

EU PAYMENTS UPDATE

An overview of the Payment Account Directive, PSD II and the Interchange Regulation



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5 March 2015

Secure, efficient, competitive and innovative electronic payments are **crucial** for the internal market in all products and services, and this has an increasing impact as the world moves **beyond bricks-and-mortar trade towards e-commerce.**

Snapshot

- *Payment Account Directive* - To be transposed by Member States by 18 September 2016 (some provisions of the Directive require earlier action by Member States).
- *PSD II* – publication expected by mid-2015. Most provisions will come into force within 2 years from publication (Article 102 of proposed PSD).
- *Interchange Regulation* – publication expected by mid-2015. Different time frames apply (Articles 3 and 4: 2 months and 2 years).

Background to Payment Account Directive

- Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features.
- Published in the Official Journal on 28 August 2014
- As at April 2014, it was estimated that 58 million EU citizens did not have a bank account. 25 million of those have been refused a bank account.
- Social and economic reasons to decrease that number.

Main Features

- Comparability of payment account fees - Making it easier for consumers to choose.
- Payment account switching - Introducing a simple and quick procedure to switch (a) within the same Member State or (b) from one Member State to another.
- Access to payment accounts – the right to open a payment account to perform essential operations, receive their salary, pensions and allowances or payment of utility bills etc.

Chapter II – Comparability of Fees

- Member States have an obligation to establish a provisional list of 10 to 20 of the most representative services linked to a payment account and subject to a fee.
- Such list has to be notified to the Commission and the EBA by 18 September 2015.
- EBA to draft regulatory technical standards setting out standardised terminology for the common services. To be submitted to Commission by 18 September 2016.

Fee information document and glossary

- Article 4 - Member States shall ensure that, in good time, before entering into a contract for a payment account with a consumer, the PSP provides the consumer with a fee information document containing the standardised terms in the final list of the most representative services – and corresponding fees.
- Article 5 – Statement of fees to be provided annually and free of charge, including all fees incurred.

Sample statement of fees

An annual summary of your account charges

We like to ensure our customers are well informed, so we will be sending you a summary of the total charges you've paid, if any, for your current account each year. If no fees or interest were payable then we will display zeros in the summary.

The table below is for information only and summarises any charges and interest you may have paid.

Description	Quantity	Total	
Overdraft Charges (reflecting any refunds)			
Formal overdraft set up	0	£	0.00
Informal overdraft set up	0	£	0.00
Unpaid cheque	0	£	0.00
Unpaid S/O - D/D	0	£	0.00
Unpaid Bill Payment	0	£	0.00
Total overdraft interest charged		£	0.00
Other Fees and Charges			
Non-Sterling Transaction Fee	0	£	0.00
Non-Sterling Cash Fee	0	£	0.00
Total fees and interest charged from: 29 Sep 2013 to 28 Sep 2014:		£	0.00

Comparison Websites

- Member States shall ensure that consumers will have access to at least one, free of charge website, comparing fees charged by payment services providers for at least their most representative services.
- May be operated by either a private operator or by a public authority.
- Should be independent and have a clear disclosure of ownership.

Market initiative

Compare personal current ... x +

compare.consumerhelp.ie/currentaccount

danny rosso

Select a comparison

Personal current accounts

Our comparisons

- Updated every working day. Correct as at **13 October 2014**
- 100% impartial
- Covers the costs & benefits of financial products

Filter results

Banks & Providers (6)

