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Directorate General Internal Market and Services

FINANCIAL INSTITUTIONS

Retail issues, consumer policy and payment systems

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**CONSULTATION
ON ACCESS TO A BASIC PAYMENT ACCOUNT**

COMMISSION SERVICES WORKING DOCUMENT

This working document presents a set of principles that could be proposed by the Commission when developing a future legislative initiative on access to a basic payment account throughout the Union. The information contained in this document is only intended for consultation purposes and does not purport to represent or prejudge the final position that the Commission will take on the basis of the results of the impact assessment that is currently being finalised and which should accompany a formal Commission proposal.

Stakeholders are invited to send their views on the envisaged measures **by 17 November 2010** to **markt-retail-consultation@ec.europa.eu**. Responses will be placed on the Commission's website unless explicitly indicated otherwise by the stakeholders in their response.

Introduction

While access to payment services has become a necessary precondition for participating fully in the economic and social life of a modern society and while an integrated payments markets (the Single Euro Payments Area) is emerging in the European Union, accessibility to payment accounts and the related facility to execute basic transactions is not guaranteed throughout the Community: according to recent data, about 30 million citizens in the EU above the age of 18 do not have access to a bank account.

Over the last three years, the Commission has undertaken a thorough analysis and carried out consultations on the issue of financial inclusion¹. The information collected confirmed that the grounds for lack of access or difficulty in accessing payment accounts can be explained by factors such as the socio-economic diversity of the European population in terms of age, welfare and education and the lack of an appropriate services offer for all strands of society. Lack of access to payment services and lack of means to operate and receive electronic payments have several potential implications for those people who are denied access: a limited choice of goods and services, the inability to benefit from online markets and inexpensive online services or online discounts, high costs incurred due to charges for cash transactions or occasional use of other payment services, difficulties with taking jobs, renting properly, receiving wages and benefits, paying bills and taxes. Being denied access or having difficulty in using payment services may therefore prevent consumers from fully participating and taking advantage of the internal market and may result in persisting inequalities and a risk of financial and social exclusion.

In November 2007, the Commission invited all stakeholders to reflect on the possibilities to ensure that by a certain date no EU citizen or resident would be denied access to a basic bank account². The same objective was included in the Renewed Social Agenda³ adopted in July 2008.

¹ See the fact-finding study *Financial services provision and prevention of financial exclusion* published in May 2008 (<http://ec.europa.eu/social/main.jsp?catId=751&langId=en>) and the results of the public consultation on ensuring access to a basic bank account launched in February 2009 (http://ec.europa.eu/internal_market/consultations/2009/financial_inclusion_en.htm). On the basis of the results of this consultation, an independent consultant was asked by the Commission to carry out a study on the costs and benefits of various policy actions in this field. The study involved desk research and an interview programme with banking associations, consumer groups and other interested parties in the selected Member States.

² See Communication *A single market for 21st century Europe*, accompanied by a Commission staff working document on initiatives in the area of retail financial services, http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0724en01.pdf.

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:DKEY=473792:EN:NOT>

The need to ensure access to financial services for all interested parties was also stressed by the European Parliament in its Resolution on the Green Paper on Retail Financial Services adopted on 5 June 2008⁴. More recently, the report of Professor Mario Monti on a new strategy for the Single Market⁵ acknowledged the importance of the access to basic banking services, stating that the lack of access to basic banking services prevents a relevant number of citizens from effectively accessing the Single Market. Mr Monti further suggested that the Commission presents a proposal, possibly on the basis of Article 14 TFEU, for a regulation ensuring that all citizens are entitled to a number of basic banking services.

In its Communication *Europe 2020*, the Commission called for major efforts to combat social exclusion and to strengthen consumers' ability and confidence as well as to empower them to participate fully in the internal market⁶.

