COUNCIL OF THE EUROPEAN UNION

Brussels, 16 April 2014 (OR. en)

8032/14

Interinstitutional File: 2013/0264 (COD)

CODEC 867
EF 96
ECOFIN 291
CONSOM 85
PE 197

INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Directive of the European Parliament and of the Council on payment services in the internal market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC - Outcome of the European Parliament's first reading (Brussels, 2 to 3 April 2014)

I INTRODUCTION

The Committee on Economic and Monetary Affairs submitted 201 amendments to the proposal for a Directive (amendments 1-201). In addition, the EFD political group tabled two amendments (amendment 202 and 203).

II. DEBATE

The debate, which took place on 2 April 2014, was a joint debate, which is summarised in document 8031/14.

III. VOTE

When it voted on 3 April 2014, the plenary adopted the 201 amendments submitted by the Committee on Economic and Monetary Affairs. No other amendments were adopted.

The plenary then postponed its vote on the legislative resolution to a later session - thereby not bringing the Parliament's first reading to a close. The proposal was instead referred back to the Committee on Economic and Monetary Affairs, pursuant to Rule 57(2) of the Parliament's Rules of Procedure.

The adopted amendments are set out in the Annex.

ANNEX

(3.4.2014)

Payment services in the internal market ***I

Amendments adopted by the European Parliament on 3 April 2014 on the proposal for a directive of the European Parliament and of the Council on payment services in the internal market and amending Directives 2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive 2007/64/EC (COM(2013)0547 – C7-0230/2013 – 2013/0264(COD))[1]

(Ordinary legislative procedure: first reading)

Amendment 1

Proposal for a directive
(1) Recital 2

Text proposed by the Commission	*Amendment*
(2) Directive 2007/64/EC ***has been*** adopted in December 2007 on the basis of a Commission proposal of December 2005. Since then, the retail payments market has experienced significant technical innovations with the rapid growth in the number of electronic and mobile payments and the emergence of new types of payments services in the market place.	(2) Directive 2007/64/EC ***was*** adopted in December 2007 on the basis of a Commission proposal of December 2005. Since then, the retail payments market has experienced significant technical innovations with the rapid growth in the number of electronic and mobile payments and the emergence of new types of payments services in the market place***, challenging the current framework***.

Amendment 2

Proposal for a directive
(2) Recital 3

Text proposed by the Commission	*Amendment*
(3) The review of the Union legal framework on payment services and notably the analysis of the impact of Directive 2007/64/EC and the consultation on the Commission Green Paper 'Towards	(3) The review of the Union legal framework on payment services and notably the analysis of the impact of Directive 2007/64/EC and the consultation on the Commission Green Paper 'Towards

[1] The matter was referred back to the committee responsible for reconsideration pursuant to Rule 57(2), second subparagraph (A7-0169/2014).

an integrated European market for card, internet and mobile payments'[24] have shown that developments have given rise to important challenges from a regulatory perspective. Important areas of the payments market, in particular card payments, internet and mobile payments are often still fragmented along national borders. Many innovative payment products or services do not fall, entirely or in large parts, under the scope of Directive 2007/64/EC. Furthermore, the scope of Directive 2007/64/EC and in particular, the elements excluded therefrom, as certain payment-related activities from the general rules, proved in a few cases too ambiguous, too general or simply outdated, taking into account the market developments. This has resulted in legal uncertainty, potential security risks in the payment chain and a lack of consumer protection in certain areas. For innovative and easy-to-use digital payment services it has proven to be difficult to take off and provide consumers and retailers with effective, convenient and secure payment methods in the Union.	an integrated European market for card, internet and mobile payments'[24] have shown that developments have given rise to important challenges from a regulatory perspective. Important areas of the payments market, in particular card payments, internet and mobile payments are often still fragmented along national borders. Many innovative payment products or services do not fall, entirely or in large parts, under the scope of Directive 2007/64/EC. Furthermore, the scope of Directive 2007/64/EC and in particular, the elements excluded therefrom, as certain payment-related activities from the general rules, proved in a few cases too ambiguous, too general or simply outdated, taking into account the market developments. This has resulted in legal uncertainty, potential security risks in the payment chain and a lack of consumer protection in certain areas. For innovative***, safe*** and easy-to-use digital payment services it has proven to be difficult to take off and provide consumers and retailers with effective, convenient and secure payment methods in the Union. ***There is a large positive potential in this which needs to be more consistently exploited.***
[24] COM(2012) 941 final.	[24] COM(2012) 941 final.

Amendment 3

Proposal for a directive
(3) Recital 4

Text proposed by the Commission	*Amendment*
(4) Establishing an integrated single market for electronic payments is crucial in order to ensure that consumers, merchants and companies enjoy the full benefits of the internal market, given the development of the digital economy.	(4) Establishing an integrated single market for ***safe*** electronic payments is crucial in order to ***support the growth of the Union economy and to*** ensure that consumers, merchants and companies enjoy ***choice and transparency of payment services to benefit from*** the full benefits of the internal market, given the development of the digital economy.

Amendment 4

Proposal for a directive
(4) Recital 5

Text proposed by the Commission	*Amendment*
(5) New rules should be provided in order to close the regulatory gaps while at the same time providing for more legal clarity and ensuring a consistent application of the legislative framework across the Union. Equivalent operating conditions should be guaranteed to both existing and new players on the market, facilitating new means of payment to reach a broader market and ensuring a high level of consumer protection in the use of these payment services across the whole of the Union. This should lead to a downward trend in costs and prices for payment services users and more choice and transparency of payment services.	(5) New rules should be provided in order to close the regulatory gaps while at the same time providing for more legal clarity and ensuring a consistent application of the legislative framework across the Union. Equivalent operating conditions should be guaranteed to both existing and new players on the market, facilitating new means of payment to reach a broader market and ensuring a high level of consumer protection in the use of these payment services across the whole of the Union. This should ***generate efficiencies in the payment system as a whole and should*** lead to a downward trend in costs and prices for payment services users and more choice and transparency of payment services***, while strengthening the trust of consumers in a harmonised payments market***.

Amendment 5

Proposal for a directive
(5) Recital 5 a (new)

Text proposed by the Commission	*Amendment*
	(5a) The single euro payments area ('SEPA') will reach a major milestone in 2014 with the migration of national credit transfers and direct debits in euro to SEPA-compliant credit transfers and direct debits. The construction of an integrated, competitive, innovative and level-playing field market for euro retail payments in the euro area should be continued in order to achieve a truly internal market for payment services in the Union. This ongoing construction should be sustained by strengthened

governance under the leadership of the European Central Bank (ECB). The announcement by the ECB of the creation of the euro retail payments board (ERPB) as successor to the SEPA Council, should contribute to and facilitate achieving that objective. The composition of the ERPB, taking into account a better balance between the interests of the supply and the demand side of the payment market should ensure effective advice as regards the orientation of the SEPA project in the future and potential obstacles towards its achievement, ways to address them and ways to foster innovation, competition and integration in retail payments in euro in the Union. The Commission participation as an observer should be envisaged in order to ensure that the tasks, composition and functioning of the ERPB contribute to the promotion of the SEPA project.

Amendment 6

Proposal for a directive
(6) Recital 6

Text proposed by the Commission	*Amendment*
(6) In recent years, the security risks related electronic payments have increased, which is due to the greater technical complexity of electronic payments, the continuously growing volumes of electronic payments worldwide and the emerging types of payment services. As safe and secure payment services constitute a vital condition for a well-functioning payment services market, users of payment services should be adequately protected against such risks. Payment services are essential for the maintenance of vital economic and societal activities and therefore payment services providers such as credit institutions have been qualified as market operators according to Article 3(8) of Directive [pls insert number of NIS Directive after adoption] of the European Parliament and of the Council[25].	(6) In recent years, the security risks related electronic payments have increased, which is due to the greater technical complexity of electronic payments, the continuously growing volumes of electronic payments worldwide and the emerging types of payment services. As safe and secure payment services constitute a vital condition for a well-functioning payment services market, users of payment services should be adequately protected against such risks. Payment services are essential for the maintenance of vital economic and societal activities and therefore payment services providers such as credit institutions have been qualified as market operators according to Article 3(8) of Directive [pls insert number of NIS Directive after adoption] of the European Parliament and of the Council[25]. ***When processing personal data for the purposes***

	of this Directive the security requirements laid down in Articles 16 and 17 of Directive 95/46/EC should be complied with.
[25] Directive XXXX/XX/EU of the European Parliament and of the Council of [date] concerning measures to ensure a high common level of network and information security across the Union (OJ L x, p x).	[25] Directive XXXX/XX/EU of the European Parliament and of the Council of [date] concerning measures to ensure a high common level of network and information security across the Union (OJ L x, p x).

Amendment 7

Proposal for a directive
(7) Recital 7

Text proposed by the Commission	*Amendment*
(7) In addition to the general measures to be taken at Member States' level in Directive [pls insert number of NIS Directive after adoption], the security risks related to payment transactions should also be addressed at the level of the payment service providers. The security measures to be taken by the payment service providers need to be ***proportionate*** to the security risks concerned. A regular reporting mechanism should be established, so as to ensure payment services should provide the competent authorities ***on an annual basis*** with updated information on the assessment of their security risks and the ***(***additional***)*** measures that they have taken in response to these risks. Furthermore, in order to ensure that damages to other payment service providers and payment systems, such as a substantial disruption of a payment system and to users is kept to a minimum, it is essential that payment service providers have the obligation to report within undue delay major security incidents to the European Banking Authority.	(7) In addition to the general measures to be taken at Member States' level in Directive [pls insert number of NIS Directive after adoption], the security risks related to ***the choice of technical system to offer*** payment transactions should also be addressed at the level of the payment service providers ***and for their cost and responsibility***. The security measures to be taken by the payment service providers need to be ***in proportion*** to the security risks concerned ***for their clients***. A regular reporting mechanism should be established, so as to ensure payment services should provide the competent authorities ***at least three times a year*** with updated information on the assessment of their security risks and the additional measures that they have taken in response to ***reduce*** these risks. Furthermore, in order to ensure that damages to other payment service providers and payment systems, such as a substantial disruption of a payment system and to users is kept to a minimum, it is essential that payment service providers have the obligation to report within undue delay major security incidents to the European Banking Authority***, which should publish an annual report on the security of digital***

payment services in the Union..

Amendment 8

Proposal for a directive
(8) Recital 7 a (new)

Text proposed by the Commission	*Amendment*
	(7a) For consumers to understand their rights and obligations under this Directive, they should be informed in a clear and comprehensible way. Within two years of the entry into force of the Directive, the Commission should therefore produce a consumer friendly electronic leaflet listing, in a clear and easily comprehensible manner, the rights and obligations of consumers laid down in this Directive and in related Union law on payment services. That information should be made available on the websites of the Commission, the European Supervisory Authority (European Banking Authority) ('EBA'), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council[1a], and national banking regulators. The Member States shall ensure that payment services providers will make the leaflet in its original format available, free of charge, to all their existing and new clients electronically on their websites and on paper at their branches, their agents and the entities to which their activities are outsourced.

[1a] Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

Amendment 9

Proposal for a directive

(9) Recital 8

Text proposed by the Commission	*Amendment*
(8) The revised regulatory framework for payment services is complemented by Regulation (EU) [XX/XX/XX] of the European Parliament and of the Council[26]. That Regulation introduces rules with regard to the charging of multilateral and bilateral interchange fees for all consumer debit and credit card transactions and electronic and mobile payments based on those transactions, and puts restrictions on the use of certain business rules with regard to card transactions. That Regulation aims at further accelerating the achievement of an effective integrated market for card based payments.	(8) The revised regulatory framework for payment services is complemented by Regulation (EU) [XX/XX/XX] of the European Parliament and of the Council[26]. That Regulation introduces rules with regard to the charging of multilateral and bilateral interchange fees for all consumer debit and credit card transactions and electronic and mobile payments based on those transactions ***thus removing an important barrier between national payment markets***, and puts restrictions on the use of certain business rules with regard to card transactions. That Regulation aims at further accelerating the achievement of an effective integrated market for card based payments.
[26] Regulation (EU) No [XX/XX/XX/] of the European Parliament and of the Council [date] on interchange fees for card-based payment transactions (OJ L x, p. x).	[26] Regulation (EU) No [XX/XX/XX/] of the European Parliament and of the Council [date] on interchange fees for card-based payment transactions (OJ L x, p. x).

Amendment 10

Proposal for a directive
(10) Recital 9

Text proposed by the Commission	*Amendment*
(9) In order to avoid divergent approaches across Member States to the detriment of consumers, the provisions on transparency and information requirements for payment service providers in this Directive should also apply to transactions where the payer's or payee's payment service provider is located within the European Economic Area (hereinafter **'**EEA') and the other payment service provider is located outside the EEA. It is also appropriate to extend the application of transparency and	(9) In order to avoid divergent approaches across Member States to the detriment of consumers, the provisions on transparency and information requirements for payment service providers ***and on rights and obligations in relation to the provision and use of payment services*** in this Directive should also apply to transactions where the payer's or payee's payment service provider is located within the European Economic Area (hereinafter ***'EEA'***) and the other payment service

information provisions to transactions in all currencies between payment service providers that are located within the EEA.	provider is located outside the EEA. ***On the basis of a Commission review and, if appropriate, a legislative proposal, the application of this Directive to such transactions should also be extended to include the major part of the provisions on rights and obligations in relation to providing and using payment services.*** It is also appropriate to extend the application of transparency and information provisions to transactions in all currencies between payment service providers that are located within the EEA.

Amendment 11

Proposal for a directive
(11) Recital 10

Text proposed by the Commission	*Amendment*
(10) The ***definition*** of payment services should be technologically neutral and allow for the further development of new types of payment services, while ensuring equivalent operating conditions for both existing and new payment service providers.	(10) The ***definitions*** of payment services***, payment protocols and standards*** should be technologically neutral and allow for the further development of new types of payment services, while ensuring equivalent ***safe*** operating conditions for both existing and new payment service providers.

Amendment 12

Proposal for a directive
(12) Recital 12

Text proposed by the Commission	*Amendment*
(12) Feedback from the market shows that the payment activities covered by the limited network exception often comprise massive payment volumes and values and offer to consumers hundreds or thousands of different products and services, which does not fit the purpose of the limited network exemption as provided for in Directive 2007/64/EC. That implies greater risks and no legal protection for payment service users, in particular for consumers	(12) Feedback from the market shows that the payment activities covered by the limited network exception often comprise massive payment volumes and values and offer to consumers hundreds or thousands of different products and services, which does not fit the purpose of the limited network exemption as provided for in Directive 2007/64/EC. That implies greater risks and no legal protection for payment service users, in particular for consumers

and clear disadvantages for regulated market actors. A more precise description of a limited network, in line with Directive 2009/110/EC, is necessary in order to limit those risks. A payment instrument should thus be considered to be used within such a limited network if it can be used only either for the purchase of goods and services ***in*** a specific ***store*** or chain ***of stores***, or for a limited range of goods or services, regardless of the geographical location of the point of sale. Such instruments could include store cards, petrol cards, membership cards, public transport cards, meal vouchers or vouchers for specific services, which are sometimes subject to a specific tax or labour legal framework designed to promote the use of such instruments to meet the objectives laid down in social legislation. Where such a specific-purpose instrument develops into a general purpose instrument, the exemption from the scope of this Directive should no longer apply. Instruments which can be used for purchases in stores of listed merchants should not be exempted from the scope of this Directive as such instruments are typically designed for a network of service providers which is continuously growing. The exemption should apply in combination with the obligation of potential payment service providers to notify activities falling within the scope of the definition of a limited network.	and clear disadvantages for regulated market actors. A more precise description of a limited network, in line with Directive 2009/110/EC, is necessary in order to limit those risks. A payment instrument should thus be considered to be used within such a limited network if it can be used only either for the purchase of goods and services ***with*** a specific ***retailer*** or ***retail*** chain, or for a limited range of goods or services, regardless of the geographical location of the point of sale. Such instruments could include store cards, petrol cards, membership cards, public transport cards, ***parking ticketing,*** meal vouchers or vouchers for specific services, which are sometimes subject to a specific tax or labour legal framework designed to promote the use of such instruments to meet the objectives laid down in social legislation. Where such a specific-purpose instrument develops into a general purpose instrument, the exemption from the scope of this Directive should no longer apply. Instruments which can be used for purchases in stores of listed merchants should not be exempted from the scope of this Directive as such instruments are typically designed for a network of service providers which is continuously growing. The exemption should apply in combination with the obligation of potential payment service providers to notify activities falling within the scope of the definition of a limited network.

