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National measures and practices as regards access to basic payment accounts

Follow-up to the Recommendation of 18 July 2011 on access to a basic payment account

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This document is a European Commission staff working document for information purposes. It does not represent an official position of the Commission on this issue, nor does it anticipate such a position.

1. INTRODUCTION

On 18 July 2011, the Commission published a Recommendation on access to a basic payment account¹, with the aim of ensuring that consumers can open and use a basic payment account with a set of essential payment services, free of charge or at a reasonable charge, regardless of their place of residence in the Union and financial situation.

Member States were invited to take the necessary measures to ensure the application of the Recommendation at the latest six months after its publication.

This report provides a factual overview² of the measures currently in place in Member States, as reported by the Member States, and assesses the extent to which Member States are complying with the Recommendation, in particular with regard to (i) the right³ to open and use an account, (ii) the features⁴ of such an account and (iii) the associated charges⁵.

2. SITUATION IN EACH MEMBER STATE

The information presented below is based on the written information sent in by the Member States between 12 January and 8 June 2012.

For the purposes of this exercise, a ‘binding measure’ means a measure that is binding by virtue of a law, regulation or any kind of regulatory measure in respect of which providers cannot ask for a derogation. A ‘self-regulatory’ initiative means collective measures taken by the national industry in the form of guidance, recommendations or rules according to which its members should act. A ‘self-regulatory’ measure therefore does not include the commercial policy of an individual provider or indeed of several providers where such policy is not the result of a collective initiative.

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:190:0087:01:EN:HTML>

² Information contained in this document is intended to give a picture of the existing national measures at a particular moment in time, based on national authorities’ notifications between 12 January and 8 June 2012, and does not purport to assess their effectiveness or sustainability.

³ Given that national measures in place in many Member States only provides for a right to access accounts that do not meet the features of the ‘basic payment account’ under the meaning of the Recommendation, paragraphs on ‘Right to open and use an account’ may refer to accounts that do not meet the principles of the Recommendation. The scope and extent of national measures regarding the right to access an account is therefore to be appreciated in light of its features and charges.

⁴ Paragraphs on ‘features’ are meant to describe, to the possible extent and as far as information provided by public authorities allows, which payment services are included in the accounts that consumers have a right to access.

⁵ Paragraphs on ‘charges’ indicate whether measures in effect in Member States have specifications on the level of charges that consumers should pay in relation to the account that they have a right to access.

The situation in Member States is presented against the three above mentioned key principles of the Recommendation.

2.1. Belgium

The law on basic banking services⁶ provides for the right to open and use a ‘basic banking service’ and determines the payment services available and the maximum annual fee that may be charged to the consumer.

(1) Right to open and use an account

Any consumer who is resident in Belgium can access a basic banking service with any credit institution on the condition that he does not already hold a basic banking account or a current account. A credit institution may refuse access to such an account on a limited number of grounds listed in law.

(2) Features of the account

The ‘basic banking service’ as defined by law is an account that includes the payment services listed in the Commission Recommendation except for the provision of a debit card which is optional. Where such a card is provided to the consumer by the provider, its use is limited to transactions in Belgium. A payment order should not be executed where such execution would result in a negative balance of the basic account.

(3) Charges associated with the account

The maximum total of charges that a consumer may be requested to pay in relation to the ‘basic banking service’ is regulated and is currently fixed at EUR 14.52 per year (in 2012). This price covers an unlimited number of payment transactions per year, with the exception of ‘manual transactions’ for which a given number is determined by law.

2.2. Bulgaria

In Bulgaria, no binding measure has been developed as regards access to basic payment accounts. However, the Bulgarian National Bank invited commercial banks in a letter dated 19 December 2011 to continue encouraging the widest possible access to bank accounts. In addition several laws⁷ refer to the mandatory use of an account for the receipt of certain payments (e.g. payment of unemployment, social security or sick leave benefits; remuneration of employees in the public sector). They also put a limit on cash types of payments for certain payments.

(1) Right to open and use an account

Neither binding nor self-regulatory measures have been developed to ensure a right to open and use an account for consumers. The Bulgarian National Bank, however, has recommended to the executive directors of banks and branch managers of foreign banks that they comply with the Commission’s Recommendation.

(2) Features of the account

⁶ Loi du 24 mars 2003 instaurant un service bancaire de base, modifiée par la loi du 1^{er} avril 2007 et arrêté royal du 7 septembre 2003 modifié par l’arrêté royal du 1^{er} avril 2007.

⁷ Law on Restrictions on Cash Payments, entered into force on 25 February 2011; Articles 7, 40, 54g, 159 of the Code of Social Insurance; Paragraph 23 of the Law for the State Budget of Republic of Bulgaria for 2012.

