



2023/0209(COD)

13.11.2023

*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council
on payment services and electronic money services in the Internal Market
amending Directive 98/26/EC and repealing Directives 2015/2366/EU and
2009/110/EC
(COM(2023)0366 – C9-0218/2023 – 2023/0209(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Ondřej Kovařík

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	37

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on payment services and electronic money services in the Internal Market amending Directive 98/26/EC and repealing Directives 2015/2366/EU and 2009/110/EC (COM(2023)0366 – C9-0218/2023 – 2023/0209(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0366),
 - having regard to Article 294(2) and Articles 53 and 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0218/2023),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rules 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0000/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) As evidenced in the review conducted by the Commission and given the evolution of the respective markets,

Amendment

(6) As evidenced in the review conducted by the Commission and given the evolution of the respective markets,

businesses and risks attached to the activities, it is necessary to update the prudential regime for payment institutions, including those issuing electronic money and providing electronic money services, by requiring a single licence for providers of payment services and electronic money services not taking deposits. Given that Regulation (EU) 2023/1114 of the European Parliament and of the Council³² lays down in its Article 48(2) that *that* issuers of electronic money shall be deemed to be electronic money, the licensing regime for payment institutions, as they will replace the electronic money institutions, should also apply to issuers of electronic money tokens. The prudential regime applicable to payment institutions should be based on an authorisation, subject to a set of strict and comprehensive conditions, for legal persons offering payment services when not taking deposits. The prudential regime applicable to payment institutions should ensure that the same conditions apply Union-wide to the activity of providing payment services.

³² Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.06.2023, p. 40).

businesses and risks attached to the activities, it is necessary to update the prudential regime for payment institutions, including those issuing electronic money and providing electronic money services, by requiring a single licence for providers of payment services and electronic money services not taking deposits. Given that Regulation (EU) 2023/1114 of the European Parliament and of the Council³² lays down in its Article 48(2) that issuers of electronic money *tokens* shall be deemed to be electronic money *issuers*, the licensing regime for payment institutions, as they will replace the electronic money institutions, should also apply to issuers of electronic money tokens. The prudential regime applicable to payment institutions should be based on an authorisation, subject to a set of strict and comprehensive conditions, for legal persons offering payment services when not taking deposits. The prudential regime applicable to payment institutions should ensure that the same conditions apply Union-wide to the activity of providing payment services.

³² Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.06.2023, p. 40).

Or. en

Justification

Technical clarification on Electronic Money, clarifying the terms used for electronic money in terms of the instrument (token) and clarifying that it applies to the issuer

Amendment 2

Proposal for a directive Recital 10

Text proposed by the Commission

(10) Given the emergence of new types of payment instruments and the uncertainties prevailing in the market as to their legal qualification, the definition of a ‘payment instrument’ should be further specified as to what constitutes or does not constitute a payment instrument, bearing in mind the principle of technology neutrality.

Amendment

(10) Given the emergence of new types of payment instruments, ***the evolving technological solutions that provide for such instruments***, and the uncertainties prevailing in the market as to their legal qualification, the definition of a ‘payment instrument’ should be further specified as to what constitutes or does not constitute a payment instrument, bearing in mind the principle of technology neutrality.

Or. en

Amendment 3

Proposal for a directive Recital 18

Text proposed by the Commission

(18) The EBA Peer Review on authorisation under Directive (EU) 2015/2366 published in January 2023³⁵ concluded that deficiencies in the authorisation process have led to a situation where applicants are subject to different supervisory expectations as regards the requirements for authorisation as a payment institution or electronic money institution across the Union, and that sometimes the process of granting an authorisation may take an exceedingly long time. To ensure a level playing field and a harmonised process for the granting of an authorisation to undertakings applying for a payment institution license, it is appropriate to impose to competent authorities a time limit of **3 months** for the authorisation process to be concluded, after the receipt of all the information required for the decision.

Amendment

(18) The EBA Peer Review on authorisation under Directive (EU) 2015/2366 published in January 2023³⁵ concluded that deficiencies in the authorisation process have led to a situation where applicants are subject to different supervisory expectations as regards the requirements for authorisation as a payment institution or electronic money institution across the Union, and that sometimes the process of granting an authorisation may take an exceedingly long time. To ensure a level playing field and a harmonised process for the granting of an authorisation to undertakings applying for a payment institution license, it is appropriate to impose to competent authorities a time limit of **a maximum of 1 month** for the authorisation process to be concluded, after the receipt of all the information required for the decision.

