



STATUTORY INSTRUMENTS.

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EUROPEAN UNION (PAYMENT ACCOUNTS) REGULATIONS 2016

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EUROPEAN UNION (PAYMENT ACCOUNTS) REGULATIONS 2016

I, MICHAEL NOONAN, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014¹, hereby make the following regulations:

PART 1

PRELIMINARY

Citation and commencement

1. (1) These Regulations may be cited as the European Union (Payment Accounts) Regulations 2016.

(2) Subject to paragraph (3), these Regulations shall come into operation on 18 September 2016.

(3) Regulations 4, 5, 6 and 7 shall come into operation 9 months after the adoption by the European Commission of the regulatory technical standards referred to in Article 3(4) of the Directive.

Interpretation

2. (1) In these Regulations—

“Act of 2010” means the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6 of 2010);

“Bank” means the Central Bank of Ireland;

“Directive” means Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014¹ on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features;

“Directive 2007/64/EC” means Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007² on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC;

“enactment” includes an instrument made under an enactment;

¹OJ No. L 257, 28.8.2014, p. 214.

²OJ No. L 319, 5.12.2007, p. 1.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 20th September, 2016.*

“European act” has the same meaning as it has in the European Communities Act 2007 (No. 18 of 2007);

“European Banking Authority” means the authority established pursuant to Regulation (EU) No 1093/2010;

“European Union” has the same meaning as it has in the European Communities Act 1972 (No. 27 of 1972);

“EU standardised terminology” means any regulatory technical standard adopted by the European Commission pursuant to Article 3(4) of the Directive;

“fee information document” has the meaning assigned to it by Regulation 4(1);

“Financial Services Ombudsman” means the person holding office, or acting, as Financial Services Ombudsman in accordance with Part VIIB of the Central Bank Act 1942 (inserted by section 16 of the Central Bank and Financial Services Authority of Ireland Act 2004 (No. 21 of 2004));

“Member State” means a state that is a contracting party to the Agreement on the European Economic Area signed in Oporto on 2 May 1992 as adjusted by the Protocol signed at Brussels on 17 March 1993;

“payment account” means an account held in the name of one or more consumers that is used primarily for the execution of day-to-day payment transactions and through which the consumer or consumers holding the account may—

- (a) place funds,
- (b) withdraw cash, and
- (c) execute and receive payment transactions, including credit transfers, to and from a third party;

“payment account services list” has the meaning assigned to it by Regulation 3(1)(b);

“payment account with basic features” shall be construed in accordance with Regulation 17(1);

“payment service provider” has the same meaning as it has in Directive 2007/64/EC but, for the purposes of these Regulations, does not include—

- (a) a credit union (within the meaning of the Credit Union Act 1997 (No. 15 of 1997)),
- (b) a friendly society (within the meaning of the Friendly Societies Acts 1896 to 2014),
- (c) An Post, or

(d) the Bank;

“Payment Services Regulations” means the European Communities (Payment Services) Regulations 2009 (S.I. No. 383 of 2009);

“Regulation (EU) No 1093/2010” means Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010³ establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC;

“relevant credit institution” means an undertaking—

(a) the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account, and

(b) that offers payment accounts to consumers in the State,

but does not include a credit union (within the meaning of the Credit Union Act 1997);

“statement of fees” has the meaning assigned to it by Regulation 5(1).

(2) A word or expression, other than a word or expression to which a particular meaning is assigned by paragraph (1), that is used in these Regulations and is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

PART 2

COMPARABILITY OF FEES CONNECTED WITH PAYMENT ACCOUNTS

Payment account services list

3. (1) The Bank shall, without delay and in any event not later than 3 months after the EU standardised terminology has entered into force—

(a) integrate that terminology into the provisional list, and

(b) publish the resulting final list of the most representative services linked to a payment account (in these Regulations referred to as the “payment account services list”).

(2) The Bank shall, not later than 4 years after the date of publication of the payment account services list, and every 4 years thereafter—

(a) assess and, where appropriate, update that list, and

(b) notify the European Commission and the European Banking Authority of the outcome of the assessment and, where applicable, include the updated payment account services list with the notification.

³OJ No. L 331, 15.12.2010, p. 12.