- All
- AIB
- Bank of Ireland
- EBS Limited
- KBC
- Permanent TSB
- Ulster Bank

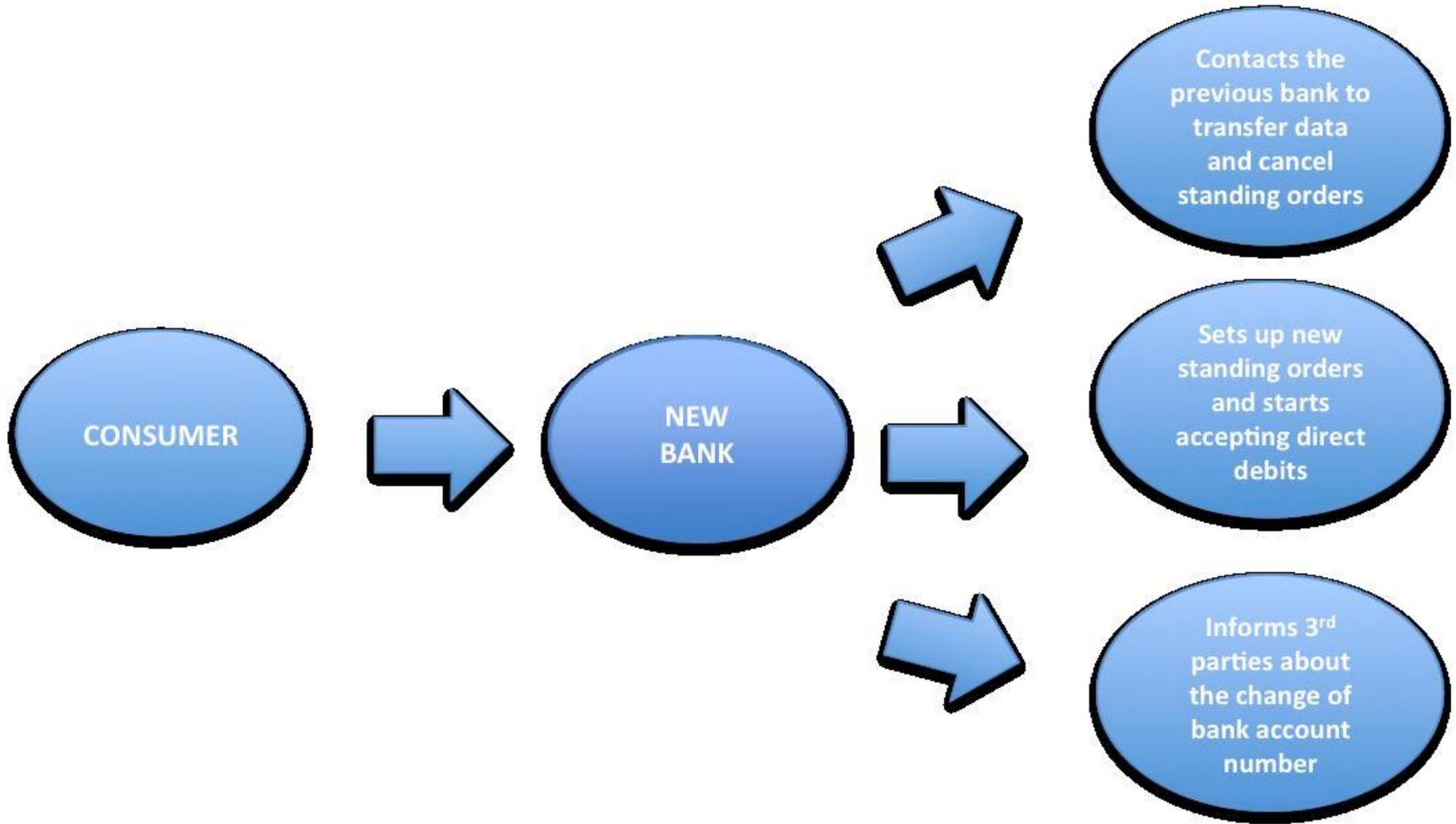
Providers & Products (Please select 2 or more to compare)

Providers & Products	ATM withdrawal fee	Debit card purchase fee	Quarterly fee	Account details
<input type="checkbox"/> Compare AIB Personal Bank Account Footnote 1 v	€0.35 Footnote 2 v	€0.20	€4.50	All Details
<input type="checkbox"/> Compare Bank of Ireland Personal Current Account Footnote 3 v	€0.20	€0.20	€5.00	All Details
<input type="checkbox"/> Compare EBS Limited EBS MoneyManager Account Footnote 4 v	€0.30	€0.00	€0.00	All Details
<input type="checkbox"/> Compare KBC Current Account	€0.30	€0.00	€6.00	All Details
<input type="checkbox"/> Compare Permanent TSB Permanent TSB Current Account	€0.00	€0.00	€12.00 Footnote 5 v	All Details
<input type="checkbox"/> Compare Ulster Bank Current Account	€0.00	€0.00	€12.00 Footnote 6 v Footnote 7 v	All Details

Please select 2 or more to compare

Chapter III - Switching

- PSPs to provide a switching service between payment accounts held in the same currency to any consumer who opens or hold a payment account with a PSP located in the territory of the Member State concerned.
- Customer approaches new PSP and authorises the new PSP to switch all services to it.
- The authorisation by customer to new PSP shall allow the consumer to specify date from which incoming credit transfers, standing order and direct debits to be executed from new payment account.