³⁵ European Banking Authority,

³⁵ European Banking Authority,

Amendment 4

Proposal for a directive

Recital 31

Text proposed by the Commission

(31) Considering the difficulties experienced by payment institutions in opening and maintaining payment accounts with credit institutions, it is necessary to provide for an additional option for the safeguarding of users' funds, namely the possibility to hold those funds at a central bank. That possibility should however be without prejudice to the possibility for a central bank to not offer that option, based on its organic law. Taking into account the need to protect users' funds and to avoid that such funds are used for other purposes than to provide payment services or electronic money services, it is appropriate to require that payment service user funds are kept separate from the payment institution's own funds. To ensure a level playing field between payment institutions providing payment services and payment institutions issuing electronic money and providing electronic money services, it is appropriate to align as much as possible the regimes applicable to the safeguarding of users' funds, whilst preserving the specificities of electronic money. Concentration risk is a significant risk faced by payment institutions, in particular where funds are safeguarded in a single credit institution. It is therefore important to ensure that payment institutions avoid concentration risk to the extent possible. For that reason, the EBA should be instructed to develop regulatory technical standards on risk avoidance in the

Amendment

(31) Considering the difficulties experienced by payment institutions in opening and maintaining payment accounts with credit institutions, it is necessary to provide for an additional option for the safeguarding of users' funds, namely the possibility to hold those funds at a central bank. That possibility should however be without prejudice to the possibility for a central bank to not offer that option, based on its organic law. ***Any rejection of that option by a central bank should be duly justified to the relevant payment institution.*** Taking into account the need to protect users' funds and to avoid that such funds are used for other purposes than to provide payment services or electronic money services, it is appropriate to require that payment service user funds are kept separate from the payment institution's own funds. To ensure a level playing field between payment institutions providing payment services and payment institutions issuing electronic money and providing electronic money services, it is appropriate to align as much as possible the regimes applicable to the safeguarding of users' funds, whilst preserving the specificities of electronic money. Concentration risk is a significant risk faced by payment institutions, in particular where funds are safeguarded in a single credit institution. It is therefore important to ensure that payment institutions avoid concentration risk to the extent possible. For that reason,

safeguarding of customer funds.

the EBA should be instructed to develop regulatory technical standards on risk avoidance in the safeguarding of customer funds.

Or. en

Amendment 5

Proposal for a directive Recital 31 a (new)

Text proposed by the Commission

Amendment

(31a) It might be the case that a credit institution refuses to open and maintain an account for a payment institution. That would be detrimental to the objective of diversification of risk for payment institutions. Therefore, where a credit institution refuses to open, or decides to terminate, a payment institution's account, it should be required to provide that payment institution with a duly justified response and reasoning.

Or. en

Amendment 6

Proposal for a directive Recital 35

Text proposed by the Commission

Amendment

(35) Payment institutions should be allowed to grant credit, but this activity should be subjected to some strict conditions. It is therefore appropriate to regulate the granting of credit by payment institutions in the form of credit lines and the issuance of credit cards, insofar as those services facilitate payment services ***and if credit is granted for a period not exceeding 12 months, including on a***

(35) Payment institutions should be allowed to grant credit, but this activity should be subjected to some strict conditions. It is therefore appropriate to regulate the granting of credit by payment institutions in the form of credit lines and the issuance of credit cards, insofar as those services facilitate payment services. It is appropriate to allow payment institutions to grant short-term credit with

revolving basis. It is appropriate to allow payment institutions to grant short-term credit with regard to their cross-border activities, on the condition that it is refinanced using mainly the payment institution's own funds, as well as other funds from the capital markets, and not the funds held on behalf of clients for payment services. That possibility should however be without prejudice to Directive 2008/48/EC of the European Parliament and of the Council³⁹ or other relevant Union law or national measures regarding conditions for granting credit to consumers. Given their principally lending nature, 'Buy Now Pay Later' services should not constitute a payment service. Those services are covered by the new Directive on consumer credits replacing Directive 2008/48/EC.

³⁹ Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

regard to their cross-border activities, on the condition that it is refinanced using mainly the payment institution's own funds, as well as other funds from the capital markets, and not the funds held on behalf of clients for payment services. That possibility should however be without prejudice to Directive 2008/48/EC of the European Parliament and of the Council³⁹ or other relevant Union law or national measures regarding conditions for granting credit to consumers. Given their principally lending nature, 'Buy Now Pay Later' services should not constitute a payment service. Those services are covered by the new Directive on consumer credits replacing Directive 2008/48/EC.