Neither binding nor self-regulatory measures have been developed to ensure that a minimum set of essential payment services is offered to consumers.

(3) *Charges associated with the account*

Neither binding nor self-regulatory measures have been developed to ensure that a minimum set of essential payment services is offered to consumers.

2.3. Czech Republic

In the Czech Republic, neither binding nor self-regulatory measures have been developed as regards access to basic payment accounts. According to the Czech authorities, consumers have no problems in accessing low-priced accounts which meet the characteristics of 'basic payment accounts' as set out in the Commission's Recommendation. Thus there is no need to put specific measures in place.

(1) *Right to open and use an account*

Neither binding nor self-regulatory measures have been developed to ensure the right for consumers to open and use an account.

(2) *Features of the account*

Neither binding nor self-regulatory measures have been developed to ensure that a minimum set of essential payment services is offered to consumers.

(3) *Charges associated with the account*

Neither binding nor self-regulatory measures have been developed to ensure that essential payment services are offered to consumers either free of charge or at a reasonable charge. According to the Czech authorities, in practice a number of banks already offer a type of account which is either free of charge or at a reasonable charge.

2.4. Denmark

The Danish law⁸ embodies a general principle regarding access to 'ordinary accounts' the features of which are not defined under law and which, according to the Danish authorities, corresponds to a right to a basic account. Denmark has set up a working group to assess the advantages and disadvantages of taking further measures in light of the Commission Recommendation. The conclusions of the group are due in the third quarter of 2012.

(1) *Right to open and use an account*

The law states that a bank may not refuse to open an 'ordinary account' without a specific objective reason. The provider can also refuse to open such a basic account if the consumer already has a basic account in another bank.

(2) *Features of the account*

Although the features of an 'ordinary account' are not defined in law, according to the Danish authorities, this account is a deposit account that consumers can use for receiving payments (e.g. their salary) and for cash withdrawals. In practice, a bank may also offer other payment services in the context of an 'ordinary account'. In addition, Denmark has taken an initiative⁹

⁸ Paragraph 19 of the Order on Good Practice for Financial Institutions – Executive order n°769 of 27 June 2011.

⁹ Executive order Nr 766 of 5 August 2006.

called ‘Nemkonto’, which is an account used for receiving payments from public institutions¹⁰.

(3) *Charges associated with the account*

Neither binding nor self-regulatory measures have been developed to ensure that essential payment services are offered to consumers either free of charge or at a reasonable charge. However, the issue of charges will be assessed by the working group mentioned above.

2.5. Germany

No binding measure has been developed at federal level as regards access to basic payment accounts offered by private banks. However, in some German Länder¹¹ the legislation regulating public savings banks, which is based on the federal state law on saving banks or the rules of corporations for public saving banks put certain obligations on saving banks. Additionally, self-regulatory measures by the umbrella organisation of German banking associations have been in place since 1995. Since 2002, the Federal Government has been reporting to the Bundestag every two years on the implementation of these regulatory measures¹².

(1) *Right to open and use an account*

No binding measures have been developed at federal level to ensure that consumers have the right to open and use an account. In some Länder, savings banks are obliged by law or the rules of corporations to provide current accounts to individuals residing in their district. Although ‘current accounts’ are not defined in this respect, according to the German authorities, they do cover the payment services listed in the Commission Recommendation in practice. In addition, the umbrella organisation of the German banking associations has recommended its members¹³ to provide a ‘current account for everyone’ to consumers who ask for such an account and meet the standard requirements. However this recommendation is not mandatory. The self-regulatory initiative also lists legitimate reasons for refusal to open a current account, e.g. where the consumer has presented false documentation or where the provider cannot be certain that the consumer will be able to pay the charges associated with the account.

(2) *Features of the account*

There are neither binding nor self-regulatory measures that provide for rules to ensure that a minimum set of essential payment services is offered to consumers.

(3) *Charges associated with the account*

There are neither binding nor self-regulatory measures that provide for rules to ensure that essential payment services are offered to consumers either free of charge or at a reasonable charge.

¹⁰ Consumers are free to decide which of their accounts is to be used as their ‘Nemkonto’ but according to the Danish authorities, most consumers use their basic account as their ‘Nemkonto’.

¹¹ Brandenburg, Mecklenburg-Vorpommern, Saxony, Saxony-Anhalt, Thuringia, Bavaria, North Rhine-Westfalia, Rhineland-Palatinate.

¹² The report of 27 December 2011 is available at <http://www.iff-hamburg.de/media.php?t=media&f=file&id=4472>.

¹³ ZKA Empfehlung 1995: ‘Girokonto für Jedermann’.