Cross-border switching rights

- Article 11: In cross-border scenarios, the process is led by the transferring PSP and not the receiving PSP.
- Upon receiving such a request, the transferring PSP shall:
 - a) Provide free of charge a list of all active standing orders and direct debit mandates with any information about incoming credit transfers relating to the previous 13 months
 - b) Transfer any positive balance
 - c) Close account

Chapter IV – Access to Payment Accounts

- Member States shall ensure that payment accounts with basic features are offered to consumers by all credit institutions or a sufficient number to guarantee access to all consumers in the territory.
- Member States shall ensure that consumers legally resident in the Union, including consumers with no fixed address and asylum seekers have the right to open and use a payment account.

- Credit institutions offering payment accounts have to open the payment accounts or refuse the consumer's application without undue delay and at the latest 10 business days after receipt of complete application.
- Limited grounds for rejection: primarily, for AML reasons and if such a consumer already holds a payment accounts in same Member State and has no intention of closing such account.

PSD II and the MIF Regulation

The Commission's 2012 Communication "Single Market Act II – Together for new growth", identified the modernisation of the legislative framework for retail payment as a key priority in view of its potential for new growth and innovation. The review of the PSD and the preparation of a legislative proposal on multilateral interchange fees for card payments were defined as one of the key action of the Commission for 2013.

Problems identified

- Inconsistent application of PSD across Member States.
- Legal vacuum for new internet service providers - Third Party Providers (TPPs).
- Lack of standardisation and inter-operability between different payment solution.
- Diverse and inconsistent charging practices between Member States.
- Several restrictive business rules and practices distorting competition in the payment cards industry.

PSD II Features

- Extension of scope both as regards the geographical scope and currencies adopted (one-leg transactions and non-EU Member State currencies).
- ‘Commercial agent’ and ‘limited network’ exemptions narrowed.
- Streamlining of safeguarding requirements.
- Harmonisation of *surcharging* practices.
- Refunds for payment transactions initiated by or through a payee.
- Coverage of new services and services providers enabling access to payment accounts.

Third Party Providers (TPPs)

- Third Party Providers have evolved offering payment initiation services, usually without entering into possession of the funds to be transferred.
- E-commerce payments are thus facilitated 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.
- Currently not regulated raising consumer protection, data protection, competition issues amongst others.
- Sofort (Germany), iDeal (Netherlands), Trustly (Scandinavia).

Annex I – List of Payment Services

7. Services based on access to payment accounts provided by a payment service provider who is not the account servicing payment service provider, in the form of:

(a) payment initiation services

(b) account information services.