³⁹ Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

Or. en

Amendment 7

Proposal for a directive Recital 38

Text proposed by the Commission

(38) To avoid abuses of the right of establishment and to avoid cases where a payment institution establishes itself in a Member State without planning to perform any activity in that Member State, it is appropriate to require that a payment institution requesting authorisation in a Member State provides at least part of its payment services business in that Member State. The obligation for an institution to

Amendment

(38) To avoid abuses of the right of establishment and to avoid cases where a payment institution establishes itself in a Member State without planning to perform any activity in that Member State, it is appropriate to require that a payment institution requesting authorisation in a Member State provides at least part of its payment services business in that Member State. The obligation for an institution to

carry out a part of its business in its home country, which was already imposed by Directive (EU) 2015/2366, has been interpreted very differently, with some home countries imposing that most of the business be carried out in their country. A ‘part’ should mean less than the majority of the institution’s business in order to preserve the “effet utile” of the payment institution’s freedom to provide cross-border services.

carry out a part of its business in its home country, which was already imposed by Directive (EU) 2015/2366, has been interpreted very differently, with some home countries imposing that most of the business be carried out in their country. A ‘part’ should ***be interpreted to*** mean less than the majority of the institution’s business in order to preserve the “effet utile” of the payment institution’s freedom to provide cross-border services.

Or. en

Amendment 8

Proposal for a directive

Recital 49

Text proposed by the Commission

(49) To enable competent authorities to properly supervise payment institutions, it is appropriate to grant those authorities investigatory and supervisory powers and the possibility to impose administrative penalties and measures necessary to perform their tasks. For the same reason, it is appropriate to grant competent authorities the power to request information, conduct on-site inspections and issue recommendations, guidelines and binding administrative decisions. Member States should lay down national provisions with respect to the suspension or withdrawal of the authorisation of a payment institution. Member States should empower their competent authorities to impose administrative sanctions and measures aimed specifically at ending infringements of provisions concerning the supervision or pursuit of the payment service business.

Amendment

(49) To enable competent authorities to properly supervise payment institutions, it is appropriate to grant those authorities investigatory and supervisory powers and the possibility to impose administrative penalties and measures necessary to perform their tasks. For the same reason, it is appropriate to grant competent authorities the power to request information, conduct on-site inspections and issue recommendations, guidelines and binding administrative decisions. Member States should lay down national provisions, ***harmonised under the provisions set out in this Directive***, with respect to the suspension or withdrawal of the authorisation of a payment institution. Member States should empower their competent authorities to impose administrative sanctions and measures aimed specifically at ending infringements of provisions concerning the supervision or pursuit of the payment service business.

Or. en

Amendment 9

Proposal for a directive Recital 50

Text proposed by the Commission

(50) Due to the broad range of possible business models in the payments industry, it is appropriate to allow for a certain degree of supervisory discretion to ensure that the same risks are treated in the same way.

Amendment

(50) Due to the broad range of possible business models in the payments industry, it is appropriate to allow for a certain degree of supervisory discretion to ensure that the same risks are treated in the same way ***across all Member States***.

Or. en

Amendment 10

Proposal for a directive Recital 57

Text proposed by the Commission

(57) Member States should be able to require payment institutions operating on their territory, whose head office is situated in another Member State, to report to them periodically on their activities in their territory for information or statistical purposes. Where those payment institutions operate pursuant to the right of establishment, the competent authorities of the host Member State(s) should be able to require that information also to be used for monitoring compliance with Regulation XXX [PSR]. The same should apply where there is no establishment in the host Member State(s), and the payment institution is providing services in the host Member State(s) on the basis of the free provision of services. To facilitate the supervision of networks of agents, distributors or branches by competent authorities, it is appropriate that Member States where agents, distributors or

Amendment

(57) Member States should be able to require payment institutions operating on their territory, whose head office is situated in another Member State, to report to them periodically on their activities in their territory for information or statistical purposes. Where those payment institutions operate pursuant to the right of establishment, the competent authorities of the host Member State(s) should be able to require that information also to be used for monitoring compliance with Regulation XXX [PSR]. The same should apply where there is no establishment in the host Member State(s), and the payment institution is providing services in the host Member State(s) on the basis of the free provision of services. To facilitate the supervision of networks of agents, distributors or branches by competent authorities, it is appropriate that Member States where agents, distributors or

branches operate are able to require the parent payment institution to appoint a central contact point in their territory. The EBA should develop regulatory standards setting out the criteria to determine when the appointment of a central contact point is appropriate and what its functions should be. While doing so, the EBA should take into account the experience gained in the application of Commission Delegated Regulations (EU) 2021/1722⁴⁴ and 2020/1423⁴⁵. The requirement to appoint a central contact point should be proportionate to achieving the aim of adequate communication and information reporting on compliance with the relevant provisions in Regulation XXX [PSR] in the host Member State.

⁴⁴ Commission Delegated Regulation (EU) 2021/1722 of 18 June 2021 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards specifying the framework for cooperation and the exchange of information between competent authorities of the home and the host Member States in the context of supervision of payment institutions and electronic money institutions exercising cross-border provision of payment services (OJ L 343, 28.9.2021, p. 1).