Amendment 13

Proposal for a directive
(13) Recital 13

Text proposed by the Commission	*Amendment*
(13) Directive 2007/64/EC exempts from its scope certain payment transactions by means of telecom or information technology devices where the network operator not only acts as an intermediary for the delivery of digital goods and services through the device in question, but	(13) Directive 2007/64/EC exempts from its scope certain payment transactions by means of telecom or information technology devices where the network operator not only acts as an intermediary for the delivery of digital goods and services through the device in question, but

also adds value to these goods or services. In particular, this exemption allows for so called operator billing or direct to phone-bill purchases which, starting with ringing tones and premium SMS-services, contributes to the development of new business models based on low-value sale of digital content. Feedback from the market shows no evidence that this payment method, trusted by consumers as convenient for low threshold payments, has developed into a general payment intermediation service. However, due to the ambiguous wording of the current exemption, this rule has been implemented differently in Member States. This translates into lack of legal certainty for operators and consumers and has occasionally allowed other payment intermediation services to claim eligibility for the exemption of the application of Directive 2007/64/EC. It is therefore appropriate to narrow down the scope of that Directive. The exemption should focus ***specifically*** on micro-payments for digital content, such as ringtones, wallpapers, music, games, videos, or applications. The exemption should only apply to payment services when provided as ancillary services to electronic communications services (i.e. the core business of the operator concerned).	also adds value to these goods or services. In particular, this exemption allows for so called operator billing or direct to phone-bill purchases which, starting with ringing tones and premium SMS-services, contributes to the development of new business models based on low-value sale of digital content. Feedback from the market shows no evidence that this payment method, trusted by consumers as convenient for low threshold payments, has developed into a general payment intermediation service. However, due to the ambiguous wording of the current exemption, this rule has been implemented differently in Member States. This translates into lack of legal certainty for operators and consumers and has occasionally allowed other payment intermediation services to claim eligibility for the exemption of the application of Directive 2007/64/EC. It is therefore appropriate to narrow down the ***negative*** scope of that Directive. ***In order not to leave large-scale payment activities unregulated,*** the exemption should focus on micro-payments for digital content, such as ringtones, wallpapers, music, games, videos, or applications. The exemption should only apply to payment services when provided as ancillary services to electronic communications services (i.e. the core business of the operator concerned).

Amendment 14

Proposal for a directive
(14) Recital 13 a (new)

Text proposed by the Commission	*Amendment*
	(13a) Directive 2007/64/EC exempts from its scope the technical service providers which support the provision of payment services without at any time entering into the holding of funds to be transferred. Typical services that fall within the scope of that exemption are processing and storage of data, privacy protection

	services and IT technology. As such, the exemption also covers the development of technical payment solutions to payment service providers (sometimes referred to as 'digital wallets'), typically making their payment services accessible on a mobile or IT device.

Amendment 15

Proposal for a directive
(15) Recital 15

Text proposed by the Commission	*Amendment*
(15) Service providers seeking to benefit from an exemption under Directive 2007/64/EC often do not consult authorities on whether their activities are covered or exempted under that Directive but rely on their own assessments. It appears that some exemptions may have been used by payment service providers to redesign business models so that the payment activities offered would be outside the scope of that Directive. This may result in increased risks for payment service users and diverging conditions for payment service providers in the internal market. Service providers should therefore be obliged to notify ***certain*** activities to the competent authorities, to ensure a homogenous interpretation of the rules throughout the internal market.	(15) Service providers seeking to benefit from an exemption under Directive 2007/64/EC often do not consult authorities on whether their activities are covered or exempted under that Directive but rely on their own assessments. It appears that some exemptions may have been used by payment service providers to redesign business models so that the payment activities offered would be outside the scope of that Directive. This may result in increased risks for payment service users and diverging conditions for payment service providers in the internal market. Service providers should therefore be obliged to notify ***their*** activities to the competent authorities, to ensure a homogenous interpretation of the rules throughout the internal market.

Amendment 16

Proposal for a directive
(16) Recital 18

Text proposed by the Commission	*Amendment*
(18) Since the adoption of Directive 2007/64/EC new types of payment services have emerged, especially in the area of internet payments. In particular, third party providers (hereinafter 'TPPs') have evolved, offering so-called payment	(18) Since the adoption of Directive 2007/64/EC new types of payment services have emerged, especially in the area of internet payments. In particular, third party providers (hereinafter 'TPPs') have evolved, offering so-called payment

initiation services to consumers and merchants, often without entering into the possession of the funds to be transferred. Those services facilitate the e-commerce payments by establishing a software bridge between the website of the merchant and the online banking platform of the consumer in order to initiate internet payments on the basis of credit transfers or direct debits. The TPPs offer a low-cost alternative to card payments for both merchants and consumers and provide consumers a possibility to shop online even if they do not possess ***credit*** cards. However, as TPPs are currently not subject to Directive 2007/64/EC, they are not necessarily supervised by a competent authority and do not follow the requirements of Directive 2007/64/EC. This raises a series of legal issues, such as consumer protection, security and liability as well as competition and data protection issues. The new rules should therefore ***respond to those issues***.	initiation services to consumers and merchants, often without entering into the possession of the funds to be transferred. Those services facilitate the e-commerce payments by establishing a software bridge between the website of the merchant and the online banking platform of the consumer in order to initiate internet payments on the basis of credit transfers or direct debits. The TPPs offer a low-cost alternative to card payments for both merchants and consumers and provide consumers a possibility to shop online even if they do not possess ***payment*** cards***. TPPs also have a promising potential when it comes to facilitating cross-border e-commerce in the internal market. TPPs also represent important security challenges to the safeguarding of the integrity of payments and personal data made available to them by payers***. However, as TPPs are currently not subject to Directive 2007/64/EC, they are not necessarily supervised by a competent authority and do not follow the requirements of Directive 2007/64/EC. This raises a series of legal issues, such as consumer protection, security and liability as well as competition and data protection issues. The new rules should therefore ***address all those challenges appropriately and ensure that TPPs operating in the Union are licensed or registered and supervised as payment institutions***.

Amendment 17

Proposal for a directive
(17) Recital 19

Text proposed by the Commission	*Amendment*
(19) Money remittance is a simple payment service that is usually based on cash provided by a payer to a payment service provider, which remits the corresponding amount, for example via communication network, to a payee or to another payment service provider acting on behalf of the payee. In some Member States	(19) Money remittance is a simple payment service that is usually based on cash provided by a payer to a payment service provider, which remits the corresponding amount, for example via communication network, to a payee or to another payment service provider acting on behalf of the payee. In some Member States ***automated***

supermarkets, merchants and other retailers provide to the public a corresponding service enabling the payment of utility and other regular household bills. Those bill-paying services should be treated as money remittance, unless the competent authorities consider the activity to fall under another payment service.	***teller machines (ATMs),*** supermarkets, merchants and other retailers provide to the public a corresponding service enabling the payment of utility and other regular household bills. Those bill-paying services should be treated as money remittance, unless the competent authorities consider the activity to fall under another payment service.

Amendment 18

Proposal for a directive
(18) Recital 19 a (new)

Text proposed by the Commission	*Amendment*
	(19a) To complete the internal market in payments and to ensure that it is conducive to a striving electronic commerce and to economic growth, it is important to allow potential new entrants and current payment service providers alternatives to card payments in order to develop and enhance their services to consumers and retailers. Therefore, EBA, in close cooperation with the ECB, shall, within two years of the entry into force of this Directive, provide a comprehensive assessment of the feasibility and desirability of introducing a requirement of making the IBAN, as defined in Article 2(15) of Regulation (EU) No 260/2012, or a similar identifier, available in an electronically readable format on debit cards, and on other payment instruments, as appropriate. The assessment shall take into consideration the rules concerning fraud prevention and data protection.

Amendment 19

Proposal for a directive
(19) Recital 27

Text proposed by the Commission	*Amendment*
(27) Payment service providers when	(27) Payment service providers when

engaging in the provision of one or more of the payment services covered by this Directive should always hold payment accounts used exclusively for payment transactions. For payment institutions to be able to provide payment services, it is indispensable that they have access to payment accounts. Member States should ensure that such access is provided in a way proportionate to the legitimate aim it intends to serve.	engaging in the provision of one or more of the payment services covered by this Directive should always hold payment accounts used exclusively for payment transactions. For payment institutions to be able to provide payment services, it is indispensable that they have access to payment accounts. Member States should ensure that such access is ***non-discriminatory and*** provided in a way proportionate to the legitimate aim it intends to serve. ***While the access could be basic, it should always be extensive enough for the payment institution to be able to provide its services in an unobstructed and efficient way. The fees charged for such access should not be unreasonable or out of line with standard business practice.***

Amendment 20

Proposal for a directive
(20) Recital 29

Text proposed by the Commission	*Amendment*
(29) Overall, the functioning of the cooperation between the competent national authorities responsible for granting authorisations to payment institutions, carrying out controls and deciding on the withdrawal of those authorisations, has proven to work satisfactorily. However, the cooperation between the competent authorities should be enhanced, both with regard to the information exchanged as well as a coherent application and interpretation of the Directive, in cases where the authorised payment institution would like to provide payment services also in a Member State other than its home Member State, in exercise of the right of establishment or the freedom to provide services ('passporting'). ***The European Banking Authority (EBA) should be asked to*** prepare a set of guidelines on the cooperation and data exchange.	(29) Overall, the functioning of the cooperation between the competent national authorities responsible for granting authorisations to payment institutions, carrying out controls and deciding on the withdrawal of those authorisations, has proven to work satisfactorily. However, the cooperation between the competent authorities should be enhanced, both with regard to the information exchanged as well as a coherent application and interpretation of the Directive, in cases where the authorised payment institution would like to provide payment services also in a Member State other than its home Member State, in exercise of the right of establishment or the freedom to provide services ('passporting'). ***EBA, should*** prepare a set of guidelines on the cooperation and data exchange ***after consulting an advisory panel set up for the purposes of implementation of this Directive in***

accordance with Regulation (EU) No 1093/2010 and representing, inter alia, stakeholders operating outside the banking industry.

Amendment 21

Proposal for a directive
(21) Recital 30

Text proposed by the Commission	*Amendment*
(30) To enhance transparency on the payment institutions authorised by or registered with competent authorities, including their agents and branches, a web portal serving as European electronic access point should be established with EBA, interconnecting the national registers. These measures should aim at contributing to the enhancement of the cooperation between the competent authorities.	(30) To enhance transparency on the payment institutions authorised by or registered with competent authorities, including their agents and branches, a web portal serving as European electronic access point should be established with EBA, interconnecting the national registers. These measures should aim at contributing to the enhancement of the cooperation between the competent authorities***, fully contributing to a payments environment which nurtures competition, innovation and security to the benefits of all stakeholders and consumers in particular***.

Amendment 22

Proposal for a directive
(22) Recital 32

Text proposed by the Commission	*Amendment*
(32) While this Directive specifies the minimum set of powers competent authorities should have when supervising the compliance of payment institutions, these powers are to be exercised with respect to fundamental rights, including the right to privacy. For the exercise of those powers which may amount to serious interferences with the right to respect private and family life, home and communications, Member States should have in place adequate and effective safeguards against any abuse or	(32) While this Directive specifies the minimum set of powers competent authorities should have when supervising the compliance of payment institutions, these powers are to be exercised with respect to fundamental rights, including the right to privacy. ***Without prejudice to the control of an independent authority (national data protection authority) under Article 8(3) of the Charter of Fundamental Rights of the European Union,*** for the exercise of those powers which may amount to serious interferences

arbitrariness, for instance, where appropriate through prior authorisation from the judicial authority of the Member State concerned.	with the right to respect private and family life, home and communications, Member States should have in place adequate and effective safeguards against any abuse or arbitrariness, for instance, where appropriate through prior authorisation from the judicial authority of the Member State concerned.

Amendment 23

Proposal for a directive
(23) Recital 34

Text proposed by the Commission	*Amendment*
(34) It is essential for any payment service provider to be able to access the services of technical infrastructures of payment systems. Such access should, however, be subject to appropriate requirements in order to ensure integrity and stability of those systems. Each payment service provider applying for a participation in a payment system should furnish proof to the participants of the payment system that its internal arrangements are sufficiently robust against all kinds of risk. These payment systems typically include e.g. the four-party card schemes as well as major systems processing credit transfers and direct debits. In order to ensure equality of treatment throughout the Union as between the different categories of authorised payment service providers, according to the terms of their licence, it is necessary to clarify the rules concerning access to the provision of payment services and access to payment systems.	(34) It is essential for any payment service provider to be able to access the services of technical infrastructures of payment systems. Such access should, however, be subject to appropriate requirements in order to ensure integrity and stability of those systems. Each payment service provider applying for a participation in a payment system should ***bear the risk of its own choice of system and*** furnish proof to the participants of the payment system that its internal arrangements are sufficiently robust against all kinds of risk ***and fraudulent misuse by a third party due to the choice of operating systems***. These payment systems typically include e.g. the four-party card schemes as well as major systems processing credit transfers and direct debits. In order to ensure equality of treatment throughout the Union as between the different categories of authorised payment service providers, according to the terms of their licence, it is necessary to clarify the rules concerning access to the provision of payment services and access to payment systems.

Amendment 24

Proposal for a directive
(24) Recital 41

Text proposed by the Commission	*Amendment*
(41) This Directive should specify the obligations on payment service providers as regards the provision of information to the payment service users who should receive the same high level of clear information about payment services in order to make well-informed choices and be able to choose freely within the Union. In the interest of transparency this Directive should lay down the harmonised requirements needed to ensure that necessary ***and*** sufficient information is given to the payment service users with regard to the payment service contract and the payment transactions. In order to promote smooth functioning of the single market in payment services, Member States should be able to adopt only those information provisions laid down in this Directive.	(41) This Directive should specify the obligations on payment service providers as regards the provision of information to the payment service users who should receive the same high level of clear information about payment services in order to make well-informed choices ***based on a comparison of the conditions of the various providers (particularly regarding their charges structure)*** and be able to choose freely within the Union. In the interest of transparency this Directive should lay down the harmonised requirements needed to ensure that necessary***,*** sufficient ***and comprehensible*** information is given to the payment service users with regard to the payment service contract and the payment transactions. In order to promote smooth functioning of the single market in payment services, Member States should be able to adopt only those information provisions laid down in this Directive***, as well as under Directive 95/46/EC and Regulation EC No 45/2001***.

Amendment 25

Proposal for a directive
(25) Recital 43

Text proposed by the Commission	*Amendment*
(43) The information required should be proportionate to the needs of users and communicated in a standard format. However, the information requirements for a single payment transaction should be different from those of a framework contract which provides for the series of payment transactions.	(43) The information required should be proportionate to the needs of users and communicated in a standard ***and clear*** format***, enhancing efficiency***. However, the information requirements for a single payment transaction should be different from those of a framework contract which provides for the series of payment transactions.

Amendment 26

Proposal for a directive
(26) Recital 46

Text proposed by the Commission	*Amendment*
(46) This Directive should provide for the consumer's right to receive relevant information free of charge before being bound by any payment service contract. The consumer should also be able to request prior information as well as the framework contract, on paper, free of charge at any time during the contractual relationship, so as to enable them to compare payment service providers' services and their conditions and in case of any dispute verify their contractual rights and obligations. Those provisions should be compatible with Directive 2002/65/EC. The explicit provisions on free information in this Directive should not have the effect of allowing charges to be imposed for the provision of information to consumers under other applicable Directives.	(46) This Directive should provide for the consumer's right to receive relevant information free of charge before being bound by any payment service contract. The consumer should also be able to request prior information as well as the framework contract, on paper, free of charge at any time during the contractual relationship, so as to enable them to compare payment service providers' services and their conditions and in case of any dispute verify their contractual rights and obligations***, therefore maintaining a high level of consumer protection***. Those provisions should be compatible with Directive 2002/65/EC. The explicit provisions on free information in this Directive should not have the effect of allowing charges to be imposed for the provision of information to consumers under other applicable Directives.

