shall immediately inform the Commission thereof.

2 They shall apply those measures from 13 January 2018.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

3 Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

4 By way of derogation from paragraph 2, Member States shall ensure the application of the security measures referred to in Articles 65, 66, 67 and 97 from 18 months after the date of entry into force of the regulatory technical standards referred to in Article 98.

5 Member States shall not forbid legal persons that have performed in their territories, before 12 January 2016, activities of payment initiation service providers and account information service providers within the meaning of this Directive, to continue to perform the

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same activities in their territories during the transitional period referred to in paragraphs 2 and 4 in accordance with the currently applicable regulatory framework.

6 Member States shall ensure that until individual account servicing payment service providers comply with the regulatory technical standards referred to in paragraph 4, account servicing payment service providers do not abuse their non-compliance to block or obstruct the use of payment initiation and account information services for the accounts that they are servicing.

#### *Article 116*

#### **Entry into force**

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

#### *Article 117*

#### **Addresses**

This Directive is addressed to the Member States.

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- (2) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market and amending Directives 2002/65/EC, 2009/110/EC, 2013/36/EU and Regulation (EU) No 1093/2010 and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).<sup>2</sup>;
- (3) 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).
- (4) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).
- (5) Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).
- (6) Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006 (OJ L 141, 5.6.2015, p. 1).
- (7) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market and amending Directives 2002/65/EC, 2009/110/EC, 2013/36/EU and Regulation (EU) No 1093/2010 and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).
- (8) Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).
- (9) Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).<sup>2</sup>;
- (10) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market and amending Directives 2002/65/EC, 2009/110/EC, 2013/36/EU and Regulation (EU) No 1093/2010 and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).<sup>2</sup>