(3) Where the EU standardised terminology is updated by the European Banking Authority in accordance with Article 3(6) of the Directive, the Bank shall—

- (a) without delay and in any event not later than 3 months after the updated EU standardised terminology has entered into force, update and publish the payment account services list in order to take account of the updated EU standardised terminology, and
- (b) ensure that payment services providers use the updated EU standardised terminology.

(4) In this Regulation, “provisional list” means the list, established by the Bank in accordance with Article 3(1) and (2) of the Directive, of the most representative services that are—

- (a) linked to a payment account,
- (b) subject to a fee, and
- (c) offered by one or more payment service providers in the State.

Fee information document and glossary

4. (1) Subject to paragraph (2), a payment service provider shall, in good time before entering into a framework contract with a consumer, provide the consumer with a document (in these Regulations referred to as the “fee information document”) containing the EU standardised terminology set out in the payment account services list and, where a service referred to in that list is offered by the payment service provider, the corresponding fee for that service.

(2) The obligation imposed under paragraph (1) is without prejudice to the requirements of—

- (a) Regulation 53(d) of the Payment Services Regulations, and
- (b) Part 2 of the European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281 of 2010).

(3) A fee information document provided in accordance with paragraph (1) shall—

- (a) be on paper or another durable medium,
- (b) be a short and stand-alone document,
- (c) be presented and laid out in a way that is clear and easy to read, using characters of a readable size,
- (d) be no less comprehensible in the event that, having been originally produced in colour, it is printed or photocopied in black and white,

- (e) be written in English or in another language agreed by the consumer and the payment service provider,
- (f) be accurate and not misleading,
- (g) be expressed in euro or, if agreed by the consumer and the payment service provider, in another currency of the European Union,
- (h) include the title “fee information document” at the top of the first page next to such common symbol as may be adopted by the European Commission pursuant to Article 4(6) of the Directive,
- (i) include a statement that it includes fees only in respect of services that are listed in the payment account services list and that complete pre-contractual and contractual information on all services offered by the payment service provider is provided in other documents, and
- (j) where one or more services are offered as part of a package of services linked to a payment account, disclose the fee for the entire package and specify the services and quantity of services included in the package, and the additional fee for any service that exceeds the quantity covered by the package fee.

(4) Subject to compliance with paragraph (3), a payment service provider may provide the fee information document together with other information on payment accounts and related services that is required to be provided under any enactment or European act.

(5) A payment service provider shall make available to consumers a glossary (in this Regulation referred to as the “glossary”) of at least the EU standardised terminology used in the payment account services list and the related definitions.

(6) The glossary shall be drafted in clear, unambiguous and non-technical language and shall not be misleading.

(7) A payment service provider shall make the fee information document and the glossary available to consumers, including consumers who are not customers of the payment service provider, in an easily accessible manner—

- (a) in electronic form on its website where available,
- (b) at its publicly accessible premises, and
- (c) on paper or another durable medium, free of charge upon request by the consumer.

Statement of fees

5. (1) A payment service provider shall, at least annually, provide free of charge to a consumer holding a payment account with that provider a statement of all fees incurred for services linked to the account (in these Regulations

referred to as a “statement of fees”), which shall, where applicable, include the information specified in paragraph (4)(*d*) and (*e*).

(2) The obligation under paragraph (1) is without prejudice to the requirements of—

- (*a*) Regulations 58 and 59 of the Payment Services Regulations, and
- (*b*) Regulation 15 of the European Communities (Consumer Credit Agreements) Regulations 2010.

(3) A statement of fees provided in accordance with paragraph (1) shall, where applicable, use the EU standardised terminology set out in the payment account services list and shall be provided—

- (*a*) through a communication channel agreed with the consumer, and
- (*b*) where requested by the consumer, on paper.

(4) A statement of fees provided in accordance with paragraph (1) shall specify the following information in relation to the period to which the statement relates:

- (*a*) the unit fee charged for each service and the number of times the service was used;
- (*b*) where the services are combined in a package, the fee charged for the package as a whole, the number of times the package fee was charged and the additional fee charged for any service exceeding the quantity covered by the package fee;
- (*c*) the total amount of fees incurred for each service, each package of services provided and services exceeding the quantity covered by the package fee;
- (*d*) where applicable, the overdraft facility interest rate applied to the payment account and the total amount of interest charged relating to the overdraft facility;
- (*e*) where applicable, the credit interest rate applied to the payment account and the total amount of interest earned;
- (*f*) the total amount of fees charged for all services provided.