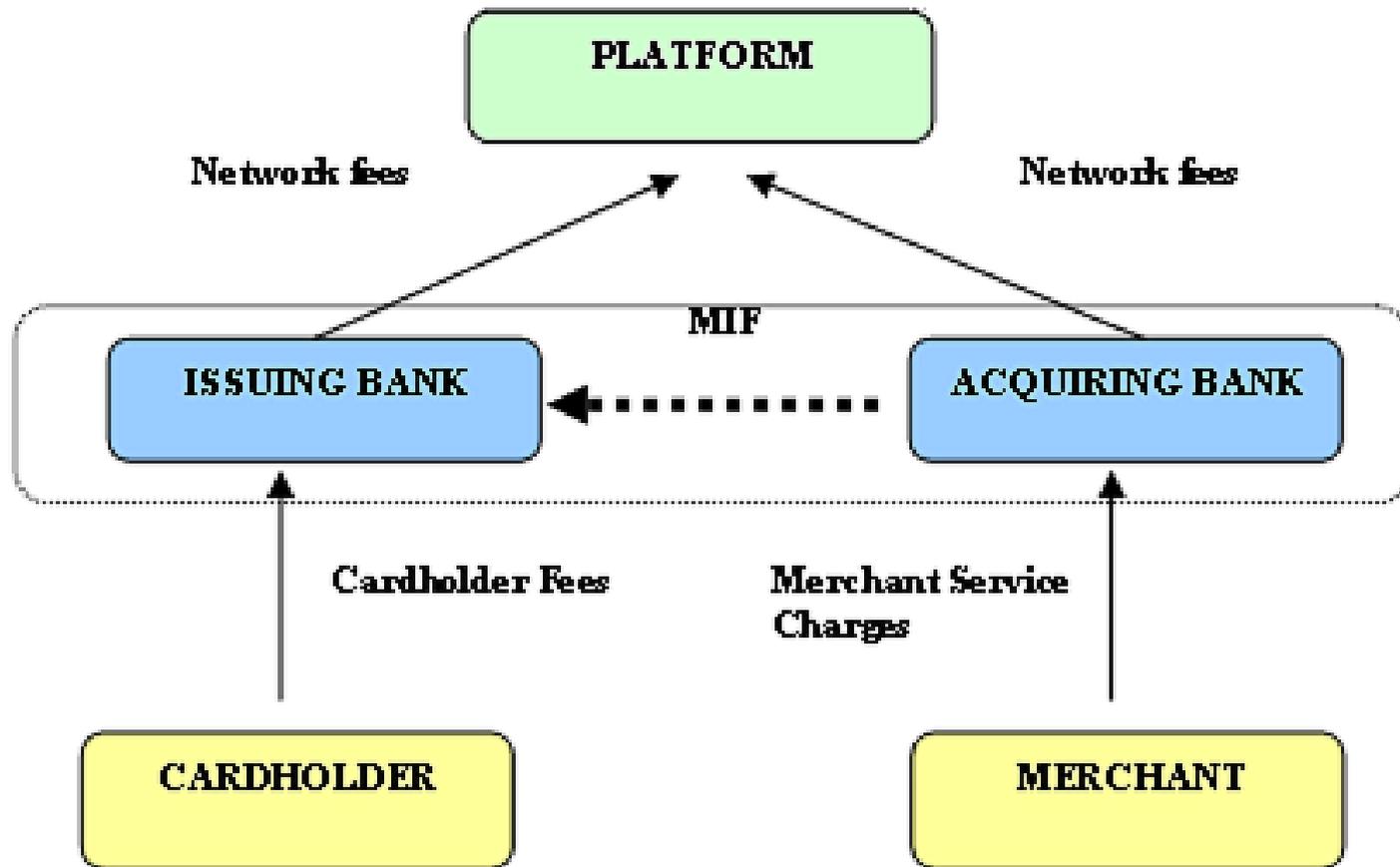
** Both terms are defined in the proposed Directive.*

- One-leg transactions (Article 78 and Title III – Transparency of Conditions and Information Requirements for Payment Services)
- Payments in any currency (Title III) – previously Member States currencies.
- Lighter regime for small payment institutions (Article 27)
- Extension of payment service provider’s liability for unauthorised payment transactions. Unless payer acts fraudulently or in a grossly negligent manner, the maximum liability of payer have been capped at EUR 50 (previously EUR 150) – Articles 65 and 66.