2.6. Estonia

In Estonia, neither binding nor self-regulatory measures have been developed as regards access to basic payment accounts. However, the Estonian law¹⁴ contains a general principle regarding access to a ‘payment service contract’.

(1) *Right to open and use an account*

Under the law, payment services providers have to enter into a contract with a potential client at his request where the person and the terms and conditions applied for by this person comply with legal provisions and the general terms and conditions of the contract of the payment service provider. The general banking conditions recommended by the Estonian Banking Association¹⁵ list several situations where the bank should be entitled to refuse to conclude the contract, e.g. where the individual has submitted incorrect or inadequate data, where there is a suspicion of money-laundering or where the person has outstanding debts with the bank. According to the Estonian authorities, a refusal to open an account is in principle only allowed in order to combat money laundering and terrorist financing and cannot be based on the social status of the applicant.

(2) *Features of the account*

According to the Estonian authorities, the contract into which a payment services provider should enter under certain circumstances should enable the provision of payment services that meet the Commission Recommendation¹⁶.

(3) *Charges associated with the account*

The law lays down a general rule that account maintenance and commission fees should be appropriate and in line with the actual costs occurred by the payment service provider.

2.7. Ireland

In Ireland, no binding measure has been developed as regards access to basic payment accounts. Following a review undertaken at the request of the Department of Finance, a self-regulatory initiative has been launched by three banks (AIB, Bank of Ireland and Permanent TSB) in cooperation with the public authorities to offer a standardised basic payment account.

(1) *Right to open and use an account*

No binding measure has been developed in Ireland to ensure a right to open and use an account for consumers. However, some Irish banks have, however, undertaken to provide accounts that contain certain features agreed with the Ministry of Finance. According to the Irish authorities, pilot studies will commence in June 2012 and run for a period of six months.

(2) *Features of the account*

No binding measure has been developed to ensure that a minimum set of essential payment services is offered to consumers. The type of account that some Irish banks have undertaken to provide contains the payment services listed in the Commission Recommendation, except for the execution of direct debits and the execution of payment transactions through a debit

¹⁴ Law of Obligations Act of 26 September 2001, in particular paragraphs 710 and 718.

¹⁵ http://www.pangaliit.ee/index.php?option=com_content&view=article&id=251

¹⁶ Estonian authorities referred to the broader list of payment services defined in Article 3(1) of the Payment Institutions and Electronic Money Institutions Act, which transposed Directive 2007/64/EC of 13 November 2007 on payment services in the internal market.

payment card. It automatically includes, however, other services, such as standing orders or an account buffer of EUR 19.99.

(3) *Charges associated with the account*

No binding measure has been developed to ensure the right to open and use an account for consumers so that essential payment services are offered to consumers either free of charge or at a reasonable charge. According to the Irish authorities, the basic account that will be offered during the pilot project will have the following characteristics: ‘non-transaction fees’ and some service fees ‘related for instance to international uses of the account’.

2.8. Greece

In Greece, as far as access to basic payment accounts is concerned, neither binding nor self-regulatory measures have been developed.

(1) *Right to open and use an account*

Neither binding nor self-regulatory measures have been developed to ensure a right to open and use an account for consumers. However, according to the latest information available, the Greek banking association is considering to take steps to grant consumers the right to access certain accounts under certain circumstances.

(2) *Features of the account*

Neither binding nor self-regulatory measures have been developed in order to ensure that a minimum set of essential payment services is offered to consumers.

(3) *Charges associated with the account*

Neither binding nor self-regulatory measures have been developed to ensure that essential payment services are offered to consumers either free of charge or at a reasonable charge. However, according to the latest available information the Greek banking association is planning to take measures to provide certain accounts free of charge or at a reasonable charge.

2.9. Spain

In Spain, no binding measure has been developed as regards access to basic payment accounts.

(1) *Right to open and use an account*

Neither binding nor self-regulatory measures have been developed to ensure a right to open and use an account for consumers.

(2) *Features of the account*

Neither binding nor self-regulatory measures have been developed to ensure that a minimum set of essential payment services is offered to consumers.

(3) *Charges associated with the account*

Neither binding nor self-regulatory measures have been developed to ensure that essential payment services are offered to consumers either free of charge or at a reasonable charge.

2.10. France

The French banking law¹⁷ provides for a right to open and use an account including mandatory ‘basic banking services’, free of charge.

(1) *Right to open and use an account*

Under the law, any consumer who has his residence in France, even temporarily or by means of relationship, can access a ‘basic banking service’. If a credit institution has refused access to a current account, the consumer can request¹⁸ the Central Bank (Banque de France) to designate a credit institution responsible for providing such a ‘basic banking service’. As regards this designation, the Central Bank takes account of the consumer’s location and the market share of the respective bank.