(5) A statement of fees provided in accordance with paragraph (1) shall—

- (*a*) be presented and laid out in a way that is clear and easy to read, using characters of a readable size,
- (*b*) be accurate, not misleading and expressed in the currency of the payment account or, if agreed by the consumer and the payment service provider, in another currency,

- (c) contain the title “statement of fees” at the top of the first page next to such common symbol as may be adopted by the European Commission pursuant to Article 5(4) of the Directive, and
- (d) be written in English or, if agreed between the consumer and the payment service provider, another language.

(6) Subject to compliance with paragraph (5), a payment service provider may provide a statement of fees together with other information on payment accounts and related services that is required to be provided under any enactment or European act.

Information for consumers and branding

6. (1) When providing contractual, commercial and marketing information to consumers, a payment service provider—

- (a) shall use, where applicable, the EU standardised terminology set out in the payment account services list, and
- (b) may use brand names to designate its services, provided that, where applicable, the corresponding EU standardised terminology set out in the payment account services list is clearly identified.

(2) A payment service provider may use brand names in the fee information document and in the statement of fees, provided that such brand names are used as a secondary designation of those services in addition to the EU standardised terminology set out in the payment account services list.

Comparison website

7. (1) The Competition and Consumer Protection Commission shall operate, free of charge and in accordance with the requirements of paragraph (2), a website that compares the fees charged by payment service providers for at least the services included in the payment account services list (in this Regulation referred to as the “comparison website”).

(2) The comparison website shall—

- (a) give equal treatment to payment service providers in search results,
- (b) clearly disclose that it is owned and operated by the Competition and Consumer Protection Commission,
- (c) set out clear, objective criteria on which the comparison will be based,
- (d) use plain and unambiguous language and, where applicable, the EU standardised terminology set out in the payment account services list,
- (e) provide accurate and up-to-date information and state the time of the last update,

- (f) include information on a broad range of payment accounts being offered covering a significant part of the market and, where the information does not provide a complete overview of the market, a clear statement to that effect before displaying results, and
- (g) provide an effective procedure to report incorrect information on published fees.

(3) A payment service provider shall inform the Competition and Consumer Commission of the fees charged by it for services included in the payment account services list and shall notify the Competition and Consumer Protection Commission not later than 5 working days before making any change to those fees.

Payment accounts packaged with another product or service

8. Where a payment service provider offers a payment account as part of a package with other products or services that are not linked to a payment account, the payment service provider shall—

- (a) inform consumers whether it is possible to purchase the payment account separately, and
- (b) where applicable, provide separate information regarding the costs and fees associated with each of the products and services offered as part of the package that can be purchased separately.

PART 3

SWITCHING OF PAYMENT ACCOUNTS

Requirement to provide switching service

9. (1) For the purposes of Articles 9 and 10 of the Directive, a payment service provider shall comply with the Code of Conduct for the Switching of Payment Accounts with Payment Service Providers drawn up by the Bank in accordance with section 117 of the Central Bank Act 1989 (No. 16 of 1989) (in this Regulation referred to as the “Code”).

(2) When amending or replacing the Code in accordance with section 117 of the Central Bank Act 1989, the Bank shall ensure that the Code as amended or replaced—

- (a) is in the interest of consumers,
- (b) does not impose on consumers any additional burden to that imposed by paragraphs (2) to (6) of Article 10 of the Directive, and
- (c) requires the switching of payment accounts to be completed at least within the same overall timeframe as that indicated in paragraphs (2) to (6) of Article 10 of the Directive.

(3) Where a consumer has given written authorisation to a payment service provider to switch his or her payment account, the payment service provider shall provide to the consumer a copy of the authorisation.