The public consultation held in 2009⁷ revealed broad support for some EU action which could promote access to basic bank accounts throughout the Community. The market itself, despite self-regulatory efforts of the banking industry in some Member States, does not currently offer sufficient access to modern payment services for consumers perceived as non-profitable or risky. As a result, these people are unable to fully participate in the internal market. Given that in most Member States there are no mechanisms in place to establish the right to access payment services, the Commission services are therefore considering a potential initiative to ensure access to payment accounts in the EU, as announced in the Commission Communication of 2 June 2010 on 'Regulating for Growth'.

The measures outlined in this document could improve access to payment accounts and electronic means of payment, thus promoting the full participation of all EU consumers in the internal market, as well as financial and social inclusion. The following main principles could be envisaged:

- Broad principles aiming at ensuring that consumers have access to basic payment accounts in the EU at a reasonable cost; the principles would be designed so as to take into account, to the extent possible, the specificities of the national contexts, habits and markets.
- An objective of availability – to ensure that basic payment accounts are offered by providers in each Member State. Basic payment accounts could potentially differ from regular accounts to the extent that they would be defined through a list of related basic payment services. Access to credit, savings, insurance and pensions would be excluded from the scope of the initiative.

⁴ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2008-0261+0+DOC+XML+V0//EN>

⁵ http://ec.europa.eu/bepa/pdf/monti_report_final_10_05_2010_en.pdf

⁶ <http://ec.europa.eu/eu2020/pdf/COMPLET%20EN%20BARROSO%20%20%20007%20-%20Europe%202020%20-%20EN%20version.pdf>

⁷ http://ec.europa.eu/internal_market/consultations/2009/financial_inclusion_en.htm.

- An objective of wide accessibility to a targeted type of payment accounts: conditions to open the payment account could not discriminate on the basis of the nationality or the place of residence of the consumer.
- Certain aspects such as the characteristics of a basic payment account and the issues to be taken into consideration when determining the cost of such an account for the consumer could require the development of more detailed technical guidance or clarification at a later stage.
- In order to ensure a consistency of approach regarding the national implementation of potential rules under the envisaged action, some broad principles could be put in place with respect to such issues as the national competent authorities, the possibility of applying sanctions and consumers' recourse to alternative dispute resolution.

Principle

Access to a payment account is a precondition to benefit fully from the internal market and contributes to social inclusion. In order to ensure that requests for payment accounts are met in the EU, it is envisaged to establish the right of access to a basic payment account throughout the EU.

Principle

A harmonised framework could be established to guarantee the right of access to a basic payment account to any consumer.

This framework would be without prejudice to Community rules, in particular on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

Characteristics of a basic payment account

While a 'payment account' is defined at Community level⁸, there is no EU-wide definition of what is a 'basic payment account'. Defining the list of functionalities attached to a basic payment account could ensure that the same set of basic payment services are offered throughout the EU and that all consumers are able to operate the essential payment transactions that they need to function in a modern society, improving the quality of their everyday lives and their participation in the internal market.

An initiative at EU level should not cover the practical details or the manner in which basic payment accounts are designed, but could set out a list of essential functions that a basic payment account should fulfil. In this respect, it would be desirable for a basic payment account to enable consumers to deposit cash in and withdraw money from the account and to make essential payment transactions, such as receiving income or benefits, paying bills and taxes and purchasing goods and services. It should also offer the possibility to use physical or electronic means of payment, such as electronic transfers at the branch of the provider, withdrawals at an ATM, etc.

List of services and functionalities

A basic payment account could consist of the following functionalities: the opening and the closing of a payment account; the means for the consumer to receive, place, transfer and withdraw funds, both physically and electronically; the provision of a debit card allowing for the withdrawal of cash and the carrying out of electronic payments.

However, an overdraft facility or overrunning would not be part of a basic payment account. Access to credit would not be considered as a component of or a right related to a basic payment account, whatever the purpose or the form of the credit.

Flexibility for adaptations

The purpose of the list would be to guarantee a common base throughout the EU and would not per se prevent Member States or payment services providers – depending on the national systems – from extending the range of services or functionalities offered together with a basic payment account, provided that the latter is also offered on a stand alone basis. In any case, access to basic payment account could not be made conditional on the purchase of additional services.