Amendment 27

Proposal for a directive
(27) Recital 49

Text proposed by the Commission	*Amendment*
(49) In order to facilitate customer mobility, it should be possible for consumers to terminate a framework contract ***after a year*** without incurring charges. For consumers, the period of notice agreed should be no longer than a month, and for payment service providers no shorter than ***two*** months. This Directive should be without prejudice to the payment service provider's obligation to terminate the payment service contract in exceptional circumstances under other relevant Union	(49) In order to facilitate customer mobility, it should be possible for consumers to terminate a framework contract without incurring charges. For consumers, the period of notice agreed should be no longer than a month, and for payment service providers no shorter than ***three*** months. This Directive should be without prejudice to the payment service provider's obligation to terminate the payment service contract in exceptional circumstances under other relevant Union

or national legislation, such as legislation on money laundering and terrorist financing, any action targeting the freezing of funds, or any specific measure linked to the prevention and investigation of crimes.	or national legislation, such as legislation on money laundering and terrorist financing, any action targeting the freezing of funds, or any specific measure linked to the prevention and investigation of crimes.

Amendment 28

Proposal for a directive
(28) Recital 51

Text proposed by the Commission	*Amendment*
(51) It is necessary to set up the criteria under which TPPs are allowed to access and use the information on the availability of funds on the payment service ***user*** account held with another payment service provider. In particular, necessary data protection and security requirements set or referred to in this Directive or included in ***the*** EBA ***guidelines*** should be fulfilled by both the TPP and the payment service provider servicing the account of the payment service user. ***The payers*** should give ***an*** explicit consent to the TPP to access their payment account and be properly informed about the extent of this access. ***To allow the development of*** other ***payment services providers*** which cannot receive deposits, it is necessary that ***credit institutions*** provide them with the information on the availability of funds if the payer has given consent for this information to be communicated to ***the payment service provider issuer of the payment instrument***.	(51) It is necessary to set up the criteria under which TPPs are allowed to access and use the information on the availability of funds on the payment service ***user's*** account held with another payment service provider. In particular, necessary data protection and security requirements set or referred to in this Directive or included in EBA ***implementing technical standards*** should be fulfilled by both the TPP and the payment service provider servicing the account of the payment service user. ***EBA should develop those implementing technical standards after consulting the advisory panel referred to in Recital 29. Payers*** should ***be informed unequivocally where they are using a TPP and should*** give explicit consent to the TPP to access their payment account and be properly informed about the extent of this access. ***In addition to TPPs, there are*** other ***third-party payment instrument issuers in the market*** which***, like TPPs,*** cannot receive deposits ***but which, unlike TPPs, build their business models on the issuance of card-based payment instruments. In order to allow for the development of those third-party payment instrument issuers,*** it is necessary that ***account servicing payment service providers*** provide them with the information on the availability of funds if the payer has given consent for this information to be communicated to ***them***. ***To ensure free access to the market by innovative payment service providers, no contract or agreement between an account servicing payment service***

provider and a TPP should be required.

Amendment 29

Proposal for a directive
(29) Recital 51 a (new)

Text proposed by the Commission	*Amendment*
	(51a) To facilitate innovation and the maintenance of a level playing field, TPPs should not be required to enter into contractual relationships with account servicing payment service providers in the context of payment initiation or account information services. TPPs should only be required to comply with the general legislative and supervisory framework.

Amendment 30

Proposal for a directive
(30) Recital 54

Text proposed by the Commission	*Amendment*
(54) In the case of unauthorized payment transactions the payer should be refunded ***immediately*** the amount of the respective transaction. In order to prevent the payer from any disadvantages, the credit value date of the refund should not be later than the date when the respective amount has been debited. In order to provide an incentive for the payment service user to notify, without undue delay, the provider of any theft or loss of a payment instrument and thus to reduce the risk of unauthorised payment transactions, the user should be liable only for a very limited amount, unless the payment service user has acted fraudulently or with gross negligence. In this context an amount of EUR 50 seems to be adequate in order to ensure a harmonized and a high level user protection within the Union. Moreover, once users have notified a payment service provider that their payment instrument may	(54) In the case of unauthorized payment transactions the payer should***, within one working day,*** be refunded the amount of the respective transaction. In order to prevent the payer from any disadvantages, the credit value date of the refund should not be later than the date when the respective amount has been debited***. Where this is no longer technically possible, the payer should also be compensated for loss of interest***. In order to provide an incentive for the payment service user to notify, without undue delay, the provider of any theft or loss of a payment instrument and thus to reduce the risk of unauthorised payment transactions, the user should be liable only for a very limited amount, unless the payment service user has acted fraudulently or with gross negligence. In this context an amount of EUR 50 seems to be adequate in order to ensure a harmonized and a high level user

have been compromised, the users should not be required to cover any further losses stemming from unauthorised use of that instrument. This Directive should be without prejudice to the payment service providers' responsibility for technical security of their own products.	protection within the Union. Moreover, once users have notified a payment service provider that their payment instrument may have been compromised, the users should not be required to cover any further losses stemming from unauthorised use of that instrument. This Directive should be without prejudice to the payment service providers' responsibility for technical security of their own products.

Amendment 31

Proposal for a directive
(31) Recital 57

Text proposed by the Commission	*Amendment*
(57) This Directive should lay down rules for a refund to protect the consumer when the executed payment transaction exceeds the amount which could reasonably have been expected. In order to prevent a financial disadvantage for the payer, it needs to be ensured that the credit value date of any refund is no later than the date when the respective amount has been debited. In the case of direct debits payment service providers should be able to provide even more favourable terms to their customers, who should have an unconditional right to a refund of any disputed payment transactions. ***However, this unconditional refund right which ensures the highest level of consumer protection is not justified in cases where the merchant has already fulfilled the contract and the corresponding good or service has already been consumed.*** In cases where the user makes a claim for the refund of a payment transaction refund rights should affect neither the liability of the payer vis-à-vis the payee from the underlying relationship, e.g. for goods or services ordered, consumed or legitimately charged, nor the users rights with regard to revocation of a payment order.	(57) This Directive should lay down rules for a refund to protect the consumer when the executed payment transaction exceeds the amount which could reasonably have been expected. In order to prevent a financial disadvantage for the payer, it needs to be ensured that the credit value date of any refund is no later than the date when the respective amount has been debited***. Where this is no longer technically possible, the payer should also be compensated for loss of interest***. In the case of direct debits payment service providers should be able to provide even more favourable terms to their customers, who should have an unconditional right to a refund of any disputed payment transactions. In cases where the user makes a claim for the refund of a payment transaction refund rights should affect neither the liability of the payer vis-à-vis the payee from the underlying relationship, e.g. for goods or services ordered, consumed or legitimately charged, nor the users rights with regard to revocation of a payment order.

Amendment 32

Proposal for a directive
(32) Recital 63

Text proposed by the Commission	*Amendment*
(63) Different national practices concerning charging for the use of a given payment instrument (hereinafter 'surcharging') have led to extreme heterogeneity of the Union's payments market and become a source of confusion for consumers, in particular in the e-commerce and cross-border context. Merchants located in Member States where surcharging is allowed offer products and services in Member States where it is prohibited and in this case still surcharge the consumer. Moreover, a strong rationale for revision of surcharging practices is supported by the fact that Regulation (EU) No xxx/yyyy establishes rules for multilateral interchange fees for card-based payments. As interchange fees are the main element making most card payments expensive and surcharging is in practice limited to card-based payments, the rules on interchange fees should be accompanied by a revision of surcharging rules. In order to ***promote cost transparency and the use*** of the ***most efficient*** payment ***instruments, Member States and payment service providers should not prevent the payee from requesting a charge from the payer for using a specific payment instrument, duly taking into account the provisions set out in Directive 2011/83/EU. However, the right of the payee to request a surcharge*** should ***only apply to those payment instruments for which interchange fees are not regulated. This should act as a steering mechanism towards the cheapest means of payments***.	(63) Different national practices concerning charging for the use of a given payment instrument (hereinafter 'surcharging') have led to extreme heterogeneity of the Union's payments market and become a source of confusion for consumers, in particular in the e-commerce and cross-border context. Merchants located in Member States where surcharging is allowed offer products and services in Member States where it is prohibited and in this case still surcharge the consumer. ***There are also many examples of merchants having surcharged consumers at levels much higher than the cost borne by the merchant for the use of a specific payment instrument.*** Moreover, a strong rationale for revision of surcharging practices is supported by the fact that Regulation (EU) No xxx/yyyy establishes rules for multilateral interchange fees for card-based payments. As interchange fees are the main element making most card payments expensive and surcharging is in practice limited to card-based payments, the rules on interchange fees should be accompanied by a revision of surcharging rules. In order to ***enhance the functioning*** of the ***Union's*** payment ***market, to reduce the confusion for consumers and to end the practice of excessive surcharging, Member States*** should ***ban surcharging by consistently preventing payees from requesting a charge from the payer for using a specific payment instrument***.

Amendment 33

Proposal for a directive
(33) Recital 66

Text proposed by the Commission	*Amendment*
(66) It is essential for payment service users to know the real costs and charges of payment services in order to make their choice. Accordingly, the use of non-transparent pricing methods should not be allowed, since it is commonly accepted that those methods make it extremely difficult for users to establish the real price of the payment service. Specifically, the use of value dating to the disadvantage of the user should not be permitted.	(66) ***In order to strengthen the trust of consumers in a harmonised payment market*** it is essential for payment service users to know the real costs and charges of payment services in order to make their choice. Accordingly, the use of non-transparent pricing methods should not be allowed, since it is commonly accepted that those methods make it extremely difficult for users to establish the real price of the payment service. Specifically, the use of value dating to the disadvantage of the user should not be permitted.

Amendment 34

Proposal for a directive
(34) Recital 68

Text proposed by the Commission	*Amendment*
(68) The payer's payment service provider should assume liability for correct payment execution, including, in particular the full amount of the payment transaction and execution time, and full responsibility for any failure by other parties in the payment chain up to the account of the payee. As a result of that liability the payment service provider of the payer should, where the full amount is not or only late credited to the payee's payment service provider, correct the payment transaction or without undue delay refund to the payer the relevant amount of that transaction, without prejudice to any other claims which may be made in accordance with national law. Due to the payment service provider's liability, the payer or payee should not be burdened with any costs related to the incorrect payment. In case of non-execution, defective or late execution of payment transactions, Member States should ensure that the value date of corrective payments of payment service providers is always the	(68) The payer's payment service provider***, being the account servicing payment service provider or, where involved, the TPP,*** should assume liability for correct payment execution, including, in particular the full amount of the payment transaction and execution time, and full responsibility for any failure by other parties in the payment chain up to the account of the payee. As a result of that liability the payment service provider of the payer should, where the full amount is not or only late credited to the payee's payment service provider, correct the payment transaction or without undue delay refund to the payer the ***same day as the payment service provider became aware of the error, the*** relevant amount of that transaction, without prejudice to any other claims which may be made in accordance with national law. Due to the payment service provider's liability, the payer or payee should not be burdened with any costs related to the incorrect payment. In

same as the value date in case of correct execution.	case of non-execution, defective or late execution of payment transactions, Member States should ensure that the value date of corrective payments of payment service providers is always the same as the value date in case of correct execution. ***Opponents of unconditional refund stress a risk of abuse by consumers. There is no evidence of abuse of that right from countries where consumers enjoy an unconditional refund. Any abuse could be penalised as renewed payment claim by the payee, extra costs paid by the party which has caused that R-transaction, the consumer being blacklisted or banned to use the service by cancellation of the underlying contract, and a recall of a payment would not relieve the duty to pay for the consumed goods.***

Amendment 35

Proposal for a directive
(35) Recital 71

Text proposed by the Commission	*Amendment*
(71) ***In order to facilitate effective fraud prevention and combat payment fraud across the Union,*** provision ***should be made for the efficient exchange of data between*** payment ***service providers who should be allowed to collect, process and exchange*** personal data ***relating to persons involved in payment fraud***. Directive 95/46/EC of the European Parliament and of the Council[37], the national rules which transpose Directive 95/46/EC and Regulation (EC) No 45/2001 of the European Parliament and of the Council[38] are applicable to the processing of personal data for the purposes of this Directive.	(71) Provision ***of*** payment ***services may entail processing of*** personal data. Directive 95/46/EC of the European Parliament and of the Council[37], the national rules which transpose Directive 95/46/EC and Regulation (EC) No 45/2001 of the European Parliament and of the Council[38] are applicable to the processing of personal data for the purposes of this Directive.
[37] Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of	[37] Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of

such data (OJ L 281, 23.11.1995, p. 31).

[38] Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.01.2001, p.1).

such data (OJ L 281, 23.11.1995, p. 31).

[38] Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.01.2001, p.1).

Amendment 36

Proposal for a directive
(36) Recital 72 a (new)

Text proposed by the Commission	*Amendment*
	(72a) The security incidents reporting obligations are without prejudice to other incident reporting obligations laid down in other legislative acts, in particular the personal data breaches requirements laid down in Directive 2002/58/EC, in Regulation (EU) No .../... [General Data Protection Regulation] and in the security incidents notification requirements planned under Directive .../.../EU [Directive on Network and Information Security]).

Amendment 37

Proposal for a directive
(37) Recital 74

Text proposed by the Commission	*Amendment*
(74) Without prejudice to the right of customers to bring action in the courts, Member States should ensure ***an*** easily accessible ***and cost-sensitive*** out-of-court resolution of ***conflicts*** between payment service providers and ***consumers*** arising from the rights and obligations set out in this Directive. Regulation (EC) No 593/2008 of the European Parliament and of the Council[40] provides that the protection afforded to consumers by the	(74) Without prejudice to the right of customers to bring action in the courts, Member States should ensure ***that*** easily accessible***, independent, impartial, transparent and effective*** out-of-court ***procedures are established and maintained for the*** resolution of ***disputes*** between payment service providers and ***payment service users*** arising from the rights and obligations set out in this Directive. Regulation (EC) No 593/2008 of

mandatory rules of the law of the country in which they have their habitual residence may not be undermined by any contractual terms on law applicable. With regard to establishing an efficient and effective dispute resolution procedure, Member States should ensure that payment service providers put in place an effective ***consumer*** complaint procedure that can be followed by their ***consumers*** before the dispute is referred to be resolved in an out-of-court procedure or before court. The complaints procedure should contain short and clearly defined timeframes within which the payment service provider should reply to a complaint.	the European Parliament and of the Council[40] provides that the protection afforded to consumers by the mandatory rules of the law of the country in which they have their habitual residence may not be undermined by any contractual terms on law applicable. With regard to establishing an efficient and effective dispute resolution procedure, Member States should ensure that payment service providers put in place an effective complaint procedure that can be followed by their ***payment service users*** before the dispute is referred to be resolved in an out-of-court procedure or before court. The complaints procedure should contain short and clearly defined timeframes within which the payment service provider should reply to a complaint.
[40] Regulation (EC) No 593/2008 of the European parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (ROME I) (OJ L 177, 4.7.2008, p.6).	[40] Regulation (EC) No 593/2008 of the European parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (ROME I) (OJ L 177, 4.7.2008, p.6).

Amendment 38

Proposal for a directive
(38) Recital 74 a (new)

Text proposed by the Commission	*Amendment*
	(74a) In the light of the ECB's commitment to establish and chair the ERPB and of the Commission's commitment to participate actively in the ERPB, the Commission should ensure that SEPA governance is strengthened without undue delay after entry into force of this Directive. It should ensure that the Union method is applied where possible and, at the same time, that ownership by stakeholders, on the supply and on the demand side is sought through active involvement, consultation and full transparency. In particular, payment service providers and users should be represented on the same footing, ensuring

active involvement of stakeholders, contributing to sufficient communication of the SEPA process to end-users and monitoring the implementation of the SEPA process.

Amendment 39

Proposal for a directive
(39) Recital 80

Text proposed by the Commission	*Amendment*
(80) In order to ensure consistent application of this Directive, the Commission should be able to rely on the expertise and support of EBA, which should have the task to ***elaborate guidelines and*** prepare ***regulatory*** technical standards on security aspects regarding payment services, and on the cooperation between Member States in the context of the provision of services and establishment of authorised payment institutions in other Member States. The Commission should be empowered to adopt those ***regulatory*** technical standards. These specific tasks are fully in line with the role and responsibilities of EBA defined in Regulation (EU) No 1093/2010, under which the EBA has been set up.	(80) In order to ensure consistent application of this Directive, the Commission should be able to rely on the expertise and support of EBA, which should have the task to prepare ***implementing*** technical standards on security aspects regarding payment services, and on the cooperation between Member States in the context of the provision of services and establishment of authorised payment institutions in other Member States. ***Where those implementing technical standards concern security aspects of payments, EBA shall also take account of the recommendations adopted by the European Forum on the Security of Retail Payments (SecurePay Forum) regarding security of internet payments and payment account access services. When fulfilling those requirements EBA should consult the advisory panel referred to in Recital 29.*** The Commission should be empowered to adopt those ***implementing*** technical standards. These specific tasks are fully in line with the role and responsibilities of EBA defined in Regulation (EU) No 1093/2010, under which the EBA has been set up.

