

SCHEDULE 3

Regulation 14(2)

Switching service

Interpretation

1. In this Schedule—

“transferring payment service provider” means the payment service provider that provides the payment account from which the service is switched; and

“receiving payment service provider” means the payment service provider that provides the payment account to which the service switched.

Authorisation

2.—(1) The receiving payment service provider must perform the switching service upon receipt of an authorisation from the consumer.

(2) In the case of two or more holders of the account, authorisation must be obtained from each of them.

(3) The authorisation must be drawn up in English or in any other language agreed between the parties.

(4) The authorisation must allow the consumer to—

(a) provide specific consent to the performance by the transferring payment service provider of each of the tasks set out in paragraph 3(a) to (f);

(b) provide specific consent to the performance by the receiving payment service provider of each of the tasks referred to in paragraph 5(1)(a) to (g);

(c) specifically identify incoming credit transfers, standing orders for credit transfers and direct debit mandates that are to be switched; and

(d) 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.

(5) The date specified in accordance with sub-paragraph (4)(d) must 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(1)(a).

Request from the receiving payment service provider

3. Within two business days from receipt of the authorisation referred to in paragraph 2, the receiving payment service provider must request that the transferring payment service provider carry out each of the following tasks, if provided for in that 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, available information about recurring incoming credit transfers and creditor-driven direct debits executed on the consumer’s payment account during 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

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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 by the consumer with the transferring payment service provider on the date specified by the consumer.

Tasks for the transferring payment service provider

4.—(1) Upon receipt of a request from the receiving service provider, the transferring payment service provider must carry out the following tasks, if provided for in the consumer's authorisation—

- (a) send the receiving payment service provider the information described in paragraphs 3(a) and (b) within five business days;
- (b) where the transferring payment service provider does not provide a system for automated redirection of 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;
- (c) cancel standing orders 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 affecting regulation 43 (termination of a framework contract) of the Payment Services Regulations, close the payment account on the date specified in the authorisation if—
 - (i) the consumer has no outstanding obligations on that payment account; and
 - (ii) the actions described in paragraphs (a), (b) and (d) have been completed.

(2) Where the transferring payment service provider stops accepting incoming credit transfers and direct debits in accordance with sub-paragraph (1)(b), it must within five business days inform the payer or the payee of the reason for not completing the payment transaction.

(3) Where any outstanding obligations on the payment account prevent closure of the account pursuant to sub-paragraph (1)(e), the transferring payment service provider must immediately inform the consumer that this is the case.

Tasks for the receiving payment service provider

5.—(1) Within five business days of receipt of the information requested from the transferring payment service provider in accordance with paragraph 3, the receiving payment service provider must, 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 Article 5(3)(d) of Regulation (EU) 260/2012 of the European Parliament and of the Council of 14th March 2012

establishing technical and business requirements for credit transfers and direct debits in euro⁽¹⁾;

- (d) inform payers specified in the authorisation who make recurrent 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;
- (e) where the receiving payment service provider does not have all the information it needs to complete the task referred to in paragraph (d), ask the consumer or the transferring payment service provider to provide the missing information;
- (f) 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 each payee a copy of the consumer's authorisation;
- (g) where the receiving payment service provider does not have all the information that it needs to inform the payees, ask the consumer or the transferring payment service provider to provide the missing information.

(2) Where the consumer chooses to personally provide the information referred to in sub-paragraph (1)(d) or (f) to the payers or payees rather than to provide specific consent allowing the receiving payment service provider to do so, the receiving payment service provider must provide the consumer with standard letters providing details of—

- (a) the payment account; and
- (b) the starting date specified in the authorisation,

within the deadline referred to in sub-paragraph (1).

(3) Except where regulation 56(2) of the Payment Services Regulations applies, the transferring payment service provider must not block any payment instrument before the date specified in the consumer's authorisation.

(4) For the purposes of sub-paragraph (3), "payment instrument" has the same meaning as in the Payment Services Regulations.

Fees connected with the switching service

6.—(1) At the request of a consumer, transferring and receiving payment service providers must provide the consumer with access free of charge to details of any standing orders and direct debits applicable to the accounts the consumer holds with them.

(2) The transferring payment service provider must not charge the consumer or the receiving payment service provider for the provision of information requested from it by the receiving payment service provider pursuant to paragraph 3(a) and (b).

(3) Any fee payable by the consumer applied by the transferring payment service provider in respect of the termination of the framework contract for the payment account held with the transferring payment service provider must be determined in accordance with regulation 43 (termination of framework contract) of the Payment Services Regulations.

(4) Transferring or receiving payment service providers may charge the consumer a fee for any task referred to in paragraphs 3 to 5 that is not subject to the provisions in sub-paragraphs (1) to (3) provided that any such fee is—

- (a) reasonable; and

(1) OJ No L 94, 30.3.2012, p.22.

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- (b) no more than the actual costs to the payment service provider of carrying out the relevant task.

Financial loss for consumers

7.—(1) Subject to sub-paragraph (2), where a consumer suffers any financial loss as a direct result of the non-compliance of a payment service provider with any requirement provided for in paragraphs 3 to 5, the payment service provider must reimburse the full extent of the loss without delay.

(2) The duty to reimburse provided for in sub-paragraph (1) does not apply in the case of unavoidable losses arising as a result of—

- (a) abnormal and unforeseeable circumstances beyond the control of the payment service provider; or
- (b) the payment service provider’s compliance with any statutory obligation.

Information about the switching service

8.—(1) A payment service provider must make available to consumers the following information about the switching service—

- (a) the roles of the transferring and receiving payment service providers as provided for in this Schedule;
- (b) the time limits that apply to the completion of the tasks provided for in this Schedule;
- (c) any fees that are to be charged;
- (d) details of any information that the consumer is required to provide;
- (e) details of the consumer’s right to make a complaint to the Financial Ombudsman Service.

(2) The information referred to in sub-paragraph (1) must be made available —

- (a) free of charge on paper or another durable medium at all premises of the payment service provider which are accessible to consumers; and
- (b) in electronic form on the payment service provider’s website at all times.