(2) *Features of the account*

The ‘basic banking service’ as defined under French law is an account that includes the payment services listed in the Commission Recommendation. The granting of an overdraft facility in relation to the basic banking service is, however, permitted.

(3) *Charges associated with the account*

According to the law, ‘basic banking services’ are to be provided free of charge to consumers who have benefited from the procedure described in paragraph 1. Should the consumer wish to use another type of service, e.g. an overdraft facility, the charge applicable would be the charge that is usually charged for the service, as for any other type of account.

2.11. Italy

A recent decree-law¹⁹ complemented by an agreement between the public authorities, the Italian Banking Association, the Italian Postal Service and the Italian Association of Payment Institutions²⁰ makes it compulsory for banks, post offices and payment institutions to provide a ‘basic account’ to consumers as from 1 June 2012. A permanent Committee set up by the signatories to the agreement will be responsible for resolving any issues that may arise, gathering information on the use of ‘basic accounts’ and drafting an annual report on the provision and use of ‘basic accounts’.

(1) *Right to open and use an account*

Banks, post offices and payment institutions are obliged by law to offer a ‘basic account’. The agreement mentioned above does not specify any conditions for the consumer to obtain such an account. Providers can refuse to open the account, but details of the grounds for such a refusal are not given.

(2) *Features of the account*

The payment services included in the account that banks, post offices and payment institutions will have to offer to consumers as set out in the agreement mentioned above

¹⁷ Articles L.312-1, D.312-5 and L.312-6 of the Code monétaire et financier.

¹⁸ Directly, or with the free help of the credit institution that refused to open him an account as the banking industry committed to help consumers in performing the concrete steps to benefit from the ‘basic banking service’ (Accessibility Charter approved by the Minister of Finance on 18 December 2008).

¹⁹ Decree-law of 6 December 2011, n°201, converted by Law n°214/2011.

²⁰ Agreement signed on 28 March 2012 and amended on 20 April 2012.

appear to be in line with the list of payment services laid down in the Commission Recommendation.

(3) *Charges associated with the account*

According to the agreement mentioned above, the annual level of charges relating to the account in question should be reasonable and compatible with the aim of financial inclusion. Such annual cost for the consumer should cover a determined annual number of transactions for payment services (e.g. 12 cash-withdrawals at another bank's ATM, an unlimited number of direct debits). The provider may charge additional fees corresponding to the use of payment services over and above the pre-determined number of transactions. In that case, the charges cannot be higher than what is charged by the provider for other current accounts for consumers 'with basic needs'. . Where charges are linked to additional cash withdrawals at other providers' ATMs, these charges cannot be higher than what is charged for other current accounts for consumers with a so-called 'medium level of operations'. The agreement does not define the meaning of consumers 'with basic needs' or 'with a medium level of operations' Socially deprived persons and pensioners will under certain circumstances²¹ benefit free of charge from the payment services included in the account as listed in the annexes to the agreement.

2.12. Cyprus

On 17 May 2012 the supervisor for cooperative credit institutions, i.e. the Authority for the Supervision and Development for Cooperative Societies, issued a binding general directive to all cooperative credit institutions requiring them to introduce policies and procedures to comply with the Commission's Recommendation. In addition, on 30 April 2012 the Governor of the Central Bank of Cyprus issued a circular to all banks, payment institutions and electronic money institutions requesting them to take the necessary steps to comply with the Commission's Recommendation and requiring information to be provided on the actions they are considering Based on the information received from the industry, the Central Bank of Cyprus will consider whether any further action is necessary.

(1) *Right to open and use an account*

Cooperative credit institutions were very recently required by their supervisor to implement the Commission's Recommendation.

(2) *Features of the account*

The circular from the Authority for the Supervision and Development for Cooperative Societies requires cooperative institutions to introduce appropriate policies regarding basic payment accounts and their features, in line with the Commission's Recommendation. According to the Central Bank of Cyprus, the preliminary assessment of the responses submitted by the other providers has shown that the existing payment accounts offered already cover the minimum set of essential payment services.

(3) *Charges associated with the account*

The circular issued by the Authority for the Supervision and Development for Cooperative Societies' requires cooperative institutions to adopt the Commission's Recommendation including its principles on the charges associated with basic payment accounts. The Authority

²¹ People with ISEE (indicator of economic equivalent situation) below EUR 7 500 per year and pensioners with monthly pensions below EUR 1 500.

for the Supervision and Development for Cooperative Societies intends to give these providers further information on what it constitutes a reasonable charge at a later stage. Based on the information on charges that the industry will provide to the Central Bank of Cyprus, further action may be necessary.

2.13. Latvia

In Latvia, neither binding nor self-regulatory measures have been developed as regards access to basic payment accounts.