Amendment 40

Proposal for a directive
(40) Recital 80 a (new)

Text proposed by the Commission	*Amendment*
	(80a) In order for payment services to work smoothly and for the wider SEPA project to achieve its full potential, it is essential that all stakeholders and especially users, including consumers, are closely involved and can play a full role. While the establishment of the SEPA Governance Body represents a step forward to the governance of SEPA and further payment services, due to its improved representation of stakeholders, the decision-making on payment services is still biased towards the supply side and in particular European banks through the European Payments Council (EPC). Therefore, it is crucial that the Commission review, inter alia, the composition of the EPC, the interaction between the EPC and an overarching governance structure, such as the EPA Council, and the role of this overarching structure. If the Commission's review confirms the need for further initiatives to improve SEPA Governance, the Commission should, where appropriate, submit a legislative proposal.

Amendment 41

Proposal for a directive
(41) Recital 83 a (new)

Text proposed by the Commission	*Amendment*
	(83a) The principles of mutual recognition and of home Member State supervision require that the Member States' competent authorities should withdraw or refuse to grant authorisation where factors such as the content of programmes of operations, the geographical distribution or the activities actually carried on indicate clearly that a payment institution has opted for the legal system of one Member State for the

purpose of evading the stricter standards in force in another Member State within the territory of which it intends to carry on or does carry on the greater part of its activities. A payment institution should be authorised in the Member State in which it has its registered office or, if under its national law it has no registered office, its head office. In addition, Member States should require that a payment institutions head office must always be situated in its home Member State and that it actually operates there.

Amendment 42

Proposal for a directive
(42) Article 2 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission	*Amendment*
	The Commission shall review the application of this paragraph. By ...*, it shall, on the basis of that review, present a legislative proposal, if appropriate, extend the application of provisions of Title IV other than Article 78 to payment transactions where only one of the payment service providers is located within the Union in respect of those parts of the payments transaction which are carried out in the Union where technically feasible.
	**** OJ please insert date: two years after the date of entry into force of this Directive.***

Amendment 43

Proposal for a directive
(43) Article 3 – point d

Text proposed by the Commission	*Amendment*
(d) payment transactions consisting of ***the non-professional cash*** collection and	(d) payment transactions consisting of ***not-for-profit*** collection and ***processing of***

delivery within the framework of a ***non-profit or*** charitable activity;	***donations*** within the framework of a charitable activity ***conducted by an authorised organisation***;

Amendment 44

Proposal for a directive
(44) Article 3 – point j

Text proposed by the Commission	*Amendment*
(j) services provided by technical service providers, which support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and privacy protection services, data and entity authentication, information technology (IT) and communication network provision, provision and maintenance of terminals and devices used for payment services, with the exclusion of payment initiation services and account information services;	(j) services provided by technical service providers, which support the provision of payment services, without them entering at any time into possession of the funds to be transferred, including processing and storage of data, trust and privacy protection services, data and entity authentication, information technology (IT) and communication network ***and secure channels*** provision, provision and maintenance of terminals and devices used for payment services, with the exclusion of payment initiation services and account information services;

Amendment 45

Proposal for a directive
(45) Article 3 – point k

Text proposed by the Commission	*Amendment*
(k) services based on specific instruments that are designed to address precise needs that can be used only in a limited way, because they allow the specific instrument holder to acquire goods or services only ***in in the premises of the*** issuer or within a limited network of service providers under direct commercial agreement with ***a professional*** issuer or because they can be used only to acquire a ***limited*** range of goods or services;	(k) services based on specific instruments that are designed to address precise needs that can be used only in a limited way, because they allow the specific instrument holder to acquire goods or services ***of*** only ***one*** issuer or within a limited network of service providers under direct commercial agreement with ***an*** issuer or because they can be used only to acquire a ***narrow*** range of goods or services;

Amendment 46

Proposal for a directive
(46) Article 3 – point k a (new)

Text proposed by the Commission	*Amendment*
	(ka) an instrument valid only in a single Member State and regulated by a specific social or tax framework, provided on request of an enterprise or a public entity, carrying a right for an individual to receive goods or services from suppliers having a commercial agreement with the issuer and which cannot be exchanged for money;

Amendment 47

Proposal for a directive
(47) Article 3 – point l

Text proposed by the Commission	*Amendment*
(l) payment transactions carried out by a provider of electronic communication networks or services where the transaction is provided for a subscriber to the network or service and for purchase of digital content ***as ancillary services to electronic communications*** services, regardless of the device used for the purchase or consumption of the content, provided that the value of any single payment transaction does not exceed EUR ***50*** and the cumulative value of payment transactions does not exceed EUR ***200*** in any ***billing*** month;	(l) payment transactions carried out ***in an intermediary capacity*** by a provider of electronic communication networks or services ***and payment transactions that are ancillary to the core business of the provider*** where the transaction is provided for a subscriber to the network or service and for purchase of digital content ***or*** services, regardless of the device used for the purchase or consumption of the ***digital*** content ***or service***, provided that the value of any single payment transaction does not exceed EUR ***20*** and the cumulative value of payment transactions does not exceed EUR ***100*** in any ***calendar*** month;

Amendment 48

Proposal for a directive
(48) Article 4 – point 12

Text proposed by the Commission	*Amendment*
12. ‘payment service user’ means a natural or legal person making use of a payment service in the capacity of ***either*** payer ***or*** payee, or both;	12. ‘payment service user’ means a natural or legal person making use of a payment service in the capacity of payer, payee, or both***, but excluding a third-party payment service provider in its specific capacity of acting on behalf of another payment user***;

Amendment 49

Proposal for a directive
(49) Article 4 – point 18

Text proposed by the Commission	*Amendment*
18. ‘payment order’ means any instruction by a payer or payee to his payment service provider requesting the execution of a payment transaction;	18. ‘payment order’ means any instruction by a payer or payee to his payment service provider***, whether initiated directly or via a third-party payment service provider,*** requesting the execution of a payment transaction;

Amendment 50

Proposal for a directive
(50) Article 4 – point 21

Text proposed by the Commission	*Amendment*
21. ‘authentication’ means ***a procedure*** which ***allows*** the payment service provider to verify the ***identity*** of ***a user*** of a specific payment instrument, including the use of ***its*** personalised security ***features*** or the checking of personalised identity documents;	21. ‘authentication’ means ***procedures*** which ***allow*** the payment service provider to verify the ***validity*** of ***the use*** of a specific payment instrument, including the use of ***the user’s*** personalised security ***credentials*** or the checking of personalised identity documents***, or to identify an interacting third-party payment service provider***;

Amendment 51

Proposal for a directive
(51) Article 4 – point 22

Text proposed by the Commission	*Amendment*
22. ‘strong customer authentication’ means a procedure ***for*** the ***validation of the identification*** of a ***natural or legal person*** based on the use of two or more elements categorised as knowledge**,** possession and inherence that are independent, in that the breach of one does not compromise the reliability of the others and is designed in such a way as to protect the confidentiality of the authentication data.	22. ‘strong customer authentication’ means a procedure ***to verify*** the ***validity*** of a ***payment instrument*** based on the use of two or more elements categorised as knowledge ***(something only the user knows),*** possession ***(something only the user possesses)*** and inherence ***(something the user is)*** that are independent, in that the breach of one does not compromise the reliability of the others and is designed in such a way as to protect the confidentiality of the authentication data.

Amendment 52

Proposal for a directive
(52) Article 4 – point 26

Text proposed by the Commission	*Amendment*
26. ‘payment instrument’ means any personalised device(s) and/or set of procedures agreed between the payment service user and the payment service provider and used in order to initiate a payment order;	26. ‘payment instrument’ means any personalised device(s) and/or set of procedures agreed between the payment service user and the payment service provider and used ***by the payment service user*** in order to initiate a payment order;

Amendment 53

Proposal for a directive
(53) Article 4 – point 32

Text proposed by the Commission	*Amendment*
32. ‘payment initiation service’ means a payment service enabling access to a payment account ***provided*** by a third party payment service provider***, where*** the payer ***can be actively involved in the payment initiation or the third party*** payment ***service provider’s software, or where payment instruments can be used*** by the payer ***or the payee to transmit the payer’s credentials to the*** account servicing	32. ‘payment initiation service’ means a payment service enabling access to a payment account ***where a payment transaction is initiated*** by a third party payment service provider ***at the request of*** the payer***, from a*** payment ***account held*** by the payer ***with an*** account servicing payment service provider;

payment service provider;

Amendment 54

Proposal for a directive
(54) Article 4 – point 33

Text proposed by the Commission	*Amendment*
33. ‘account information service’ means a payment service ***where*** consolidated ***and user-friendly*** information ***is provided to a payment service user*** on one or several payment accounts held by the payment service user with one or several ***account servicing*** payment service providers;	33. ‘account information service’ means a ***service provided by a third-party*** payment service ***provider at the request of the payment service user to provide*** consolidated information on one or several payment accounts held by the payment service user**,** with one or several payment service providers;

Amendment 55

Proposal for a directive
(55) Article 4 – point 38 a (new)

Text proposed by the Commission	*Amendment*
	38a. 'personalised security credentials' means information used for the validation of the identity of a natural or legal person;

Amendment 56

Proposal for a directive
(56) Article 4 – point 38 b (new)

Text proposed by the Commission	*Amendment*
	38b. 'third-party payment instrument issuer' means a non-account servicing payment service provider pursuing business activities referred to in point (3) or (5) of Annex I;

Amendment 57

Proposal for a directive
(57) Article 4 – point 38 c (new)

Text proposed by the Commission	*Amendment*
	38c. 'credit transfer' means a national or cross-border payment service for crediting a payee's payment account with a payment transaction or a series of payment transactions from a payer's payment account by the payment service provider which holds the payer's payment account, based on an instruction given by the payer;

Amendment 58

Proposal for a directive
(58) Article 4 – point 38 d (new)

Text proposed by the Commission	*Amendment*
	38d. 'sensitive payment data' means data which could be used to carry out fraud, excluding the name of the account owner and the account number, including data enabling a payment order to be initiated data used for authentication data used for ordering payment instruments or authentication tools to be sent to customers, and data, parameters and software which, if modified, may affect the legitimate party's ability to verify payment transactions, authorise e-mandates or control the account;

Amendment 59

Proposal for a directive
(59) Article 4 – point 38 e (new)

Text proposed by the Commission	*Amendment*
	38e. 'acquiring of payment transaction' means a payment service provided, directly or indirectly, by a payment service provider contracting with a payee to accept and process the payee's payment transactions initiated by a payer's

	payment instrument, which results in a transfer of funds to the payee; the service could include providing authentication, authorisation, and other services related to the management of financial flows to the payee regardless of whether the payment service provider holds the funds on behalf of the payee.

Amendment 60

Proposal for a directive
(60) Article 5 – paragraph 1 – point g

Text proposed by the Commission	*Amendment*
(g) a description of the process in place to monitor, track and restrict access to sensitive payment data***, and logical and physical critical resources***;	(g) a description of the process in place to monitor, track and restrict access to sensitive payment data;

Amendment 61

Proposal for a directive
(61) Article 5 – paragraph 1 – point k

Text proposed by the Commission	*Amendment*
(k) ***a description of*** the ***internal control mechanisms which the applicant has established in order to comply with*** obligations in relation to money laundering and terrorist financing under Directive 2005/60/EC of the European Parliament and of the Council[45] and Regulation (EC) No 1781/2006 of the European Parliament and of the Council[46] ;	(k) ***for payment institutions subject to*** the obligations in relation to money laundering and terrorist financing under Directive 2005/60/EC of the European Parliament and of the Council[45] and Regulation (EC) No 1781/2006 of the European Parliament and of the Council[46] ***a description of the internal control mechanisms which the applicant has established in order to comply with those obligations***;
[45] Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p.15)	[45] Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (OJ L 309, 25.11.2005, p.15)
[46] Regulation (EC) No 1781/2006 of the European Parliament and of the Council of	[46] Regulation (EC) No 1781/2006 of the European Parliament and of the Council of

15 November 2006 on information on the payer accompanying transfers of funds (OJ L 345, 8.12.2006, p.1).	15 November 2006 on information on the payer accompanying transfers of funds (OJ L 345, 8.12.2006, p.1).

Amendment 62

Proposal for a directive
(62) Article 5 – paragraph 3 a – subparagraph 1 (new)

Text proposed by the Commission	*Amendment*
	3a. EBA shall, after consulting an advisory panel set up in accordance with Article 41 of Regulation (EU) No 1093/2010, which represents all stakeholders, including those operating outside the banking industry, develop draft regulatory technical standards specifying the information to be provided to the competent authorities in the application for the authorisation of payment institutions, including the requirements laid down in points (a), (b), (c), (e) and (g) to (j) of paragraph 1.

Amendment 63

Proposal for a directive
(63) Article 5 – paragraph 3 a – subparagraph 2 (new)

Text proposed by the Commission	*Amendment*
	EBA shall submit those draft regulatory technical standards to the Commission by ...

Amendment 64

Proposal for a directive
(64) Article 5 – paragraph 3 a – subparagraph 3 (new)

Text proposed by the Commission	*Amendment*
	The Commission shall adopt the draft regulatory standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No

1093/2010.

Amendment 65

Proposal for a directive
(65) Article 9 – paragraph 1 – introductory part

Text proposed by the Commission	*Amendment*
1. The Member States or competent authorities shall require a payment institution which provides any payment ***services and, insofar as it at the same time is engaged*** in ***other*** business ***activities*** referred to in Article 17(1)(c) to safeguard all funds which have been received from the payment service users or through another payment service provider for the execution of payment transactions, in either of the following ways:	1. The Member States or competent authorities shall require a payment institution which provides any payment ***service listed*** in ***Annex I or carries out a*** business ***activity*** referred to in Article 17(1)(c) to safeguard all funds which have been received from the payment service users or through another payment service provider for the execution of payment transactions, in either of the following ways:

Amendment 66

Proposal for a directive
(66) Article 9 – paragraph 1 – point a

Text proposed by the Commission	*Amendment*
(a) funds shall not be commingled at any time with the funds of any natural or legal person other than payment service users on whose behalf the funds are held and, where they are still held by the payment institution and not yet delivered to the payee or transferred to another payment service provider by the end of the business day following the day when the funds have been received, they shall be deposited in a separate account in a credit institution or invested in secure, liquid low-risk assets as defined by the competent authorities of the home Member State; and they shall be insulated in accordance with national law in the interest of the payment service users against the claims of other creditors of the payment institution, in particular in the event of insolvency;	(a) funds shall not be commingled at any time with the funds of any natural or legal person other than payment service users on whose behalf the funds are held and, where they are still held by the payment institution and not yet delivered to the payee or transferred to another payment service provider by the end of the business day following the day when the funds have been received, they shall ***thereafter*** be deposited in a separate account in a credit institution or invested in secure, liquid low-risk assets as defined by the competent authorities of the home Member State; and they shall be insulated in accordance with national law in the interest of the payment service users against the claims of other creditors of the payment institution, in particular in the event of insolvency;

Amendment 67

Proposal for a directive
(67) Article 10 – paragraph 3

Text proposed by the Commission	*Amendment*
3. A payment institution which under the national law of its home Member State is required to have a registered office, shall have its head office in the same Member State as its registered office.	3. A payment institution which under the national law of its home Member State is required to have a registered office, shall have its head office in the same Member State as its registered office ***and in which it actually carries out its business activities***.

Amendment 68

Proposal for a directive
(68) Article 12 – paragraph 1 – introductory part

Text proposed by the Commission	*Amendment*
1. The competent authorities may withdraw an authorisation issued to a payment institution only where the institution falls within the following cases:	1. The competent authorities may withdraw an authorisation issued to a payment institution only where the institution falls within ***any of*** the following cases:

Amendment 69

Proposal for a directive
(69) Article 12 – paragraph 1 – point d

Text proposed by the Commission	*Amendment*
(d) would constitute a threat to the stability of or the trust in the payment system by continuing its payment services business;	(d) would constitute a threat to the stability of or the trust in the payment system by continuing its payment services business; ***or***

Amendment 70

Proposal for a directive
(70) Article 13 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	The register shall also identify and give reasons for each withdrawal of authorisation by the competent authorities.