Facilitation of cross-border account opening for consumers

10. (1) Where a consumer informs a payment service provider with which he or she holds a payment account (in this Regulation referred to as the “existing account”) that he or she wishes to open a payment account with a payment service provider located in another Member State (in this Regulation referred to as the “new account”) and requests the payment service provider to close the existing account, the payment service provider shall—

- (a) provide the consumer, free of charge, with a list of all standing orders and direct debits that are currently active in respect of the existing account,
- (b) provide the consumer, free of charge, with any available information about recurring incoming credit transfers and direct debits executed on the existing account in the previous 13 months,
- (c) where the consumer provides full details of the new account, transfer any positive balance remaining on the existing account to the new account, and
- (d) other than where the consumer has outstanding obligations in respect of the existing account, close that account.

(2) The obligation to provide the information referred to in paragraph (1)(a) and (b) shall not entail any obligation on a payment service provider to set up services that it does not provide.

(3) Where outstanding obligations of a consumer prevent a payment service provider from closing an existing account in accordance with paragraph (1)(d), the payment service provider shall inform the consumer of that fact without delay.

(4) Without prejudice to Regulation 56(1) of the Payment Services Regulations, where a consumer has no outstanding obligations in respect of an existing account, the payment service provider shall conclude the steps set out under paragraph (1) on the date specified by the consumer, which shall be not less than 6 working days after the payment service provider receives the consumer’s request under paragraph (1), unless otherwise agreed between the consumer and the payment service provider.

Fees connected with switching service

11. (1) Any fee charged by a transferring or receiving payment service provider to a consumer for a service provided in accordance with the Code referred to in Regulation 9, other than a service referred to in paragraph (2), (3) or (4), shall be—

- (a) reasonable, and

(b) reflect the actual cost to the payment service provider of providing that service.

(2) Any fee charged by the transferring payment service provider to the consumer for the termination of a payment account shall be determined in accordance with Regulation 56(2) and (4) of the Payment Services Regulations.

(3) A payment service provider shall provide a consumer with access, free of charge, to details of any standing orders and direct debits in respect of any accounts held by the consumer with the payment service provider.

(4) A transferring payment service provider shall not charge a fee for the provision to the receiving payment service provider or the consumer, in accordance with the Code referred to in Regulation 9, of the information referred to in Article 10(3)(a) and (b) of the Directive.

Information about switching service

12. (1) A payment service provider shall make available to consumers information in relation to the following:

- (a) the role of the transferring and receiving payment service provider at each stage of the process provided for in the Code referred to in Regulation 9 (in this Regulation referred to as the “switching process”);
- (b) the timeframe for completion of each stage of the switching process;
- (c) any fees that will be charged in relation to the switching process;
- (d) information that the consumer will be asked to provide during the switching process;
- (e) the dispute resolution mechanism referred to in Regulation 24;
- (f) if applicable, the deposit guarantee scheme for the purposes of the European Union (Deposit Guarantee Schemes) Regulations 2015 (S.I. No. 516 of 2015) of which the payment service provider is a member.

(2) A payment service provider shall provide the information referred to in paragraph (1) to a consumer at his or her request and shall make that information available free of charge—

- (a) on paper or another durable medium at all of its publicly accessible premises, and
- (b) in electronic form on its website at all times.

Financial loss to consumers

13. (1) Where a consumer incurs any financial loss, including charges and interest, resulting directly from the non-compliance of a payment service provider with its obligations under Regulation 9, the payment service provider shall, without delay, reimburse the consumer for the financial loss incurred, other than financial loss resulting from—

- (a) abnormal and unforeseeable circumstances beyond the control of the payment service provider, the consequences of which would have been unavoidable despite all efforts to the contrary, or
- (b) compliance by the payment service provider with any statutory obligation.

(2) Nothing in this Regulation affects a person's right to compensation in accordance with the law applicable to the relevant framework contract.

PART 4

ACCESS TO PAYMENT ACCOUNTS

Non-discrimination

14. (1) A relevant credit institution shall not discriminate against a consumer who is legally resident in the European Union (within the meaning of Article 2(2) of the Directive) by reason of his or her nationality, place of residence, or any other ground referred to in Article 21 of the Charter of Fundamental Rights of the European Union, when the consumer applies for or accesses a payment account.

(2) The conditions applicable to holding a payment account with basic features shall not be discriminatory.

Right of access to payment account with basic features

15. (1) Payment accounts with basic features shall be made available to consumers by all relevant credit institutions.

(2) The opening and use of a payment account with basic features shall be in accordance with the Act of 2010.