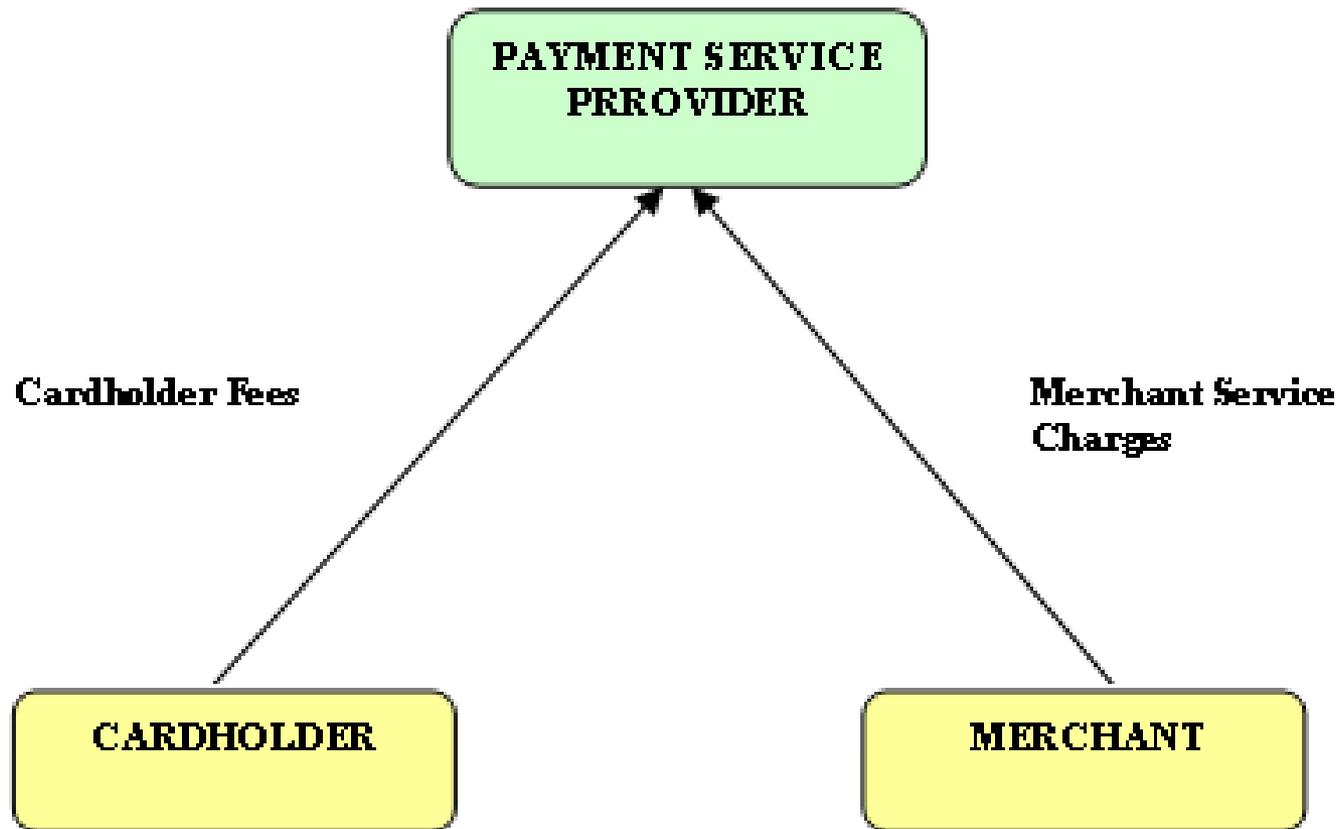
Multilateral Interchange Fees (MIF) Regulation

- The MIF Regulation needs to be in its historical context. It is a development to the number of antitrust proceedings addressing anti-competitive practices in the card payment market (VISA, Mastercard and *Groupement des Carte Bancaires*)
- Competition between card schemes appears in practice to be largely aimed at convincing as many issuing PSPs to issue their cards, using *higher* fees rather than *lower* fees to attract PSPs.
- A regulation (as opposed to a directive) is deemed to be better suited at achieving the intended aims. There is a fear that a directive would allow differing national implementations which would result in market fragmentation.

3 party vs 4 party schemes



Basic operation of a three-party scheme



Rules on Interchange Fees

- MIF for debit card transactions capped at 0.2%
- MIF for credit card transactions capped at 0.3%
- Initially (two months from entry into force of regulation) this will apply to cross-border transactions (Article 3).
- Subsequently (two years from entry into force of regulation) this will also apply to domestic transactions (Article 4).

New Business rules applicable to all categories

- Separation of payment card scheme and processing entities (not applicable to 3-party card schemes).
- *Co-badging*. Any measure to hinder or prevent co-badging shall be prohibited.
- The '*Honour All Cards Rule*'. Payment Schemes and PSPs shall not apply any '*Honour All Cards Rule*'.
- Steering practices allowed. Restrictions to steering prohibited.
- Fee transparency and disclosure to merchants and customers.
- A review is to be carried out 4 years after entry into force (proposed Article 16).
- Appointment of competent authority.

What lies ahead?

At a time when the distinction between payment institution and electronic money institutions is increasingly blurred as technology and business models converge, a full modernisation of the digital payment framework resulting in the merger of both categories of actors and respective legislation would be optimal. – *Explanatory memorandum to the proposed PSP directive.*

A review of Directive 2009/110/EC is currently being undertaken.

Thank you.

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