Amendment 71

Proposal for a directive
(71) Article 14 – paragraph 4 – subparagraph 1

Text proposed by the Commission	*Amendment*
4. EBA shall develop draft regulatory technical standards setting technical requirements regarding access to the information contained in the public registers referred to in Article 13 at the Union level. EBA shall submit those draft regulatory technical standards to the Commission by ***[…within two years of the date of entry into force of this Directive]***.	4. EBA shall develop draft regulatory technical standards setting technical requirements regarding access to the information contained in the public registers referred to in Article 13 at the Union level ***after consulting the advisory panel referred to in Article 5(3a)***. EBA shall submit those draft regulatory technical standards to the Commission by ***...****. **** OJ please insert date: two years after the date of entry into force of this Directive.***

Amendment 72

Proposal for a directive
(72) Article 17 – paragraph 2

Text proposed by the Commission	*Amendment*
2. When payment institutions engage in the provision of one or more of the payment services, they may hold ***only*** payment accounts used exclusively for payment transactions. Member States shall ensure that ***access to those payment accounts is***	2. When payment institutions engage in the provision of one or more of the payment services, they may hold payment accounts used exclusively for payment transactions. Member States shall ensure that ***payment institutions are granted access to credit***

proportionate.	***institutions' payment and deposit account services, on an objective, non-discriminatory and*** proportionate ***basis. Such access shall be extensive enough to allow payment institutions to provide payment services in an unobstructed and efficient manner.***

Amendment 73

Proposal for a directive
(73) Article 21 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Where ***there is more than one*** competent ***authority*** for matters covered by this Title ***on its territory,*** Member States shall ensure that those authorities cooperate closely so that they can discharge their respective duties effectively. ***The same applies in cases where the authorities competent for matters covered by this Title are not the competent authorities responsible for the supervision of credit institutions.***	3. Where ***the authority*** competent for matters covered by this Title ***is not the competent authority responsible for the supervision of credit institutions*** Member States shall ensure that those authorities cooperate closely so that they can discharge their respective duties effectively.

Amendment 74

Proposal for a directive
(74) Article 22 – paragraph 1 – subparagraph 2 – point a

Text proposed by the Commission	*Amendment*
(a) to require the payment institution to provide any information needed to monitor compliance;	(a) to require the payment institution to provide any information needed to monitor compliance ***by means of formal decision, specifying the legal basis and the purpose of the request, what information is required and the time limit by which the information should be provided***;

Amendment 75

Proposal for a directive

Article 22 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Any request for information or documents made by competent authorities of the Member States shall be made on the basis of a decision that specifies its legal basis, the purpose of the request, details of the information or documents required, the time by which they are required and the period for which the information or documents are to be retained.

Amendment 76

Proposal for a directive
(75) Article 25 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The competent authorities of the different Member States shall cooperate with each other and, where appropriate, with the European Central Bank and the national central banks of the Member States, EBA and other relevant competent authorities designated under Union or national legislation applicable to payment service providers.	1. The competent authorities of the different Member States shall cooperate with each other and, where appropriate, with the European Central Bank and the national central banks of the Member States, EBA and other relevant competent authorities designated under Union or national legislation applicable to payment service providers. ***Where those authorities are processing personal data, they should specify for which precise purpose and mention the appropriate legal basis in Union law.***

Amendment 77

Proposal for a directive
(76) Article 25 – paragraph 2 – point d a (new)

Text proposed by the Commission	*Amendment*
	(da) Europol, in its capacity as the Union's law enforcement agency and responsible for assisting and coordinating a common approach among competent police authorities of the Member States in combating organised crime, other serious crime and terrorism including euro counterfeiting, forgery of money and other means of payment.

Amendment 78

Proposal for a directive
(77) Article 25 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. EBA shall have the mandate to start and promote binding mediation to settle disputes between competent authorities arising out of the exchange of information.

Amendment 79

Proposal for a directive
(78) Article 26 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. Member States shall not impose any additional requirements on a Union payment institution wishing to provide payment services in a host Member State which are not applicable to payment institutions authorised by the host Member State.

Amendment 80

Proposal for a directive
(79) Article 26 – paragraph 3

Text proposed by the Commission	*Amendment*
3. The competent authorities shall provide each other with all essential and/or relevant information, in particular in the case of infringements or suspected infringements by an agent, a branch or an entity to which activities are outsourced. In this regard, the competent authorities shall communicate, upon request, all relevant information and, on their own initiative, all essential information.	3. The competent authorities shall provide each other with all essential and/or relevant information, in particular in the case of infringements or suspected infringements by an agent, a branch or an entity to which activities are outsourced. In this regard, the competent authorities shall communicate, upon request, all relevant information and, on their own initiative, all essential information. ***In the case of retention of personal data, the storage of personal data by competent authorities shall not exceed ten years. In any event, the storage of personal data shall comply with Directive 95/46/EC.***

Amendment 81

Proposal for a directive
(80) Article 26 – paragraph 5

Text proposed by the Commission	*Amendment*
5. EBA shall issue guidelines addressed to competent authorities in accordance with Article 16 of Regulation (EU) No 1093/2010 on the elements to be taken into consideration when deciding whether the activity the payment institution notified intends to provide in another Member State under paragraph 1 of this Article would amount to the exercise of the right of establishment or freedom to provide services. Those guidelines shall be issued by ***[…within two years of the date of entry into force of this Directive]***.	5. EBA shall issue guidelines addressed to competent authorities in accordance with Article 16 of Regulation (EU) No 1093/2010 on the elements to be taken into consideration when deciding whether the activity the payment institution notified intends to provide in another Member State under paragraph 1 of this Article would amount to the exercise of the right of establishment or freedom to provide services. Those guidelines shall be issued by ***...****.
	**** OJ please insert date: 12 months after the date of entry into force of this Directive.***

Amendment 82

Proposal for a directive

(81) Article 27 – paragraph 1 – point a

Text proposed by the Commission	*Amendment*
(a) the average of the preceding 12 months' total amount of payment transactions executed by the person concerned, including any agent for which it assumes full responsibility, does not exceed EUR 1 million per month. That requirement shall be assessed on the projected total amount of payment transactions in its business plan, unless an adjustment to that plan is required by the competent authorities;	(a) the average of the preceding 12 months' total amount of payment transactions executed ***or initiated*** by the person concerned, including any agent for which it assumes full responsibility, does not exceed EUR 1 million per month. That requirement shall be assessed on the projected total amount of payment transactions in its business plan, unless an adjustment to that plan is required by the competent authorities;

Amendment 83

Proposal for a directive
(82) Article 31 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Member States shall ensure that individuals are provided with appropriate information about the processing of personal data in accordance with national provisions transposing Articles 10 and 11 of Directive 95/46/EC and with Article 11 of Regulation (EC) No 45/2001.

Amendment 84

Proposal for a directive
(83) Article 33 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Where the payment service provider may impose charges for information in accordance with paragraph 2, they shall be ***appropriate*** and in line with the payment service provider's actual costs.	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.

Amendment 85

Proposal for a directive

(84) Article 33 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. Member States shall ensure that consumers who switch their payment account, upon request can receive the transactions carried out on the former payment account recorded on a durable medium from the transferring payment service provider for a reasonable fee.

Amendment 86

Proposal for a directive
(85) Article 34

Text proposed by the Commission	*Amendment*
Member States ***may*** stipulate that the burden of proof shall lie with the payment service provider to prove that it has complied with the information requirements set out in this Title.	Member States ***shall*** stipulate that the burden of proof shall lie with the payment service provider to prove that it has complied with the information requirements set out in this Title.

Amendment 87

Proposal for a directive
(86) Article 37 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall require that before the payment service user is bound by any single payment service contract or offer, the payment service provider, in an easily accessible manner, makes available to the payment service user the information and conditions specified in Article 38. 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	1. Member States shall require that before the payment service user is bound by any single payment service contract or offer, the payment service provider, in an easily accessible manner, makes available to the payment service user the information and conditions specified in Article 38 ***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

payment service is offered or in any other language agreed between the parties.	Member State where the payment service is offered or in any other language agreed between the parties.

Amendment 88

Proposal for a directive
(87) Article 37 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Member States shall require that, where a payment order is initiated by a third-party payment service provider, it makes available to the payment service user the information and conditions referred to in Article 38. The information and conditions shall be given in a clear and understandable form and in an official language of the Member State where the payment service is offered or in any other language agreed between the parties.

Amendment 89

Proposal for a directive
(88) Article 38 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Member States shall ensure that for payment initiation services, the third party payment service provider shall provide the payer with information ***about the service offered and*** contact information ***to the third party payment*** service ***provider.***	2. Member States shall ensure that for payment initiation services, the third party payment service provider shall***, prior to initiation,*** provide the payer with ***the following clear and comprehensive*** information***:***
	(a) the contact information ***and registration number of the third-party payment service provider, and the name of the supervisory authority responsible;***
	(b) where applicable, the maximum time-limit for the payment initiation procedure;
	(c) all possible charges payable by the payment service user to the third-party payment service ***provider and, where***

	applicable, the breakdown of the amounts of any charges;
	(d) where applicable, the actual or reference exchange rate to be applied.

Amendment 90

Proposal for a directive
(89) Article 39 – introductory part

Text proposed by the Commission	*Amendment*
Where a third party payment service provider, at the request of the payer, initiates a payment order, it shall provide ***or make available*** to the payer and, where applicable, the payee, immediately after initiation, the following data:	Where a third party payment service provider, at the request of the payer, initiates a payment order, it shall provide to the payer and, where applicable, the payee, immediately after initiation, the following data ***in a clear and non-ambiguous manner***:

Amendment 91

Proposal for a directive
(90) Article 39 – point a

Text proposed by the Commission	*Amendment*
(a) a confirmation of the successful initiation of the payment ***order*** with the payer's account servicing payment service provider;	(a) a confirmation of the successful initiation of the payment ***transaction*** with the payer's account servicing payment service provider;

Amendment 92

Proposal for a directive
(91) Article 39 – paragraph 1 – point d

Text proposed by the Commission	*Amendment*
(d) where applicable, the amount of any charges for the payment transaction ***and, where applicable, a breakdown thereof***.	(d) where applicable, the amount of any charges ***payable to the third-party payment provider*** for the payment transaction***, such charges to be individually itemised***.

Amendment 93

Proposal for a directive
(92) Article 39 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	This Article is without prejudice to the data protection obligations applicable to the third-party payment service provider and the payee.

Amendment 94

Proposal for a directive
(93) Article 41 – introductory part

Text proposed by the Commission	*Amendment*
Immediately after receipt of the payment order, the ***payer's*** payment service provider shall provide or make available to the payer, in the same way as provided for in Article 37(1), the following data:	Immediately after receipt of the payment order, the ***account servicing*** payment service provider shall provide or make available to the payer, in the same way as provided for in Article 37(1), the following data ***with regard to its own services***:

Amendment 95

Proposal for a directive
(94) Article 42 – introductory part

Text proposed by the Commission	*Amendment*
Immediately after the execution of the payment transaction, the payee's payment service provider shall provide or make available to the payee, in the same way as provided for in Article 37(1), all of the following data:	Immediately after the execution of the payment transaction, the payee's payment service provider shall provide or make available to the payee, in the same way as provided for in Article 37(1), all of the following data ***with regard to its own services if they are available to him in person***:

Amendment 96

Proposal for a directive
(95) Article 44 – paragraph 1

Text proposed by the Commission	*Amendment*
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 45. 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.	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 ***make available or, on the request of the payment service user,*** provide the payment service user on paper or on another durable medium with the information and conditions specified in Article 45. 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.

Amendment 97

Proposal for a directive
(96) Article 45 – point 2 – point a

Text proposed by the Commission	*Amendment*
(a) a description of the main characteristics of the payment service to be provided;	(a) a ***clear*** description of the main characteristics of the payment service to be provided;

Amendment 98

Proposal for a directive
(97) Article 45 – point 2 – point c

Text proposed by the Commission	*Amendment*
(c) the form of and procedure for giving consent to initiate or execute a payment transaction and withdrawal of such consent in accordance with Articles 57 and 71;	(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 57 and 71;

Amendment 99

Proposal for a directive
(98) Article 45 point 6 – point a

Text proposed by the Commission	*Amendment*
(a) if agreed, information that the payment service user will be deemed to have accepted changes in the conditions in accordance with Article 47, unless he notifies the payment service provider that he does not accept them before the date of their proposed date of entry into force;	(a) if agreed, ***except where the change is clearly and unambiguously more favourable to payment service users under Article 47(2),*** information that the payment service user will be deemed to have accepted changes in the conditions in accordance with Article 47, unless he notifies the payment service provider that he does not accept them before the date of their proposed date of entry into force***, such notification being ineffective where the change is clearly and unambiguously more favourable to payment service users***;

Amendment 100

Proposal for a directive
(99) Article 47 – paragraph 1 – subparagraph 1

Text proposed by the Commission	*Amendment*
1. Any changes in the framework contract as well as the information and conditions specified in Article 45, shall be proposed by the payment service provider in the same way as provided for in Article 44(1) ***and*** no later than two months before their proposed date of application.	1. Any changes in the framework contract ***which are not clearly and unambiguously more favourable to payment service users*** as well as the information and conditions specified in Article 45, shall be proposed by the payment service provider in the same way as provided for in Article 44(1) no later than two months before their proposed date of application.

Amendment 101

Proposal for a directive
(100) Article 47 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Changes in the interest or exchange rates may be applied immediately and without	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 are based on the reference interest or exchange rates agreed on in accordance with points (b) and (c) of Article 45(3). 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 44(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.	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 points (b) and (c) of Article 45(3). 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 44(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, ***and changes to the framework contract which are clearly and unambiguously more favourable to payment service users,*** may be applied without notice.

Amendment 102

Proposal for a directive
(101) Article 48 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Termination of a framework contract ***concluded for a fixed period exceeding 12 months or for an indefinite period*** shall be free of charge for the payment service user ***after the expiry of 12 months***. ***In all other cases charges for the termination shall be appropriate and in line with costs.***	2. Termination of a framework contract shall be free of charge for the payment service user**.**

Amendment 103

Proposal for a directive
(102) Article 50 – paragraph 2

Text proposed by the Commission	*Amendment*
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	2. A framework contract ***shall*** include a condition that the information referred to in paragraph 1 is to be provided or made available periodically at least once a month***, free of charge*** and in an agreed

payer to store and reproduce information unchanged.	manner which allows the payer to store and reproduce information unchanged.

Amendment 104

Proposal for a directive
(103) Article 50 – paragraph 3

Text proposed by the Commission	*Amendment*
3. However, Member States may require payment service providers to provide information on paper once a month free of charge.	3. However, Member States may require payment service providers to provide information on paper ***or another durable medium*** once a month free of charge.

Amendment 105

Proposal for a directive
(104) Article 51 – paragraph 1 – point a

Text proposed by the Commission	*Amendment*
(a) the reference enabling the payee to identify the payment transaction and***,*** ***where appropriate,*** the payer, and any information transferred with the payment transaction;	(a) the reference enabling the payee to identify the payment transaction and the payer, and any information transferred with the payment transaction;

Amendment 106

Proposal for a directive
(105) Article 51 – paragraph 3

Text proposed by the Commission	*Amendment*
3. However, Member States may require payment service providers to provide information on paper once a month free of charge.	3. However, Member States may require payment service providers to provide information on paper ***or another durable medium*** once a month free of charge.

Amendment 107

Proposal for a directive
(106) Article 52 – paragraph 2 – subparagraph 1

Text proposed by the Commission	*Amendment*
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 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.	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,*** 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.

Amendment 108

Proposal for a directive
(107) Article 53 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Where, for the use of a given payment instrument, a payment service provider or a third party requests a charge, he shall inform the payment service user thereof prior to the initiation of the payment transaction.	***deleted***

Amendment 109

Proposal for a directive
(108) Article 53 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Where a payment service provider is entitled to pass on third party costs to the payer, the payer is not obliged to pay for them unless their full amount was made known prior to the initiation of the payment transaction.