(3) Subject to Regulation 16(2) and (4), a consumer who is legally resident in the European Union (within the meaning of Article 2(2) of the Directive) shall have the right to open and use a payment account with basic features without undue difficulty regardless of—

- (a) his or her place of residence, or
- (b) whether he or she—
 - (i) has a fixed address,
 - (ii) is an asylum seeker, or

(iii) is a consumer who has not been granted a residence permit but whose expulsion is not possible for legal or practical reasons.

(4) A relevant credit institution shall not make access to a payment account with basic features conditional on—

- (a) the purchase of additional services offered by it, or
- (b) the purchase of its shares, other than where this condition is imposed on all of its customers.

Application for payment account with basic features

16. (1) Having received a complete application for a payment account with basic features (in this Regulation referred to as an “application”) from a consumer (in this Regulation referred to as an “applicant”), a relevant credit institution shall, without undue delay and, in any case, not later than 10 working days after receipt of the application—

- (a) open the payment account with basic features, or
- (b) refuse the application on one of the grounds referred to in paragraph (2) or (4).

(2) A relevant credit institution may refuse an application where the applicant already holds a payment account with a credit institution in the State that enables him or her to avail of the services referred to in Regulation 17(1), other than where the applicant has declared that he or she has received notice from the credit institution that the account will be closed.

(3) For the purpose of verifying whether an applicant already holds a payment account as referred to in paragraph (2), a payment service provider may require the applicant to make a declaration as to whether that is the case.

(4) A relevant credit institution shall refuse an application where such refusal is necessary to avoid an infringement of the Act of 2010.

(5) Where a relevant credit institution decides to refuse an application, it shall—

- (a) notify the applicant in writing and free of charge of the refusal and the grounds for the refusal, unless such notification would be contrary to section 49 of the Act of 2010 or objectives of national security or public policy,
- (b) where the refusal is on the grounds referred to in paragraph (4), take appropriate measures as required under Chapter 4 of Part 4 of the Act of 2010,
- (c) advise the consumer of—

- (i) the procedure for submitting a complaint to it against the refusal, and
- (ii) the consumer's right to contact the Bank and the Financial Services Ombudsman in relation to the refusal, including the relevant contact details.

Payment account with basic features

17. (1) Subject to paragraph (2), a payment account with basic features shall be denominated in euro and shall enable consumers to avail of the following services:

- (a) services enabling all of the operations required for the opening, operating and closing of the payment account;
- (b) services enabling placement of funds in the payment account;
- (c) services enabling withdrawal of cash within the European Union from the payment account—
 - (i) at the counter on the publicly accessible premises of the relevant credit institution with which the account is held during its opening hours, and
 - (ii) at automated teller machines—
 - (I) of the relevant credit institution with which the account is held during or outside its opening hours, or
 - (II) operated by a payment service provider with which that credit institution has an agreement to that effect;
- (d) execution of the following payment transactions within the European Union:
 - (i) direct debits;
 - (ii) payment transactions using a payment card, including online payments;
 - (iii) credit transfers, including standing orders, at terminals and counters of the relevant credit institution with which the account is held, where available, and through the online facilities of that credit institution.

(2) A relevant credit institution shall be obliged to offer a service referred to in paragraph (1) as part of a payment account with basic features only to the extent that it already offers the service to consumers holding payment accounts other than payment accounts with basic features.

(3) A relevant credit institution shall not place any limit on the number of operations that a consumer may execute in relation to a service referred to in paragraph (1) that is provided as part of a payment account with basic features.

(4) A relevant credit institution shall allow a consumer to manage and initiate payment transactions from his or her payment account with basic features—

(a) at its publicly accessible premises, and

(b) using its online facilities, where available.

(5) A relevant credit institution shall not provide an overdraft facility in relation to a payment account with basic features.

Fees associated with payment account with basic features

18. (1) A relevant credit institution shall offer a payment account with basic features free of charge for a period of not less than 12 months in respect of—

(a) subject to paragraph (2), the services referred to in Regulation 17(1), regardless of the number of operations executed in respect of those services, and

(b) maintenance of the account.

(2) Where a relevant credit institution provides a service referred to in Regulation 17(1) in a currency other than euro as part of a payment account with basic features, it may charge a reasonable fee in respect of that service.