(1) Right to open and use an account

Neither binding nor self-regulatory measures have been developed to ensure a right to open and use an account for consumers.

(2) Features of the account

Neither binding nor self-regulatory measures have been developed to ensure that a minimum set of essential payment services is offered to consumers.

(3) Charges associated with the account

Neither binding nor self-regulatory measures have been developed to ensure that essential payment services are offered to consumers either free of charge or at a reasonable charge. However in practice, according to the Latvian authorities, banks in Latvia provide some services on a voluntary basis either free of charge or at a reasonable cost for the most vulnerable groups of society.

2.14. Lithuania

The Lithuanian law²² contains a general principle regarding access to accounts that is based on a number of conditions.

(1) Right to open and use an account

The Civil Code states that a bank cannot refuse to open an account if the possibility of opening such an account is provided for in law, the operational documents of the bank or the licence of the bank, unless such refusal is legally permissible. According to the information provided by the Lithuanian authorities, refusal is therefore allowed only for anti-money laundering and terrorist financing purposes and cannot be based on the social status of the applicant.

(2) Features of the account

No binding or self-regulatory measures have been developed to ensure that a minimum set of essential payment services is offered to consumers.

(3) Charges associated with the account

According to the information provided by Lithuanian authorities, the law²³ lays down the general principle that payment service providers should determine commissions and other fees in such a way that they correspond to the nature of the payment service provided, and are economically justified and fair. No self-regulatory initiative has been developed to ensure that

²² Civil Code, Articles 6.913-6.928.

²³ Article 50 of Law 153-6888 on Payments, 2009. Compliance with this law is supervised by the Central Bank of Lithuania.

essential payment services are offered to consumers either free of charge or at a reasonable charge.

2.15. Luxembourg

The Luxembourgish law²⁴ contains a general principle on access to an account.

(1) Right to open and use an account

In Luxembourg, the law provides that any consumer has the right to open an account with one specific provider (the Entreprise des Postes et Télécommunications). This provider can decide not to maintain the account according to its general conditions, in particular in the case of ‘abusive use’ of the account by the consumer.

(2) Features of the account

The law does not provide for a list of payment services that should be included in an account opened with the Entreprise des Postes et Télécommunications. It does state, however, that the right to open an account does not include the right to have a negative balance on that account.

(3) Charges associated with the account

Charges associated with the account are freely determined by the Entreprise des Postes et Télécommunications.

2.16. Hungary

In Hungary, no binding measure has been developed as regards access to basic payment accounts. The Ministry for National Economy has, however, invited the Hungarian Banking Association to adopt self-regulatory measures. To date, 18 financial institutions have signed the Hungarian Banking Association’s recommendation²⁵, which entered into force on 1 April 2012.

(1) Right to open and use an account

No binding measures have been developed in Hungary to ensure a right to open and use an account for consumers. According to the Hungarian Banking Association’s non-binding recommendation, providers who adhere to the recommendation undertake not to refuse any application to open a ‘basic account’ denominated in Hungarian forint on the grounds of the applicant’s financial conditions, such as the lack of a regular income or the absence of a permanent residence in Hungary. The providers may, however, refuse to open an account if the conclusion of the contract would be in breach of the law or if this would not be the ‘first banking relationship’ of the applicant. The concept of a ‘first banking relationship’ is not defined in the Hungarian Banking Association’s recommendation.

(2) Features of the account

Hungary has not developed binding measures to ensure that a minimum set of essential payment services is offered to consumers. The ‘basic account’ that adherents to the Hungarian Banking Association’s recommendation commit to offer contains payment services that meet the characteristics listed in the Commission’s Recommendation. However, their commitment

²⁴ Loi du 15 décembre 2000 sur les services postaux et les services financiers postaux.

²⁵ Recommendation No.1/2012 of the Hungarian Banking Association on retail payment account providing basic services adopted on 5 March 2012. Information on the banks’ offer in relation to basic services is available in Hungarian at:

<http://www.bankszovetseg.hu/bankszovetseg.cgi?p=alapszamla&r=&l=&v>.

as regards credit transfers is limited to transfers made to a Hungarian bank account denominated in forint and managed by another bank in Hungary.

(3) *Charges associated with the account*

Hungary has not developed any binding measure to ensure that essential payment services are offered to consumers either free of charge or at a reasonable charge. According to the Hungarian Banking Association's recommendation, the total amount of fees for the use of the account²⁶ may not exceed 1 % of the gross annual amount of the minimum wage²⁷.

2.17. Malta

In Malta, neither binding nor self-regulatory measures as regards access to basic payment accounts have been put in place. According to the Maltese authorities, however, in practice, there are no problems for consumers to easily access accounts which usually have the free or low-cost services needed to use the account.