Amendment 110

Proposal for a directive
(109) Article 55 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The payment service provider may not charge the payment service user for fulfilment of its information obligations or corrective and preventive measures under this Title, unless otherwise specified in Articles 70(1), 71(5) and 79(2). Those charges shall be agreed between the payment service user and the payment service provider and shall be appropriate and in line with the payment service provider's actual costs.	1. The payment service provider may not charge the payment service user for fulfilment of its information obligations or corrective and preventive measures under this Title, unless otherwise specified in Articles 70(1), 71(5) and 79(2). Those charges shall be agreed between the payment service user and the payment service provider and shall be appropriate and in line with the payment service provider's actual costs. ***Upon request, the payment service provider shall disclose the actual cost of the payment transaction.***

Amendment 111

Proposal for a directive
(110) Article 55 – paragraph 3

Text proposed by the Commission	*Amendment*
3. The payment service provider shall not prevent the payee from requesting from the payer a charge, offering him a reduction or otherwise steering him towards the use of a given payment instrument. Any charges applied shall, however, ***not*** exceed the costs borne by the payee for the use the specific payment instrument.	3. The payment service provider shall not prevent the payee from requesting from the payer a charge, offering him a reduction or otherwise steering him towards the use of a given payment instrument. Any charges applied shall, however, ***shall not*** exceed the ***direct*** costs borne by the payee for the use the specific payment instrument.

Amendment 112

Proposal for a directive
(111) Article 55 – paragraph 4 a (new)

Text proposed by the Commission	*Amendment*
	4a. Notwithstanding paragraph 4, Member States may provide that the payee does not request any charge for the use of any payment instrument.

Amendment 113

Proposal for a directive
(112) Article 57 – paragraph 2 – subparagraph 1

Text proposed by the Commission	*Amendment*
2. Consent to execute a payment transaction or a series of payment transactions shall be given in the form agreed between the payer and the payment service provider. Consent may also be given directly or indirectly via the payee. Consent to execute a payment transaction shall also be considered given where the payer authorises a third party payment service provider to initiate ***the*** payment transaction with ***the*** account servicing payment service provider.	2. Consent to execute a payment transaction or a series of payment transactions ***(including direct debit)*** shall be given in the form agreed between the payer and the payment service provider. Consent may also be given directly or indirectly via the payee. Consent to execute a payment transaction shall also be considered given where the payer authorises a third party payment service provider to initiate ***a*** payment transaction with ***an*** account servicing payment service provider ***servicing an account owned by the payer***.

Amendment 114

Proposal for a directive
(113) Article 58 – title

Text proposed by the Commission	*Amendment*
Access to and use of payment account information by third party payment service provider	Access to and use of payment account information by third party payment service provider ***and by third-party payment instrument issuers***

Amendment 115

Proposal for a directive
(114) Article 58 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall ensure that a payer has the right to make use of ***a*** third party payment service provider to obtain payment services enabling access to payment accounts as referred to in point (7) of Annex I.	1. Member States shall ensure that a payer***, provided that the payer holds a payment account that can be accessed via online banking,*** has the right to make use of ***an authorised*** third party payment service provider***,*** to obtain payment services

enabling access to payment accounts as referred to in point (7) of Annex I. ***Member States shall ensure that a payer has the right to make use of an authorised third-party payment instrument issuer to obtain payment instrument enabling payment transactions.***

Amendment 116

Proposal for a directive
(115) Article 58 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. The account servicing payment service provider shall not deny access under this Article to the third-party payment service provider or to the third-party payment instrument issuer when it has been authorised to carry out a specific payment on behalf of the payer provided that the payer gives its consent in accordance with Article 57 in an express manner.

Amendment 117

Proposal for a directive
(116) Article 58 – paragraph 1 b (new)

Text proposed by the Commission	*Amendment*
	1b. Payees who offer to payers the option of making use of third party payment service providers or third-party payment instrument issuers shall unambiguously provide to payers information about such third party payment service provider(s), including their registration number and the name of their responsible supervisory authority.

Amendment 118

Proposal for a directive
(117) Article 58 – paragraph 2 – introductory part

Text proposed by the Commission	*Amendment*
2. Where a third party payment service provider has been authorised by the payer to provide payment services under paragraph 1, ***he*** shall have the following obligations:	2. Where a third party payment service provider has been authorised by the payer to provide payment services under paragraph 1, ***it*** shall have the following obligations:

Amendment 119

Proposal for a directive
(118) Article 58 – paragraph 2 – point a

Text proposed by the Commission	*Amendment*
(a) to ensure that the personalised security ***features*** of the payment service user are not accessible to other parties;	(a) to ensure that the personalised security ***credentials*** of the payment service user are not accessible to other parties;

Amendment 120

Proposal for a directive
(119) Article 58 – paragraph 2 – point b

Text proposed by the Commission	*Amendment*
(b) to authenticate itself in an unequivocal manner towards the account servicing payment service provider(s) of the account owner.	(b) ***every time a payment is initiated or account information is collected*** to authenticate itself in an unequivocal manner towards the account servicing payment service provider(s) of the account owner.

Amendment 121

Proposal for a directive
(120) Article 58 – paragraph 2 – point c

Text proposed by the Commission	*Amendment*
(c) not to store ***sensitive payment data or*** personalised security credentials of the payment service user.	(c) not to store personalised security credentials of the payment service user.

Amendment 122

Proposal for a directive
(121) Article 58 – paragraph 2 – point c a (new)

Text proposed by the Commission	*Amendment*
	(ca) not to use data for purposes other than those explicitly requested by the payer.

Amendment 123

Proposal for a directive
(122) Article 58 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. Where the payer has given consent to a third-party payment instrument issuer which has provided the payer with a payment instrument to obtain information on the availability of sufficient funds for a specified payment transaction on a specified payment account held by the payer, the account servicing payment service provider of the specified payment account shall provide such information to the third party payment instrument issuer immediately upon receipt of the payer's payment order. The information on the availability of sufficient funds should consist in a simple 'yes' or 'no' answer and not in a statement of the account balance, in accordance with Directive 95/46/EC.

Amendment 124

Proposal for a directive
(123) Article 58 – paragraph 4

Text proposed by the Commission	*Amendment*
4. Account servicing payment service providers shall treat payment orders transmitted through the services of a third	4. Account servicing payment service providers shall treat payment orders transmitted through the services of a third

party payment service provider without any discrimination for other than objective reasons in terms of timing and priority vis-à-vis payment orders transmitted directly by the payer himself.	party payment service provider ***or by a third-party payment instrument issuer*** without any discrimination for other than objective reasons ***in particular*** in terms of timing and priority ***or charges*** vis-à-vis payment orders transmitted directly by the payer himself.

Amendment 125

Proposal for a directive
(124) Article 58 – paragraph 4 a (new)

Text proposed by the Commission	*Amendment*
	4a. Third-party payment service providers shall not be required to enter into contractual relationships with account servicing payment service providers in the context of payment initiation or account information services.

Amendment 126

Proposal for a directive
(125) Article 58 – paragraph 4 b (new)

Text proposed by the Commission	*Amendment*
	4b. Member States shall ensure that, once the common and secure open standards of communication have been established and are implemented by the account servicing payment service provider of the customer to third-party payment providers as under Article 94a, the payment service user may use the most secure, state of the art, technological solution in the initiation of e-payment transactions through third-party payment service providers.

Amendment 127

Proposal for a directive
(126) Article 59

Text proposed by the Commission	*Amendment*
Article 59	***deleted***
Access to and use of payment account information by third party payment instrument issuers	
1. Member States shall ensure that a payer has the right to make use of a third party payment instrument issuer to obtain payment card services.	
2. If the payer has given consent to a third party payment instrument issuer which has provided the payer with a payment instrument to obtain information on the availability of sufficient funds for a specified payment transaction on a specified payment account held by the payer, the account servicing payment service provider of the specified payment account shall provide such information to the third party payment instrument issuer immediately upon receipt of the payer's payment order.	
3. Account servicing payment service providers shall treat payment orders transmitted through the services of a third party payment instrument issuer without any discrimination for other than objective reasons in terms of timing and priority in respect of payment orders transmitted directly by the payer personally.	

Amendment 128

Proposal for a directive
(127) Article 61 – paragraph 2

Text proposed by the Commission	*Amendment*
2. For the purposes of point (a) of paragraph 1, the payment service user shall, in particular, as soon as he in receipt of a payment instrument, take all reasonable steps to keep its personalised security ***features*** safe. The payment service	2. For the purposes of point (a) of paragraph 1, the payment service user shall, in particular, as soon as he in receipt of a payment instrument, take all reasonable steps to keep its personalised security ***credentials*** safe. The payment

users' obligations of care shall not inhibit the use of any payment instrument and services authorised under this Directive.	service users' obligations of care shall not inhibit the use of any payment instrument and services authorised under this Directive.

Amendment 129

Proposal for a directive
(128) Article 62 – paragraph 1 – point a

Text proposed by the Commission	*Amendment*
(a) to make sure that the personalised security ***features*** of the payment instrument are not accessible to parties other than the payment service user entitled to use the payment instrument, without prejudice to the obligations on the payment service user set out in Article 61;	(a) to make sure that the personalised security ***credentials*** of the payment instrument are ***indeed secure and are*** not accessible to parties other than the payment service user entitled to use the payment instrument, without prejudice to the obligations on the payment service user set out in Article 61;

Amendment 130

Proposal for a directive
(129) Article 62 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The payment service provider shall bear the risk of sending a payment instrument to the payer or of sending any personalised security ***features*** of it.	2. The payment service provider shall bear the risk of sending a payment instrument to the payer or of sending any personalised security ***credentials*** of it.

Amendment 131

Proposal for a directive
(130) Article 63 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Where a third party payment service provider ***is involved,*** the payment service user shall ***also*** obtain rectification from the account servicing payment service provider pursuant to paragraph 1 of this Article, without prejudice to ***Articles 65(2) and***	2. Where ***the payment service user has chosen to make use of*** a third party payment service provider the payment service user shall ***inform the latter and notify the account servicing payment service provider. The payment service user shall*** obtain rectification from the

80(1).	account servicing payment service provider pursuant to paragraph 1 of this Article without prejudice to ***Article*** 80(1).

Amendment 132

Proposal for a directive
(131) Article 63 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. The payment service user shall report to its account servicing payment service provider any incident known to them that affects the former in the context of its use of a third-party payment service provider or third-party payment instrument issuer. The account servicing payment service provider shall notify the national competent authorities of any incidents that occur. National competent authorities shall than follow the procedures established by EBA, in close cooperation with the ECB, as laid down in Article 85.

Amendment 133

Proposal for a directive
(132) Article 64 – paragraph 1 – subparagraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall require that, where a payment service user denies having authorised an executed payment transaction or claims that the payment transaction was not correctly executed, it is for the payment service provider and, if involved ***and as appropriate***, the third party payment service provider, to prove that the payment transaction was authenticated, accurately recorded, entered in the accounts and not affected by a technical breakdown or some other deficiency.	1. Member States shall require that, where a payment service user denies having authorised an executed payment transaction or claims that the payment transaction was not correctly executed, it is for the payment service provider and, if involved, the third party payment service provider, to prove that the payment transaction was authenticated, accurately recorded, entered in the accounts and not affected by a technical breakdown or some other deficiency.

Amendment 134

Proposal for a directive
(133) Article 64 – paragraph 1 – subparagraph 2

Text proposed by the Commission	*Amendment*
If the payment ***transaction has been initiated*** through a third party payment service provider, the burden shall be on the latter to prove that the payment transaction was not affected by a technical breakdown or other deficiencies linked to the payment service it is in charge of.	If the payment ***service user initiates the payment transaction*** through a third party payment service provider, the burden shall be on the latter to prove that the payment transaction was ***authenticated, accurately recorded and*** not affected by a technical breakdown or other deficiencies linked to the payment service it is in charge of.

Amendment 135

Proposal for a directive
(134) Article 64 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Where a payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider, including the third party payment service provider as appropriate, shall in itself not necessarily be sufficient to prove either that the payment transaction was authorised by the payer or that the payer acted fraudulently or failed with intent or gross negligence to fulfil one or more of the obligations under Article 61.	2. Where a payment service user denies having authorised an executed payment transaction, the use of a payment instrument recorded by the payment service provider, including the third party payment service provider as appropriate, shall in itself not necessarily be sufficient to prove either that the payment transaction was authorised by the payer or that the payer acted fraudulently or failed with intent or gross negligence to fulfil one or more of the obligations under Article 61. ***In such a case mere assumptions without further supporting evidence beyond the recorded use of the payment instrument shall not be considered eligible proof against the payment user. Supporting evidence shall be given by the payment service provider, including the third-party provider as appropriate, to prove fraud or gross negligence on part of the payer.***

Amendment 136

Proposal for a directive

(135) Article 65 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall ensure that, without prejudice to Article 63, in the case of an unauthorised payment transaction, the payer's payment service provider refunds to the payer ***immediately*** the amount of the unauthorised payment transaction and, where applicable, restores the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place. This shall also ensure that the credit value date for the ***payer's*** payment account shall be no later than the date the amount had been debited.	1. Member States shall ensure that, without prejudice to Article 63, in the case of an unauthorised payment transaction, the payer's payment service provider refunds to the payer the amount of the unauthorised payment transaction ***within 24 hours of having noted or having been notified about the transaction,*** and, where applicable, restores the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place. This shall also ensure that the credit value date for the ***payer's*** payment account shall be no later than the date the amount had been debited.

Amendment 137

Proposal for a directive
(136) Article 65 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Where a third party payment service provider is involved, the account servicing payment service provider shall refund the amount of the unauthorised payment transaction and, where applicable, restore the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place. ***Financial compensation to the account servicing payment service provider by*** the third party payment service provider ***may be applicable.***	2. Where a third party payment service provider is involved, the account servicing payment service provider shall refund the amount of the unauthorised payment transaction and, where applicable, restore the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place. ***If*** the third party payment service provider ***cannot demonstrate that it is not liable for the unauthorised payment transaction, it shall, within one business day, compensate the account servicing payment service provider for reasonable costs incurred as a result of the refund to the payer, including the amount of the unauthorised payment transaction.***

Amendment 138

Proposal for a directive

(137) Article 66 – paragraph 1 – subparagraph 1

Text proposed by the Commission	*Amendment*
1. By way of derogation from Article 65 the payer may be obliged to bear the losses relating to any unauthorised payment transactions, up to a maximum of EUR 50, resulting from the use of a lost or stolen payment instrument or from the misappropriation of a payment instrument.	1. By way of derogation from Article 65 the payer may be obliged to bear the losses relating to any unauthorised payment transactions, up to a maximum of EUR 50 ***or the equivalent in another national currency***, resulting from the use of a lost or stolen payment instrument or from the misappropriation of a payment instrument. ***This shall not apply if the loss, theft or misappropriation of a payment instrument was not detectable to the payer prior to a payment.***

Amendment 139

Proposal for a directive
(138) Article 66 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. EBA shall, in close cooperation with the ECB and after consulting the advisory panel referred to in Article 5(3a), issue guidelines addressed to payment service providers in accordance with Article 16 of Regulation (EU) No 1093/2010 on the interpretation and practical use of the concept of 'gross negligence' in this context. Those guidelines shall be issued by [insert date - twelve months from the date of entry into force of this Directive] and be updated on a regular basis as appropriate.

Amendment 140

Proposal for a directive
(139) Article 66 – paragraph 2 b (new)

Text proposed by the Commission	*Amendment*
	2b. In cases where the payer has neither acted fraudulently nor with intent failed

	to fulfil his obligations under Article 61, Member States may reduce the liability referred to in paragraph 1, taking into account, in particular, the nature of the personalised security features of the payment instrument and the circumstances under which it was lost, stolen or misappropriated.

Amendment 141

Proposal for a directive
(140) Article 66 – paragraph 2 c (new)

Text proposed by the Commission	*Amendment*
	2c. The payer shall not bear any financial consequences resulting from use of a lost, stolen or misappropriated payment instrument if the resulting unauthorised payment was made possible by a method or a security breach, that had already been known and documented and the payment service provider failed to enhance security schemes to effectively block further attacks of that kind, except where the payer himself has acted fraudulently.

Amendment 142

Proposal for a directive
(141) Article 67 – paragraph 1 – subparagraph 2

Text proposed by the Commission	*Amendment*
At the payment service provider's request, the payer shall ***bear the burden to prove*** such conditions ***are met***.	At the payment service provider's request, the payer shall ***provide factual elements relating to*** such conditions.