(3) A relevant credit institution may charge a consumer a reasonable fee in respect of non-compliance with his or her obligations under a framework contract for the provision by the relevant credit institution of a payment account with basic features.

(4) A relevant credit institution may, not less than 12 months after the date of opening of a payment account with basic features, and annually thereafter up to 5 years from the date of opening of the account, review the amounts lodged to the account over the preceding 12 month period and, where the total of those amounts exceeds the equivalent of the national minimum hourly rate of pay (as declared from time to time in accordance with section 10D of the National Minimum Wage Act 2000 (No. 5 of 2000)) multiplied by 2,080, the relevant credit institution may—

(a) give notice to the consumer that, commencing 2 months after the date of the notice, a reasonable fee will be charged in respect of the services referred to in Regulation 17(1) and, if applicable, maintenance of the account, and

(b) 2 months after the date of the notice referred to in subparagraph (a), commence charging the reasonable fee as set out in that notice.

(5) Where a notice referred to in paragraph (4) has not been given, a relevant credit institution may, not less than 5 years after the date of opening of a payment account with basic features—

- (a) give notice to the consumer that, commencing 2 months after the date of the notice, a reasonable fee will be charged in respect of the services referred to in Regulation 17(1) and, if applicable, maintenance of the account, and
 - (b) 2 months after the date of the notice referred to in subparagraph (a), commence charging the reasonable fee as set out in that notice.
- (6) For the purposes of this Regulation, a “reasonable fee” means a fee that—
- (a) is established having regard to national income levels and the average fees charged by credit institutions in the State for services on payment accounts, and
 - (b) where the fee relates to a service referred to in Regulation 17(1), is less than or equivalent to the fee charged for a similar service by the relevant credit institution with which the payment account with basic features is held.

Framework contracts and termination

19. (1) Subject to paragraphs (2) and (3), a framework contract for the provision of a payment account with basic features shall be subject to the requirements of the Payment Services Regulations.

(2) A relevant credit institution may unilaterally terminate a framework contract with a consumer for the provision of a payment account with basic features where one or more of the following conditions is met:

- (a) the consumer has knowingly used the account for unlawful purposes;
- (b) there has been no transaction on the account for more than 24 consecutive months;
- (c) the consumer provided incorrect information when applying for the account where provision of the correct information would have resulted in refusal of the application;
- (d) the consumer is no longer legally resident in the European Union (within the meaning of Article 2(2) of the Directive);
- (e) the consumer has, since the opening of the account, opened a further payment account in the State that allows the consumer to avail of the services referred to in Regulation 17(1).

(3) Subject to paragraph (4), where a relevant credit institution terminates a framework contract for a payment account with basic features pursuant to one or more of the grounds referred to in paragraph (2)(b), (d) and (e), the relevant

credit institution shall, not less than 2 months before the termination takes effect, notify the consumer of the grounds and justification for the termination.

(4) The obligation to notify the consumer under paragraph (3) shall not apply where disclosure of the grounds and justification for termination would be contrary to objectives of national security or public policy.

(5) Where a relevant credit institution terminates a framework contract for a payment account with basic features pursuant to one or more of the grounds referred to in paragraph (2)(a) or (c), the termination shall take effect immediately.

(6) The notification of termination under paragraph (3) shall—

(a) be in writing,

(b) be free of charge,

(c) advise the consumer of—

(i) the procedure for submitting a complaint to it against the termination, and

(ii) the consumer's right to contact the Bank and the Financial Services Ombudsman in relation to the termination, including the relevant contact details.

General information on payment accounts with basic features

20. (1) A relevant credit institution shall make available to consumers, free of charge and in an accessible manner, information and assistance about—

(a) the services provided as part of a payment account with basic features, and

(b) the fees and the conditions of use associated with a payment account with basic features.

(2) The information referred to in paragraph (1) shall include a statement that the purchase of additional services offered by the relevant credit institution is not required in order to access a payment account with basic features.

PART 5

ENFORCEMENT AND DISPUTE RESOLUTION

Competent authority — amendment of Central Bank Act 1942

21. (1) The Bank is designated as the competent authority in the State for the purposes of the Directive.

(2) The Bank shall have all the powers necessary for the performance of its functions under the Directive and these Regulations.