(1) *Right to open and use an account*

Neither binding nor self-regulatory measures have been developed to ensure a right to open and use an account for consumers.

(2) *Features of the account*

Neither binding nor self-regulatory measures have been developed to ensure that a minimum set of essential payment services is offered to consumers.

(3) *Charges associated with the account*

Neither binding nor self-regulatory measures have been developed to ensure that essential payment services are offered to consumers either free of charge or at a reasonable charge.

2.18. Netherlands

As far as access to basic accounts is concerned, self-regulatory measures have been in place since 2001, on the basis of a covenant between the public authorities and the Dutch Banking Association. Four banks are currently participating in this initiative²⁸, which means that they have to comply fully with its recommendation. No specific body has been appointed to monitor compliance with the covenant but according to the Dutch authorities, such monitoring is in practice performed by banks and social welfare organisations. In addition, the Dutch Parliament has recently approved a law²⁹ to grant the right to a 'basic bank account' to people without a bank account who encounter structural debt problems (the indebtedness situation is assessed by a dedicated authority).

(1) *Right to open and use an account*

According to the agreement between the public authorities and the Dutch Banking Association, a bank may not refuse to open an account to a consumer over the age of 18 who does not already have an account and who has either a permanent residence or an address with

²⁶ This should include the use of the cash withdrawal and cash deposit services once a month up to HUF 70 000 and the annual fee for the payment card.

²⁷ The gross amount of the minimum wage is fixed by Government Decree 298/2011 (XII, 22.) at HUF 93 000 a month. The net amount is approximately 70 000 a month.

²⁸ The covenant has been periodically evaluated. According to the Dutch authorities, the most recent study performed on behalf of the Dutch Ministry of Finance showed positive results.

²⁹ Wet gemeentelijke schuldhulpverlening of 30 June 2011.

a recognised aid agency in the Netherlands. According to the Dutch authorities, any person who has a structural debt problem will have the right to open a ‘basic bank account’ as from 1 January 2013.

(2) *Features of the account*

The law granting a right to a ‘basic bank account’ for people with structural debt problems specifies that such an account is a payment account that includes a payment instrument but does not provide overdraft facilities. The self-regulatory measures in place mention the payment features of ‘basic bank accounts’, namely: credit transfers in the Netherlands, direct debits and withdrawals by means of a debit card within the Netherlands. The bank may grant the use of the card for electronic payments. The debit card may or may not allow the use of the Dutch payments scheme called ‘Chipknip’.

(3) *Charges associated with the account*

According to the covenant, the charges associated with a ‘basic account’ should not exceed the fees charged for an account including comparable services, which, according to the Dutch authorities, varies in practice from EUR 15 to EUR 30. The Dutch authorities expect that the method for determining the charges for basic bank accounts for people with structural debt problems will not differ markedly from what is charged by providers for accounts including comparable services.

2.19. Austria

In Austria, neither binding nor self-regulatory measures have been developed as regards access to basic payment accounts.

(1) *Right to open and use an account*

Neither binding nor self-regulatory measures have been developed or initiated to ensure a right to open and use an account for consumers. However, in practice several banks voluntarily offer accounts to consumers that are excluded from access to financial services, e.g. die Zweite Sparkasse.

(2) *Features of the account*

Neither binding nor self-regulatory measures have been developed to ensure that a minimum set of essential payment services is offered to consumers.

(3) *Charges associated with the account*

Neither binding nor self-regulatory measures have been developed to ensure that essential payment services are offered to consumers either free of charge or at a reasonable charge.

2.20. Poland

In Poland, no binding measures have been developed as regards access to basic payment accounts. According to the Polish authorities, the Payment System Council of the National Bank of Poland has invited the Polish Banking Association to prepare self-regulatory measures. However, such measures have not yet been issued. The Polish Banking Association’s recommendation will be addressed to all banks in Poland and compliance will be voluntary.

(1) *Right to open and use an account*

According to the Polish authorities, the ‘basic bank account’ under the self-regulatory initiative to be adopted by the Polish Banking Association will be offered to any EEA citizen who does not already have an account with a bank operating in Poland.

(2) *Features of the account*

According to the Polish authorities, the ‘basic bank account’ under the self-regulatory initiative due to be adopted by the Polish Banking Association will be denominated in Polish currency and will not allow ‘debit or credit facilities’³⁰. To date, it is not known whether this initiative will mention a list of payment services to be offered together with the ‘basic bank account’.