Setting the characteristics of a basic payment account could require the development of more detailed technical guidance or clarification at a later stage.

⁸ Article 4(14) of Directive 2007/64/EC.

Access to a basic payment account

In order to facilitate access to payment accounts for those who cannot qualify for regular payment accounts and promote financial inclusion while avoiding stigmatisation, the right of consumers to access at least one payment account in the EU could be achieved by requiring the accessibility of basic payment accounts in each Member State.

The conditions for opening a basic payment account could not contain any discriminatory provisions.

Accessibility

Any consumer could have the right to access to a basic payment account, whatever his nationality or the place of his residence in the European Union.

Criteria such as the level or regularity of income, employment, credit history, level of indebtedness, individual situation regarding bankruptcy or future activity of the account could not be taken into account for the opening a basic payment account.

Possible restrictions to the access to basic payment accounts

Access to basic payment accounts could be restricted in the event that the consumer who chooses to open a basic payment account already has one payment account in the same Member State.

Access to basic payment accounts would be provided unless such access is contrary to public policy or public security obligations. The principle of access would be without prejudice to the European legislation on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, in particular regarding due diligence requirements concerning the identity of the client.

Issue of cost

In order to ensure effective access to basic payment accounts, such accounts should be provided at a reasonable cost, which would enable consumers to monitor and control their expenditure, depending on the specificities of the national banking sector.

Cost for the consumer

A basic payment account should be available at a reasonable cost.

The notion of reasonable cost could require the development of more detailed technical guidance or clarification, at a later stage.

General information concerning basic payment accounts

On the demand side, some consumers may be deterred from accessing and using payment services for a range of psychological, cultural and educational reasons, including lack of understanding of banking products and not knowing of what kind of products could suit their needs and personal circumstances.

Raising awareness

Measures to raise awareness among the public about the availability and the features of basic payment accounts could be required, thus contributing to a more effective access to basic payment accounts.

General information on basic payment account

When choosing to open a payment account, consumers should be given understandable information by payment services providers on, at least: the availability and the features of a basic payment account; the content and the conditions of use of a basic payment account, in particular the fact that the purchase of any additional service is not required in order to obtain a basic payment account; the cost of the payment transactions.

Measures on general information should be without prejudice to the requirements laid down by Directive 2007/64/EC concerning the provision of information to consumers.

Monitoring and out-of-court dispute resolution

Rules on monitoring and out-of-court dispute resolution mechanisms should be provided in order to ensure compliance with the initiative aimed at guaranteeing access to a basic payment account.

Monitoring

Competent authorities would be appointed and rules on penalties should be laid down at national level.

Out-of-court dispute resolution mechanism

Transparent, non-discriminatory, simple and inexpensive out-of-court procedures should be available for dealing impartially with unresolved disputes between consumers and providers, without prejudice of any legal protection afforded by national law. These procedures could not hamper the establishment of complaint offices to facilitate access to dispute resolution by consumers.

In case such disputes involve parties in different Member States, Member States should coordinate their efforts.

Annex 1: Glossary

- 'consumer': any natural person who is acting for purposes outside his trade, business, craft or profession
- 'payment services provider': payment services providers as defined under Directive 2007/64/EC
- 'payment account': an account held in the name of the consumer which is used for the execution of payment transactions
- 'payment transaction': a payment transaction as defined under Directive 2007/64/EC
- 'funds': funds as defined under Directive 2007/64/EC
- 'debit card': a payment card which does not allow the consumer to make payment transactions which exceed the current balance in his payment account
- 'overdraft facility': an explicit credit agreement whereby the payment services provider makes available to the consumer funds which exceed the current balance in the consumer's account, whichever the amount
- 'overrunning': a tacitly accepted overdraft whereby the payment services provider makes available to a consumer funds which exceed the current balance in the consumer's account or the agreed overdraft facility