(3) The Central Bank Act 1942 (No. 22 of 1942) (amended by Regulation 12 of the European Union (Central Securities Depositories) Regulations 2016 (S.I. No. 481 of 2016)) is amended in section 33AK(10) in the definition of “supervisory EU legal acts”—

(a) by the substitution of the following paragraph for paragraph (x):

“(x) Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012, and”, and

(b) by the insertion of the following paragraph after paragraph (x):

“(y) Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014¹ on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features.”

Obligation to cooperate

22. (1) The Bank shall cooperate with the competent authorities of other Member States whenever necessary for the purpose of carrying out its duties under these Regulations or the Directive, making use of the powers available to it under these Regulations or any other enactment.

(2) The Bank shall render assistance to competent authorities of other Member States and may request cooperation or the exchange of information from such authorities for the purposes of the Directive and, in particular, shall exchange information and cooperate with such authorities in relation to any investigation or supervisory activities.

(3) In order to facilitate and accelerate cooperation and the exchange of information, the Bank shall be the single designated contact point (in this Regulation referred to as the “contact point”) in the State for the purposes of the Directive.

(4) The Bank shall communicate to the European Commission and other Member States that it is the contact point in the State for the purpose of receiving requests for exchange of information or cooperation pursuant to Article 22 of the Directive.

(5) The Bank shall, without undue delay, supply to the contact points in other Member States the information that may be required for the purposes of carrying out their duties as competent authorities pursuant to the Directive.

(6) The Bank, when exchanging information with contact points in other Member States pursuant to the Directive, may indicate at the time of communication that such information must not be disclosed without its express agreement, in which case such information may be exchanged solely for the purposes for which the Bank gives its agreement.

(7) The Bank may receive information from a contact point in another Member State and, where a limitation referred to in paragraph (6) is put on the information, it shall respect that limitation.

(8) The Bank may transmit information received in accordance with paragraph (7) to a competent authority of another Member State but shall not transmit the information to other bodies or natural or legal persons—

- (a) without the express agreement of the competent authority that disclosed it, or
- (b) for purposes other than those for which that authority gave its agreement,

unless the Bank considers that it is justified, on objective grounds, in doing so, in which case it shall without delay so inform the competent authority that supplied the information.

(9) The Bank may refuse to act on a request for cooperation in carrying out an investigation or supervisory activity or to exchange information as provided for in this Regulation only where—

- (a) such an investigation, on-the-spot verification, supervisory activity or exchange of information might adversely affect the sovereignty or security of the State or acceding to the request would be manifestly inconsistent with public policy,
- (b) judicial proceedings have already been initiated in respect of the same actions and the same persons before a court in the State, or
- (c) final judgment has already been delivered in the State in respect of the same persons and the same actions.

(10) In the event of a refusal under paragraph (9), the Bank shall notify the requesting competent authority accordingly, providing as detailed information as possible in relation to the reasons for the refusal.

Settlement of disagreements between competent authorities

23. (1) Where a request by the Bank for cooperation, in particular the exchange of information, as provided for in Regulation 22(2), has been rejected or has not been acted upon within a reasonable time, the Bank may refer the situation to the European Banking Authority and request that authority's assistance in accordance with Article 19 of Regulation (EU) No 1093/2010.

(2) Any binding decision made by the European Banking Authority in accordance with the powers conferred on it by Article 19 of Regulation (EU) No 1093/2010 in a case referred to it under paragraph (1) shall be binding on the Bank.

Disputes

24. The Financial Services Ombudsman shall have the authority to investigate, mediate and adjudicate any dispute between a consumer and a payment services provider that is alleged by the consumer to have arisen by virtue of the operation of any provision of these Regulations.

Penalties

25. (1) A person who contravenes or fails to comply with Regulation 4, 5, 6, 7(3), 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, or 20 commits an offence and shall be liable—

(a) on summary conviction, to a Class B fine or imprisonment for a term not exceeding 12 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 3 years, or both.

(2) Where a person is convicted of an offence under these Regulations and there is a continuation of the offence by the person after such conviction, the person commits a further offence on every day on which the contravention continues and for each such offence is liable—

(a) on summary conviction, to a fine not exceeding €1,000, or

(b) on conviction on indictment, to a fine not exceeding €10,000.