(3) *Charges associated with the account*

According to the information provided by the Polish authorities to date, the ‘basic bank account’ under the self-regulatory initiative to be adopted by the Polish Banking Association will be offered either free of charge or for a reasonable fee. The fee will have to be calculated on the basis of the average level of fees and commissions in the banking sector published annually by the National Bank of Poland. It is, however, not yet known whether this method of calculation will be optional or obligatory for banks.

2.21. Portugal

The Portuguese law³¹ provides for a ‘minimum banking services’ regime, to which providers may sign up. In 2000, eight providers opted for this regime.

(1) *Right to open and use an account*

According to the Portuguese authorities, credit institutions offer basic accounts on a voluntary basis through an agreement with the Government and the Bank of Portugal. Any consumer who declares that he does not already have an account can open an account (‘Minimum Banking Services’) with one of the providers participating in the minimum banking services’ regime. Since 2011, consumers have also been able to convert their already existing account into such a basic account. Access to the ‘minimum banking services’ is maintained unless the account holder has opened a deposit account, has not carried out regular transactions or maintained a minimum average annual balance.

(2) *Features of the account*

The payment services that a consumer should be able to carry out using the basic account are in line with the list of payment services identified in the Commission Recommendation. Transfers are, however, limited to national transfers.

(3) *Charges associated with the account*

The legal regime provides that the costs charged by the credit institution for the opening and maintaining of the account and for the execution of payment transactions cannot exceed 1 % of the national minimum monthly wage – according to the Portuguese authorities, this

³⁰ To date information about how ‘debit and credit facilities’ are to be understood has not been provided.

³¹ Decree-Law n°27-C/2000 amended by Law n°19/2011; Instruction 3/2008 and Notice 4/2011 of Banco de Portugal. According to information provided, Portuguese authorities are currently preparing a legislative act that will allow the application of the changes introduced by Law n°19/2011 to further align its legislation with the Commission’s Recommendation. Portuguese authorities expect that the act will be adopted by September 2012.

corresponds to EUR 4.85 per year (in 2012). The cost of issuing a debit card may be borne by the account holder in certain cases.

2.22. Romania

In Romania, neither binding nor self-regulatory measures have been developed for the purpose of access to basic payment accounts.

(1) Right to open and use an account

Neither binding nor self-regulatory measures have been developed to ensure that consumers have the right to open and use an account.

(2) Features of the account

Neither binding nor self-regulatory measures have been developed to ensure that a minimum set of essential payment services is offered to consumers.

(3) Charges associated with the account

Neither binding nor self-regulatory measures have been developed to ensure that essential payment services are offered to consumers either free of charge or at a reasonable charge.

2.23. Slovenia

In Slovenia, no binding measures have been developed as regards access to basic payment accounts. In practice, some banks offer specific accounts with limited functionalities (e.g. withdrawal of cash without a card, internal direct debits) including for non permanent residents in Slovenia (who can obtain a debit card).

(1) Right to open and use an account

No binding measures have been developed in Slovenia to ensure the right to open and use an account for consumers.

(2) Features of the account

No binding measures have been developed in Slovenia to ensure that a minimum set of essential payment services is offered to consumers.

(3) Charges associated with the account

No binding measures have been developed in Slovenia to ensure that essential payment services are offered to consumers either free of charge or at a reasonable charge. To date the Slovenian authorities have provided no information on the guidelines applied by the Slovenian Banking Association.

2.24. Slovakia

In Slovakia, legislation on basic bank accounts introduced in June 2010 was repealed in April 2011. Proposals for new legislation³² were forwarded by the Slovak Government to the Parliament on 1 June 2012 with a view of discussing them at the end of July 2012.

(1) Right to open and use an account

According to the legislative proposal, the right to access a ‘basic bank account’ would be granted to citizens over 18 years of age without an account, whose income does not exceed

³² <http://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=4018>

the minimum wage applicable at the time of the application. The bank would have the right to close the account or ask the client to hold an account with them on other conditions if the annual credit on the account exceeds a certain threshold.

(2) *Features of the account*

According to the Slovak authorities, if their proposal were to be adopted as proposed, the new 'basic bank account' would have similar characteristics to those of the 'basic payment account' under the Commission's Recommendation. However, access to certain payment services would be granted for payment transactions at the domestic level only.

(3) *Charges associated with the account*

According to the Slovak authorities, if their proposal were to be adopted as proposed, the new 'basic bank account' would have to be provided for a maximum of EUR 1 per month.

2.25. Finland

Finnish law³³ contains a general principle regarding access to accounts which allow the use of a payment device and payment transfer services.

(1) *Right to open and use an account*

In Finland, the right to open and use an account is granted to any citizen of the European Economic Area legally resident in Finland. The law provides that a bank may refuse to open an account only if there are duly justified and overriding grounds for such refusal. The grounds have to be linked to the consumer (i.e. no reliable way of verifying the identity of the person concerned) or the consumer's earlier behaviour (i.e. in the case of previous 'misconduct').