Amendment 143

Proposal for a directive
(142) Article 67 – paragraph 1 – subparagraph 3

Text proposed by the Commission	*Amendment*
The refund shall consist of the full amount of the executed payment transaction. This includes that the credit value date for the payer's payment account is no later than the date the amount had been debited.	***deleted***

Amendment 144

Proposal for a directive
(143) Article 67 – paragraph 1 subparagraph 4

Text proposed by the Commission	*Amendment*
For direct debits the payer has an unconditional right for refund within the time limits set in Article 68***, except where the payee has already fulfilled the contractual obligations and the services have already been received or the goods have already been consumed by the payer. At the payment service provider's request, the payee shall bear the burden to prove that the conditions referred to in the third subparagraph***.	***Member States shall ensure that, in addition to the right referred to in paragraph 1,*** for direct debits the payer has an unconditional right for refund within the time limits set in Article 68.

Amendment 145

Proposal for a directive
(144) Article 67 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. The refund shall consist of the full amount of the executed payment transaction. The credit value date for the payer's payment account shall be no later than the date the amount had been debited. Executing a refund of a payment itself shall not alter the underlying legal claim of the payee.

Amendment 146

Proposal for a directive
(145) Article 67 – paragraph 3 b (new)

Text proposed by the Commission	*Amendment*
	3b. Member States may allow their payment service providers to offer more favourable refund rights in accordance with their direct debit schemes providing that they are more advantageous to the payer.

Amendment 147

Proposal for a directive
(146) Article 67 a (new)

Text proposed by the Commission	*Amendment*
	Article 67 a
	Payment transactions where the transaction amount is not known in advance
	1. For payment transactions, where the transaction amount is not known at the moment of the purchase, Member States shall set the maximum amount of funds which may be blocked on the payer's payment account and maximum time limits for which the funds may be blocked by the payee.
	2. The payee shall be required to inform the payer prior to the transaction if funds exceeding the amount of the purchase would be blocked on the payer's payment account.
	3. If funds exceeding the amount of the purchase have been blocked on the payer's payment account, this information shall be provided to the payer by his payment services provider in the account statement.

Amendment 148

Proposal for a directive
(147) Article 68 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall ensure that the payer can request the refund referred to in Article 67 of an authorised payment transaction initiated by or through a payee for a period of eight weeks from the date on which the funds were debited.	1. Member States shall ensure that the payer can request the refund referred to in Article 67 of an authorised payment transaction initiated by or through a payee for a period of ***at least*** eight weeks from the date on which the funds were debited.

Amendment 149

Proposal for a directive
(148) Article 69 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall ensure that the point in time of receipt is the time when the payment order initiated directly by the payer or on his behalf by a third party payment service provider or indirectly by or through a payee is received by the payer's payment service provider. If the point in time of receipt is not on a business day for the payer's payment service provider, the payment order shall be deemed to have been received on the following business day. The payment service provider may establish a cut-off time near the end of a business day beyond which any payment order received shall be deemed to have been received on the following business day.	1. Member States shall ensure that the point in time of receipt is the time when the payment order initiated directly by the payer or on his behalf by a third party payment service provider or indirectly by or through a payee is received by the payer's payment service provider. ***The point in time of receipt cannot be later than the point in time of debiting the payer's account.*** If the point in time of receipt is not on a business day for the payer's payment service provider, the payment order shall be deemed to have been received on the following business day. The payment service provider may establish a cut-off time near the end of a business day beyond which any payment order received shall be deemed to have been received on the following business day.

Amendment 150

Proposal for a directive
(149) Article 70 – paragraph 1 – subparagraph 1

Text proposed by the Commission	*Amendment*
1. Where the payment service provider refuses to execute a payment order, the refusal and, if possible, the reasons for it and the procedure for correcting any factual mistakes that led to the refusal shall be notified to the payment service user, unless prohibited by other relevant Union or national legislation.	1. Where the payment service provider ***including, where applicable, the third-party payment service provider*** refuses to execute a payment order ***or to initiate a payment transaction***, the refusal and, if possible, the reasons for it and the procedure for correcting any factual mistakes that led to the refusal shall be notified to the payment service user, unless prohibited by other relevant Union or national legislation.

Amendment 151

Proposal for a directive
(150) Article 70 – paragraph 1 – subparagraph 3

Text proposed by the Commission	*Amendment*
The ***framework contract may include a condition that*** the payment service ***provider may charge*** for such a notification ***if the refusal is objectively justified***.	The ***payment service provider shall not charge*** the payment service ***user*** for such a notification.

Amendment 152

Proposal for a directive
(151) Article 73 – paragraph 2

Text proposed by the Commission	*Amendment*
2. This Section shall apply to other payment transactions, unless otherwise agreed between the payment service user and the payment service provider, with the exception of Article 78, which is not at the disposal of the parties. However, when the payment service user and the payment service provider agree on a longer period than those laid down in Article 74, for intra-Union payment transactions such period shall not exceed 4 business days following the point in time of receipt in	2. This Section shall apply to other payment transactions, unless otherwise agreed between the payment service user and the payment service provider, with the exception of Article 78, which is not at the disposal of the parties. However, when the payment service user and the payment service provider agree on a longer period than those laid down in Article 74, for intra-Union payment transactions such period shall not exceed 4 business days***, or such time as permitted by other legal***

accordance with Article 69.	***obligations covered by national and Union law,*** following the point in time of receipt in accordance with Article 69.

Amendment 153

Proposal for a directive
(152) Article 74 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall require the payer's payment service provider to ensure that, after the point in time of receipt in accordance with Article 69, the amount of the payment transaction is credited to the payee's payment service provider's account at the latest by the end of the next business day. ***These periods*** may be extended by a further business day for paper-initiated payment transactions.	1. Member States shall require the payer's payment service provider to ensure that, after the point in time of receipt in accordance with Article 69, the amount of the payment transaction is credited to the payee's payment service provider's account at the latest by the end of the next business day. ***That period*** may be extended by a further business day for paper-initiated payment transactions.

Amendment 154

Proposal for a directive
(153) Article 79 – paragraph 5 a (new)

Text proposed by the Commission	*Amendment*
	5a. Member States shall ensure that in case an attempt to recover the funds in accordance to paragraph 3 fails, the payment service provider of the wrongly addressed payee is obliged to provide all necessary information to the payer in order to contact the recipient of the funds and if necessary file a legal claim to re-collect them.

Amendment 155

Proposal for a directive
(154) Article 80 – paragraph 1 – subparagraph 3

Text proposed by the Commission	*Amendment*
Where the payer's payment service	Where the payer's payment service

provider or a third party payment service provider is liable under the first or the second subparagraph, the relevant payment service provider shall without undue delay refund to the payer the amount of the non-executed or defective payment transaction, and, where applicable, restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place. The credit value date for the payer's payment account shall be no later than the date the amount had been debited.	provider or a third party payment service provider is liable under the first or the second subparagraph, the relevant payment service provider shall without undue delay refund to the payer the amount of the non-executed or defective payment transaction, and, where applicable, restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place. The credit value date for the payer's payment account shall be no later than the date the amount had been debited. ***Where this is no longer technically possible, the payer shall also be compensated for loss of interest***.

Amendment 156

Proposal for a directive
(155) Article 80 – paragraph 1 – subparagraph 6

Text proposed by the Commission	*Amendment*
In the case of a non-executed or defectively executed payment transaction where the payment order is initiated by the payer, the payment service provider shall regardless of liability under this paragraph, on request, make immediate efforts to trace the payment transaction and notify the payer of the outcome. This shall be free of charge for the payer.	In the case of a non-executed or defectively executed payment transaction where the payment order is initiated by the payer, the ***payer's*** payment service provider shall regardless of liability under this paragraph, on request, make immediate efforts to trace the payment transaction and notify the payer of the outcome. This shall be free of charge for the payer.

Amendment 157

Proposal for a directive
(156) Article 80 – paragraph 2 – subparagraph 1

Text proposed by the Commission	*Amendment*
2. Where a payment order is initiated by or through the payee, the payment service provider shall, without prejudice to Article 63, Article 79(2) and (3), and Article 83, be liable to the payee for correct transmission of the payment order to the payment service provider of the payer in accordance	2. Where a payment order is initiated by or through the payee, the payment service provider shall, without prejudice to Article 63, Article 79(2) and (3), and Article 83, be liable to the payee for correct transmission of the payment order to the payment service provider of the payer in accordance

with Article 74(3). Where the payee's payment service provider is liable under this subparagraph, he shall immediately re-transmit the payment order in question to the payment service provider of the payer. In the case of a late transmission of the payment order, the amount shall be value dated on the payee's payment account no later than the date the amount should have been value dated in case of correct execution.	with Article 74(3). Where the payee's payment service provider is liable under this subparagraph, he shall immediately re-transmit the payment order in question to the payment service provider of the payer. In the case of a late transmission of the payment order, the amount shall be value dated on the payee's payment account no later than the date the amount should have been value dated in case of correct execution. ***Where this is no longer technically possible, the payer shall also be compensated for loss of interest***.

Amendment 158

Proposal for a directive
(157) Article 80 – paragraph 2 – subparagraph 2

Text proposed by the Commission	*Amendment*
In addition, the payment service provider of the payee shall, without prejudice to Article 63, Article 79(2) and (3), and Article 83, be liable to the payee for handling the payment transaction in accordance with its obligations under Article 78. Where the payee's payment service provider is liable under this subparagraph, it shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the payee's payment service provider's account. The amount shall be value dated on the payee's payment account no later than the date the amount should have been value dated in case of correct execution.	In addition, the payment service provider of the payee shall, without prejudice to Article 63, Article 79(2) and (3), and Article 83, be liable to the payee for handling the payment transaction in accordance with its obligations under Article 78. Where the payee's payment service provider is liable under this subparagraph, it shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the payee's payment service provider's account. The amount shall be value dated on the payee's payment account no later than the date the amount should have been value dated in case of correct execution. ***Where this is no longer technically possible, the payer shall also be compensated for loss of interest.***

Amendment 159

Proposal for a directive
(158) Article 80 – paragraph 2 – subparagraph 3

Text proposed by the Commission	*Amendment*
In the case of a non-executed or defectively executed payment transaction for which the payee's payment service provider is not liable under the first and second subparagraphs, the payer's payment service provider shall be liable to the payer. Where the payer's payment service provider is so liable he shall, as appropriate and without undue delay, refund to the payer the amount of the non-executed or defective payment transaction and restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place. The credit value date for the payer's payment account shall be no later than the date the amount had been debited.	In the case of a non-executed or defectively executed payment transaction for which the payee's payment service provider is not liable under the first and second subparagraphs, the payer's payment service provider shall be liable to the payer. Where the payer's payment service provider is so liable he shall, as appropriate and without undue delay, refund to the payer the amount of the non-executed or defective payment transaction and restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place. The credit value date for the payer's payment account shall be no later than the date the amount had been debited. ***Where this is no longer technically possible, the payer shall also be compensated for loss of interest.***

Amendment 160

Proposal for a directive
(159) Article 80 – paragraph 2 – subparagraph 4

Text proposed by the Commission	*Amendment*
In the case of a late executed payment transaction, the payer may decide that the amount shall be value dated on the payee's payment account no later than the date the amount should have been value dated in case of correct execution.	In the case of a late executed payment transaction, the payer may decide that the amount shall be value dated on the payee's payment account no later than the date the amount should have been value dated in case of correct execution. ***Where this is no longer technically possible, the payer shall also be compensated for loss of interest***.

Amendment 161

Proposal for a directive
(160) Article 82 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Where the liability of a payment service provider under ***Article*** 80 is attributable to another payment service provider or to an intermediary, that payment service provider or intermediary shall compensate the first payment service provider for any losses incurred or sums paid under ***Article*** 80. This shall include compensation where any of the payment service providers fail to use strong customer authentication.	1. Where the liability of a payment service provider under ***Articles 65 and*** 80 is attributable to another payment service provider or to an intermediary, that payment service provider or intermediary shall compensate the first payment service provider for any losses incurred or sums paid under ***Articles 65 and*** 80. This shall include compensation where any of the payment service providers fail to use strong customer authentication.

Amendment 162

Proposal for a directive
(161) Article 82 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. EBA shall have the mandate to start and promote binding mediation to settle disputes between competent authorities arising out of the exercise of the rights provided for in this Article.

Amendment 163

Proposal for a directive
(162) Article 84 – paragraph 1

Text proposed by the Commission	*Amendment*
Any processing of personal data ***for the purposes of this Directive*** shall be carried out in accordance with Directive 95/46/EC, the national rules which transpose Directive 95/46/EC and Regulation (EC) No 45/2001.	***1. Member States shall permit the*** processing of personal data ***by payment systems and payment service providers when this is necessary to safeguard the prevention, investigation and detection of payment fraud. The processing of such personal data*** shall be carried out in accordance with Directive 95/46/EC, the national rules which transpose Directive 95/46/EC and Regulation (EC) No 45/2001.

Amendment 164

Proposal for a directive
(163) Article 84 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. When processing personal data for the purposes of this Directive, the principles of necessity, proportionality, purpose limitation and proportionate data retention period shall be respected;

Amendment 165

Proposal for a directive
(164) Article 84 – paragraph 1 b (new)

Text proposed by the Commission	*Amendment*
	1b. In particular, any provider, agent, user processing personal data should only access, process and retain personal data that are necessary for the performance of its payments services.

Amendment 166

Proposal for a directive
(165) Article 84 – paragraph 1 c (new)

Text proposed by the Commission	*Amendment*
	1c. Privacy by design/privacy by default shall be embedded in all data processing systems developed and used within the framework of this Directive;

Amendment 167

Proposal for a directive
(166) Article 84 – paragraph 1 d (new)

Text proposed by the Commission	*Amendment*
	1d. The documents referred to in Article 5(j) shall, inter alia, also specify the measures aimed to respect the principles of security and confidentiality and to implement the principle of privacy by design and privacy by default.

Amendment 168

Proposal for a directive
(167) Article 84 – paragraph 1 e (new)

Text proposed by the Commission	*Amendment*
	1e. The development of standards and ensuring interoperability for the purposes of this Directive shall be based on privacy impact assessment, which shall allow for identifying which are the risks associated to each of the technical options available and which are the remedies that could be put in place to minimise data protection threats.

Amendment 169

Proposal for a directive
(168) Article 85 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Payment service providers ***are subject to Directive [NIS Directive] [OP please insert number of Directive once adopted] and notably*** to the ***risk management and*** incident ***reporting requirements in Articles 14 and 15 therein***.	1. Payment service providers ***shall establish a framework with appropriate mitigation measures and control mechanisms to manage the operational risks, including security risks, relating*** to the ***payment services they provide. As part of that framework payment service providers shall establish and maintain effective*** incident ***management procedures, including the detection and classification of major incidents.***

Amendment 170

Proposal for a directive
(169) Article 85 – paragraph 2

Text proposed by the Commission	*Amendment*
2. ***The authority designated under Article 6(1) of Directive [NIS Directive] [OP please insert number of Directive once adopted]*** shall without undue delay ***inform*** the competent authority in the home Member State ***and EBA*** of the ***notifications of NIS incidents received from*** payment ***services providers***.	2. ***Payment service providers*** shall without undue delay ***notify any major operational incident, including security incidents, to*** the competent authority in the home Member State of the payment ***service provider***.

Amendment 171

Proposal for a directive
(170) Article 85 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. Upon the receipt of the notification, the competent authority in the home Member State shall, without undue delay, provide the relevant details of the incident to EBA.

Amendment 172

Proposal for a directive
(171) Article 85 – paragraph 3

Text proposed by the Commission	*Amendment*
3. Upon receipt of the notification***, and where relevant,*** EBA shall notify ***the*** competent authorities in the other Member States.	3. Upon receipt of the notification EBA shall***, in cooperation with the competent authority in the home Member State, assess the relevance of the incident, and, based on that assessment,*** notify competent authorities in the other Member States.

Amendment 173

Proposal for a directive
(172) Article 85 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. The national competent authority shall act preventively, if necessary, and in order to protect the immediate safety of the financial system.

Amendment 174

Proposal for a directive
(173) Article 85 – paragraph 4

Text proposed by the Commission	*Amendment*
4. ***In addition to the provisions of Article 14(4) of Directive [NIS Directive] [OP please insert number of Directive once adopted],*** where the security incident has the potential of impacting the financial interests of the payment service users of the payment service provider, it shall without undue delay notify its payment service users of the incident and inform them of ***possible*** mitigation measures that they can take on their side to mitigate the adverse effects of the incident.	4. Where the security incident has the potential of impacting the financial interests of the payment service users of the payment service provider, it shall without undue delay notify its payment service users of the incident and inform them of ***all available*** mitigation measures that they can take on their side to mitigate the adverse effects of the incident.