(3) Where an offence referred to in paragraph (1) or (2) is proved to have been committed by a body corporate with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(4) Summary proceedings in relation to an offence under these Regulations may be brought and prosecuted by the Bank.

Administrative sanctions — amendment of Central Bank Act 1942

26. (1) Part 2 of Schedule 2 of the Central Bank Act 1942 (No. 22 of 1942) (amended by Regulation 12 of the European Union (Central Securities Depositories) Regulations 2016 (S.I. No. 481 of 2016) is amended by the insertion after the last item of the following:

“

66	S.I. No. 482 of 2016	European Union (Payment Accounts) Regulations 2016	The whole instrument
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”.

(2) The Bank may publicly disclose any administrative sanction that it imposes under the Central Bank Act 1942 for any contravention of the provisions of these Regulations, other than where it considers that such a disclosure would seriously jeopardise the financial markets or cause disproportionate damage to any of the parties involved.

Evaluation

27. (1) The Bank shall supply to the Minister the information referred to in paragraphs (a), (c) and (d) of Article 27 of the Directive in sufficient time to enable that information to be provided to the European Commission in accordance with that Article.

(2) The Competition and Consumer Protection Commission shall supply to the Minister the information referred to in paragraph (b) of Article 27 of the Directive in sufficient time to enable that information to be provided to the European Commission in accordance with that Article.



GIVEN under my Official Seal,
16 September 2016.

MICHAEL NOONAN,
Minister for Finance.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations transpose into domestic law the provisions of Directive 2014/92/EU of the European Parliament and of the Council on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (the “Payment Accounts Directive”).

The objective of the Payment Accounts Directive, as outlined in Recital 4, is to improve and develop the internal market for retail banking, through the removal of barriers to a fully integrated market by ensuring transparency and comparability of fees related to payment accounts, facilitating payment account switching and ensuring access to payment accounts with basic features.

The main elements of the Regulations are:

- Part 1 covers preliminary matters such as important definitions, including the type of payments accounts falling within the scope of the Regulations, and the various dates on which the Regulations come into operation.
- Part 2 is concerned with the comparability of fees connected with payment accounts and provides for a payment account services list incorporating EU standardised terminology, a fee information document and glossary, and a statement of fees. It also covers the use of this terminology in the provision of information to consumers and addresses the packaging of payment accounts with another product or service, and provides for a website comparing fees charged on payment accounts.
- Part 3 provides for switching of payment accounts. Payment account providers will be required to comply with the Code of Conduct for the Switching of Payment Accounts with Payment Service Providers drawn up by the Central Bank and to facilitate consumers who wish to close their payment account and open a payment account with a payment service provider located in another Member State. Part 3 also contains provisions on fees connected with switching payment accounts, information to be given to consumers on switching, and liability where a consumer incurs a financial loss resulting directly from the non-compliance by a payment service provider with its obligations in respect of switching payment accounts.
- Part 4 covers access to payment accounts and provides that payment accounts with basic features are to be made available to consumers who are legally resident in the European Union by all relevant credit institutions, subject to the consumer meeting certain eligibility requirements. Payment accounts with basic features are to be provided free of charge in respect of the services listed in Regulation 17 for an initial period, and will continue to be offered free of charge for a further period of time where deposits into the payment account do not exceed the limits provided for in the Regulations. Part 4 also sets out circumstances in which a relevant credit institution may unilaterally terminate a framework contract for a

payment account with basic features. It also imposes requirements on relevant credit institution to make information available to consumers on the services and fees associated with a payment account with basic features.

- Part 5 designates the Central Bank of Ireland as the competent authority in the State. It sets out measures to ensure appropriate co-operation between the competent authorities of EEA Member States, including the Central Bank of Ireland, and covers certain miscellaneous matters such as penalties. It specifies that the Financial Services Ombudsman will have the authority to investigate, mediate and adjudicate any dispute between a consumer and a payment services provider. Part 5 also requires Member States to provide the Commission with information on compliance with the Payment Accounts Directive by 18 September 2018 and every two years thereafter.

Although it is not required to be provided for in these Regulations, it should be noted that Article 28 of the Payment Accounts Directive provides that the EU Commission shall submit to the European Parliament and to the Council a report on the application of the Directive by 18 September 2019.

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