(2) *Features of the account*

The features of the account are not defined in the law. However, the rationale of the legislation introduced in 2002 mentioned that the 'basic payment account' is a deposit account used for payment services including the use of a card enabling its holder to withdraw cash and to make payments in accordance with the terms and conditions of the bank account.

(3) *Charges associated with the account*

Neither binding nor self-regulatory measures have been developed to ensure that essential payment services are offered to consumers either free of charge or at a reasonable charge. However, the rationale of the legislation introduced in 2002 stated that it should not be possible to undermine a customer's right to a 'basic payment account' through unreasonable or discriminatory pricing, for example.

2.26. Sweden

Neither binding nor self-regulatory measures have been developed in Sweden as regards access to basic payment accounts. However, the law³⁴ contains a general principle regarding the acceptance of deposits.

(1) *Right to open and use an account*

³³ Section 134 of the Finnish Act on credit institutions.

³⁴ Paragraph 11b of the Swedish Deposit Guarantee Act, 2004.

In Sweden, the law requires that institutions that are authorised to accept deposits to accept deposits from people who are able to prove their identity, unless there are compelling reasons to refuse. According to the Swedish authorities, such reasons include the suspicion of money laundering and other previous criminal activities or attempts to criminal activities. In parallel, the Swedish Financial Services Authority intends to make it clear in its recommendations that a customers' credit history should not affect the debit payment functionality of accounts. It is not yet known, however, when the FSA will issue such recommendations.

(2) *Features of the account*

Neither binding nor self-regulatory measures have been developed to ensure that a minimum set of essential payment services is offered to consumers. According to the Swedish authorities, in practice banks offer accounts that meet the Commission's Recommendation in the main.

(3) *Charges associated with the account*

Neither binding nor self-regulatory measures have been developed in order to ensure that essential payment services are offered to consumers either free of charge or at a reasonable charge.

2.27. United Kingdom

No binding measures have been developed in the United Kingdom as regards access to basic payment accounts. However, sixteen providers have subscribed to a self-regulatory initiative.

(1) *Right to open and use an account*

Although there is no legal right to a bank account in the UK, the industry guidance³⁵ states that if a consumer wants to open a basic bank account and meets the firm's qualifying criteria, the firm should offer him a 'basic bank account'. However, banks can refuse to open such an account if the consumer has a history of fraud or is an undischarged bankrupt.

(2) *Features of the account*

No formal standards exist concerning the features of 'basic bank accounts' in the UK, so each bank is able to determine the specific features of its account. However, in 1999, it was recommended³⁶ that the following core features be incorporated into the design of each account: automated credit transfers for receiving income; services to deposit cheques and cash; services to cash out at convenient access points; services to pay bills³⁷; and measures to avoid the risk of overdraft. It was also mentioned that a debit card for shop purchases and a modest agreed buffer-zone facility would be desirable additional features. The UK authorities report that, in practice, the majority of 'basic bank accounts' available in the UK³⁸ include payment services that meet the minimum standards laid down in the Commission Recommendation, although with some possible limitations (e.g. no debit card). Some 'basic bank accounts' also include a buffer zone.

(3) *Charges associated with the account*

³⁵ The latest version is available at <http://www.bba.org.uk/media/article/industry-guidance-for-fsa-banking-conduct-of-business-sourcebook>.

³⁶ <http://archive.treasury.gov.uk/pdf/1999/pat14.pdf>

³⁷ http://www.hm-treasury.gov.uk/d/fin_inclusion_taskforce_poorerhouseholds_dec2010.pdf

³⁸

http://www.moneyadvice.service.org.uk/assets/downloads/pdfs/your_money/a5_guides/basic_bank_accounts.pdf

Each bank may set the price as it sees fit. According to the UK authorities, in practice there is generally no cost to the consumer for day-to-day transactions or for holding an account. However, most banks charge for unpaid direct debits or standing orders.

3. FOLLOW-UP

Whilst recognizing that the respective situations in the Member States require very careful analysis, particularly in view of the wide range of measures involved and the difficulty of gathering comparable information on existing national measures, it is possible to identify some broad trends

The situation in the Member States remains diverse and fragmented. To date eleven Member States have no measure in force concerning the right to open an account, features of such an account and associated charges. Only a few Member States appear to be close to complying with the principles of the Recommendation. In the remaining Member States, some rules or systems are in place or about to be put in place, although with widely differing standards and degrees of implementation.

In line with the Commission Recommendation, the Commission is assessing the measures taken at national level and may propose any necessary action or measure in order to ensure that the objectives of the Recommendation are met in full throughout the Union.