Amendment 175

Proposal for a directive
(174) Article 85 – paragraph 4 a (new)

Text proposed by the Commission	*Amendment*
	4a. EBA shall, in close cooperation with the ECB and after consulting the advisory panel referred to in Article 5(3a), develop guidelines specifying the framework for the notification of major incidents referred in the above paragraphs. The guidelines shall specify the scope and treatment of information to be submitted,

including the criteria of relevance of incidents and standard notification templates to ensure a consistent and efficient notification process.

Amendment 176

Proposal for a directive
(175) Article 85 – paragraph 4 b (new)

Text proposed by the Commission	*Amendment*
	4b. Member States shall ensure that payment service providers regularly provide data on fraud related to different means of payment to national competent authorities and to EBA.

Amendment 177

Proposal for a directive
(176) Article 86 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall ensure that payment service providers provide to the authority ***designated under Article 6(1) of Directive [NIS Directive] [OP please insert number of Directive once adopted]*** on a yearly basis updated information ***of*** the assessment of the operational and security risks associated with the payment services they provide and on the adequacy of the mitigation measures and control mechanisms implemented in response to these risks. ***The authority designated under Article 6(1) of Directive [NIS Directive] [OP please insert number of Directive once adopted] shall without undue delay transmit a copy of this information to the competent authority in the home Member State.***	1. Member States shall ensure that payment service providers provide to the ***competent*** authority on a yearly basis updated ***and comprehensive*** information ***on*** the assessment of the operational and security risks associated with the payment services they provide and on the adequacy of the mitigation measures and control mechanisms implemented in response to these risks.

Amendment 178

Proposal for a directive
(177) Article 86 – paragraph 2

Text proposed by the Commission	*Amendment*
2. ***Without prejudice to Articles 14 and 15 of Directive [NIS Directive] [OP please insert number of Directive once adopted],*** EBA shall, in close cooperation with the ECB, develop ***guidelines*** with regard to the establishment, implementation and monitoring of the security measures, including certification processes when relevant. It shall, inter alia, take into account the standards and/or specifications published by the Commission ***under Article 16(2) of Directive [NIS Directive] [OP please insert number of Directive once adopted].***	2. EBA shall, in close cooperation with the ECB, develop ***implementing technical standards*** with regard to the establishment, implementation and monitoring of the security measures, including certification processes when relevant. It shall, inter alia, take into account the standards and/or specifications published by the Commission ***as well as the ECB Eurosystem's recommendations for the security of internet payments under the "SecuRePay" forum***. ***EBA shall submit those draft implementing technical standards to the Commission by ...**** ***Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.***

Amendment 179

Proposal for a directive
(178) Article 86 – paragraph 3

Text proposed by the Commission	*Amendment*
3. EBA shall, in close cooperation with the ECB, review the ***guidelines*** on a regularly basis, but at least every two years.	3. EBA shall, in close cooperation with the ECB, review the ***implementing technical standards referred to in paragraph 2*** on a regularly basis, but at least every two years.

Amendment 180

Proposal for a directive
(179) Article 86 – paragraph 4

Text proposed by the Commission	*Amendment*
4. ***Without prejudice to Articles 14 and 15 of Directive [NIS Directive] [OP please insert number of Directive once adopted],*** EBA shall ***issue guidelines to facilitate*** payment ***service providers in qualifying major incidents and the circumstances*** under ***which a payment institution is required to notify a security incident. Those guidelines shall be issued by (insert date - two years of the date of entry into force of this Directive)***.	4. EBA shall ***coordinate the sharing of information in the area of operational and security risks associated with*** payment ***services with the competent authorities and the ECB***.

Amendment 181

Proposal for a directive
(180) Article 87 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Where a payment service provider provides services referred to in point 7 of Annex I, it shall authenticate itself towards the account servicing payment service provider of the account owner.	2. Where a payment service provider provides services referred to in point 7 of Annex I, it shall authenticate itself towards the account servicing payment service provider of the account owner ***in accordance with the common and secure open standards of communication as defined under Article 94a***.

Amendment 182

Proposal for a directive
(181) Article 87 – paragraph 3

Text proposed by the Commission	*Amendment*
3. EBA shall, in close cooperation with the ECB, issue guidelines addressed to payment service providers as set out in Article 1(1) of this Directive in accordance with Article 16 of Regulation (EU) No 1093/2010 on state of the art customer authentication and any exemption to the use of strong customer authentication. Those guidelines shall ***be issued by (insert***	3. EBA shall, in close cooperation with the ECB ***and after consulting the EDPS and the advisory panel referred to in Article 5(3a)***, issue guidelines addressed to payment service providers as set out in Article 1(1) of this Directive in accordance with Article 16 of Regulation (EU) No 1093/2010 on ***how third-party payment service providers are to be authenticate***

date - two years from the date of entry into force of this Directive) and be updated on a regular basis as appropriate.	***themselves towards account servicing payment service providers, on*** state of the art customer authentication and ***on*** any exemption to the use of strong customer authentication. Those guidelines shall ***enter into force before ...**** and be updated on a regular basis as appropriate. **** OJ please insert the date of transposition of this Directive (two years after the date of adoption of this Directive)***

Amendment 183

Proposal for a directive
(182) Article 88 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall ensure that procedures are set up which allow payment service users and other interested parties, including consumer associations, to submit complaints to the competent authorities with regard to payment service providers' alleged infringements of this Directive.	1. Member States shall ensure that procedures are set up which allow payment service users and other interested parties, including consumer associations, to submit complaints to the competent authorities ***or alternative dispute resolution (ADR) authorities*** with regard to payment service providers' alleged infringements of this Directive.

Amendment 184

Proposal for a directive
(183) Article 89 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall designate competent authorities to ensure and monitor effective compliance with this Directive. Those competent authorities shall take all necessary measures to ensure such compliance. They shall be independent from payment service providers. They shall be competent authorities ***within the meaning of*** Article 4(2) of Regulation (EU) ***1039***/2010.	1. Member States shall designate competent authorities to ensure and monitor effective compliance with this Directive. Those competent authorities shall take all necessary measures to ensure such compliance. They shall be independent from payment service providers. They shall be competent authorities ***as defined in*** Article 4(2) of Regulation (EU) ***1093***/2010.

Amendment 185

Proposal for a directive
(184) Article 89 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The authorities referred to in paragraph 1 shall possess all the powers necessary for the performance of their duties. ***Where more than one competent authority is empowered to ensure and monitor effective compliance with this Directive, Member States shall ensure that those authorities collaborate closely so that they can discharge their respective duties effectively.***	2. The authorities referred to in paragraph 1 shall possess all the powers ***and resources*** necessary for the performance of their duties.

Amendment 186

Proposal for a directive
(185) Article 89 – paragraph 4 a (new)

Text proposed by the Commission	*Amendment*
	4a. EBA shall, after consulting the ECB, issue guidelines addressed to the competent authorities in accordance with Article 16 of Regulation (EU) No 1093/2010, on the complaints procedures to be taken into consideration to ensure compliance with the relevant provisions under this Directive as set out under paragraph 1 above. Those guidelines shall be issued by ... * and shall be updated on a regular basis, as appropriate.
	**** OJ please insert date: two years after the date of entry into force of this Directive.***

Amendment 187

Proposal for a directive
(186) Article 90 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall ensure that payment service providers put in place adequate and effective consumer complaint resolution procedures for the settlement of complaints of payment service users concerning the rights and obligations arising under this Directive.	1. Member States shall ensure that payment service providers put in place ***and apply*** adequate and effective consumer complaint resolution procedures for the settlement of complaints of payment service users concerning the rights and obligations arising under this Directive***, and shall monitor their performance in that regard***.

Amendment 188

Proposal for a directive
(187) Article 90 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Member States shall require that payment service providers make every possible effort to reply, in writing, to the payment service users' complaints, addressing all points raised, within an adequate timeframe and at the latest within 15 business days. In exceptional situations, if the answer cannot be given within 15 business days for reasons beyond the control of the payment service provider, it shall be required to send a holding reply, clearly indicating the reasons for a delay in answering to the complaint and specifying the deadline by which the consumer will receive the final reply. That deadline may not, in any case, exceed another ***30*** business days.	2. Member States shall require that payment service providers make every possible effort to reply, in writing, to the payment service users' complaints, addressing all points raised, within an adequate timeframe and at the latest within 15 business days. In exceptional situations, if the answer cannot be given within 15 business days for reasons beyond the control of the payment service provider, it shall be required to send a holding reply, clearly indicating the reasons for a delay in answering to the complaint and specifying the deadline by which the consumer will receive the final reply. That deadline may not, in any case, exceed another ***15*** business days. ***Where a Member State has more comprehensive complaint resolution procedures governed by the national competent authority the Member State's rules may be applied.***

Amendment 189

Proposal for a directive

(188) Article 90 – paragraph 4

Text proposed by the Commission	*Amendment*
4. The information referred to in paragraph ***2*** shall be mentioned in ***an*** easily***, directly, prominently and permanently*** accessible way on the ***website of the payment service provider***, where one exists***,*** in the general terms and conditions of the contract ***between the payment*** service ***provider and the payment service user and in invoices and receipts relating to such*** contracts***. It shall specify how further information on the out-of-court redress entity concerned and on the conditions for using it can be accessed***.	4. The information referred to in paragraph ***3*** shall be mentioned in ***a clear, comprehensible and*** easily accessible way on the ***trader's website***, where one exists ***and if applicable*** in the general terms and conditions of the contract ***of sales or*** service contracts ***between the trader and a consumer***.

Amendment 190

Proposal for a directive
(189) Article 91 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Member States shall ensure that adequate and effective out-of-court complaint and redress procedures for the settlement of disputes between payment service users and payment service providers concerning the rights and obligations arising under this Directive are established according to the relevant national and Union legislation, using existing bodies where appropriate. Member States shall ensure that such procedures are applicable to payment service providers and that they also cover the activities of appointed representatives.	1. Member States shall ensure that adequate***, independent, impartial, transparent*** and effective out-of-court complaint and redress procedures for the settlement of disputes between payment service users and payment service providers concerning the rights and obligations arising under this Directive are established according to the relevant national and Union legislation, using existing ***competent*** bodies where appropriate. Member States shall ensure that such procedures are applicable to ***and accessible by both users of payment services and*** payment service providers and that they also cover the activities of appointed representatives.

Amendment 191

Proposal for a directive
(190) Article 91 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	1a. Member States shall ensure that payment service providers adhere to one or more ADR bodies.

Amendment 192

Proposal for a directive
(191) Article 91 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Member States shall require the bodies referred to in paragraph 1 to cooperate for the resolution of cross-border disputes concerning the rights and obligations arising under this Directive.	2. Member States shall require the bodies referred to in paragraph 1 to cooperate for the resolution of cross-border disputes concerning the rights and obligations arising under this Directive. ***Member States shall ensure that those bodies have sufficient capacity to engage in an adequate and efficient way in such cross-border cooperation.***

Amendment 193

Proposal for a directive
(192) Article 92 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. EBA shall issue guidelines on the penalties referred to in paragraph 2 and shall ensure that they are effective, proportionate and dissuasive.

Amendment 194

Proposal for a directive
(193) Title 5

Text proposed by the Commission	*Amendment*
DELEGATED ACTS	DELEGATED ACTS ***AND TECHNICAL STANDARDS***

Amendment 195

Proposal for a directive
(194) Article 93 a (new)

Text proposed by the Commission	*Amendment*
	Article 93a
	Technical Standards
	EBA shall develop draft regulatory technical standards to specify the conditions of application of the own funds requirements in Articles 7 and 8 and of the safeguarding requirements in Article 9.
	EBA shall submit those draft regulatory technical standards to the Commission by ...*
	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Amendment 196

Proposal for a directive
(195) Article 94 – paragraph 5

Text proposed by the Commission	*Amendment*
5. A delegated act adopted pursuant to Article 93 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of ***two*** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.	5. A delegated act adopted pursuant to Article 93 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of ***three*** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment 197

Proposal for a directive
(196) Article 94 a (new)

Text proposed by the Commission	*Amendment*
	Article 94a
	Common and secure open standards of communication
	1. EBA shall, in close cooperation with the ECB and after consulting the advisory panel referred to in Article 5(3a),develop draft regulatory technical standards in the form of common and secure open standards of communication to establish how account servicing payment service providers and third-party payment service providers or third-party payment instrument issuers are to communicate with each other.
	EBA shall submit those draft regulatory technical standards the Commission by ...*.
	Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.
	2. The common and secure open standards of communication referred to in paragraph 1 shall include technical and functional specifications for the transmission of information and shall focus on optimising the security and the efficiency in the communication.
	3. The common and secure open standards of communication shall in particular, on the basis of the provisions in Articles 58 and 87, specify how third-party payment service providers are to authenticate themselves towards account servicing payment service providers and how account servicing payment providers are to notify and inform third-party payment service providers.

4. EBA shall, in close cooperation with the ECB, ensure that the common and secure open standards of communication are developed after an appropriate consultation of all stakeholders in the payment services market including stakeholders operating outside the banking industry.

5. Member States shall ensure that the common and secure open standards of communication are used by the account servicing payment service providers, the third-party payment service providers and the third-party payment issuers.

6. The common and secure open standards of communication shall be subject to regular review in order to take account of innovation and technical developments.

7. This Article shall not preclude the application of other obligations laid down in this Directive.

**** OJ please insert date: 12 months after the date of entry into force of this Directive.***

Amendment 198

Proposal for a directive
(197) Article 94 b (new)

Text proposed by the Commission	*Amendment*
	Article 94b
	1. EBA shall make available on its website a list of all the authorised payment services providers within the Union.
	2. That list shall refer to all authorised payment services providers whose registration as being revoked and the reasons therefor.
	3. All payment service providers shall offer direct links on their websites to the website of the home competent authority that lists all the authorised payment

services providers.

Amendment 199

Proposal for a directive
(198) Article 94 c (new)

Text proposed by the Commission	*Amendment*
	Article 94c
	Obligation to inform consumers of their rights
	1. By ...*, the Commission shall, following a public consultation on a draft, produce a user friendly electronic leaflet listing, in a clear and easily comprehensible manner, the rights of consumers under this Directive and related Union law.
	2. The leaflet referred to in paragraph 1 shall be made available to all consumers in the Union and other interested parties on the websites of the Commission, EBA and national banking regulators and shall be easy to download and to transfer to other websites. The Commission shall inform Member States, payment service providers and consumer associations of the publication of the leaflet.
	3. Payment service providers shall ensure that the leaflet in its original format is made available to all consumers, including non-customers, electronically on their websites and on paper at their branches, their agents and the entities to which their activities are outsourced.
	At those branches, agents and entities, the following clearly legible notice containing the following text shall be displayed in a manner clearly visible to consumers: 'Ask at the counter for the text stating your rights as a payment services user'.
	On their websites, the following clearly visible notice shall be displayed: 'Click here for your rights as a payment services user'. Payment service providers shall also ensure that such information is easily accessible by its clients at all times via

their online accounts, when available.

4. The leaflet shall, in particular, be distributed electronically or on paper when the client enters into any type of contract or, for clients who are existing clients at the date of publication of the leaflet, by notifying them within one year of publication by the Commission of the leaflet.

5. All payment service providers shall offer direct links on their websites to the website of the competent authority that lists all the certified payment services providers.

6. Payment service providers shall not charge their clients for providing information under this Article.

7. In respect of blind and partially sighted persons, the provisions of this Article shall be applied using appropriate alternative means.

**** OJ please insert date: two years after the entry into force of this Directive.***

Amendment 200

Proposal for a directive
(199) Article 95 – paragraph 2

Text proposed by the Commission	*Amendment*
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 web-site or other easily accessible means.	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 web-site or other easily accessible means ***and shall simultaneously advise the European Parliament thereof***.

Amendment 201

Proposal for a directive
(200) Article 96 – paragraph 1 a (new)

Text proposed by the Commission	*Amendment*
	By ...*, the Commission shall present a report, if appropriate accompanied by a legislative proposal, on the impact of including three-party schemes in the scope of the provisions regarding access to payment systems, having regard in particular to the level of competition and the market share of the card schemes.
	**** OJ please insert date: two years after the date of entry into force of this Directive.***