⁴⁵ Commission Delegated Regulation (EU) 2020/1423 of 14 March 2019 on supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards on the criteria for appointing central contact points within the field of payment services and on the functions of those central contact points (OJ L 328, 9.10.2020, p. 1).

branches operate are able to require the parent payment institution to appoint a central contact point in their territory. ***Where a Member State does impose such a requirement, each payment institution should appoint only one central contact point per Member State.*** The EBA should develop regulatory standards setting out the criteria to determine when the appointment of a central contact point is appropriate and what its functions should be. While doing so, the EBA should take into account the experience gained in the application of Commission Delegated Regulations (EU) 2021/1722⁴⁴ and 2020/1423⁴⁵. The requirement to appoint a central contact point should be proportionate to achieving the aim of adequate communication and information reporting on compliance with the relevant provisions in Regulation XXX [PSR] in the host Member State.

⁴⁴ Commission Delegated Regulation (EU) 2021/1722 of 18 June 2021 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards specifying the framework for cooperation and the exchange of information between competent authorities of the home and the host Member States in the context of supervision of payment institutions and electronic money institutions exercising cross-border provision of payment services (OJ L 343, 28.9.2021, p. 1).

⁴⁵ Commission Delegated Regulation (EU) 2020/1423 of 14 March 2019 on supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards on the criteria for appointing central contact points within the field of payment services and on the functions of those central contact points (OJ L 328, 9.10.2020, p. 1).

Or. en

Amendment 11

Proposal for a directive Recital 62

Text proposed by the Commission

(62) To further improve access to cash, which is a priority of the Commission, retailers should be allowed to offer, in physical shops, cash provision services even in the absence of a purchase by a customer, without having to obtain a payment service provider authorisation, registration or being an agent of a payment institution. Those cash provision services should, however, be subject to the obligation to disclose fees charged to the customer, if any. These services should be provided by retailers on a voluntary basis and should depend on the availability of cash by the retailer. To prevent unfair competition between ATM deployers not servicing payment accounts and retailers offering cash withdrawals without a purchase, and to ensure that shops do not rapidly run out of cash, it is appropriate to impose a cap of EUR **50** per transaction.

Amendment

(62) To further improve access to cash, which is a priority of the Commission, retailers should be allowed to offer, in physical shops, cash provision services even in the absence of a purchase by a customer, without having to obtain a payment service provider authorisation, registration or being an agent of a payment institution. Those cash provision services should, however, be subject to the obligation to disclose fees charged to the customer, if any. These services should be provided by retailers on a voluntary basis and should depend on the availability of cash by the retailer. To prevent unfair competition between ATM deployers not servicing payment accounts and retailers offering cash withdrawals without a purchase, and to ensure that shops do not rapidly run out of cash, it is appropriate to impose a cap of EUR **100** per transaction.

Or. en

Amendment 12

Proposal for a directive Recital 66 a (new)

Text proposed by the Commission

Amendment

(66a) The EBA should coordinate a collaboration forum, at least once per year, between national competent authorities in order to facilitate further harmonisation as regards the transposition, implementation and enforcement of the provisions laid down

Amendment 13

Proposal for a directive Recital 71

Text proposed by the Commission

(71) Payment institutions are not included in the list of entities which fall under the definition of “institutions” in Article 2, point (b) of Directive 98/26/EC of the European Parliament and of the Council⁴⁷. Consequently, payment institutions are effectively prevented from participating in payment systems designated by Member States pursuant to that Directive. That lack of access to certain key payment systems can impede payment institutions in providing a full range of payment services to their clients effectively and competitively. It is therefore justified to include payment institutions under the definition of ‘institutions’ in that Directive, but only for the purpose of payment systems, and not for securities settlement systems. Payment institutions should meet the requirements and respect the rules of payment systems to be allowed to participate in those systems. Regulation XXX [PSR] lays down requirements on operators of payment systems regarding the admission of new applicants for participation, including as regards an assessment of relevant risks. Given the importance of restoring as soon as possible the level playing field between banks and ‘non-banks’ and considering the impact that the current situation causes to competition in payment markets, it is necessary to grant Member States a shorter transposition and application deadline for this new provision in Directive 98/26/EC than for the other provisions of the present

Amendment

(71) Payment institutions are not included in the list of entities which fall under the definition of “institutions” in Article 2, point (b) of Directive 98/26/EC of the European Parliament and of the Council⁴⁷. Consequently, payment institutions are effectively prevented from participating in payment systems designated by Member States pursuant to that Directive. That lack of access to certain key payment systems can impede payment institutions in providing a full range of payment services to their clients effectively and competitively. It is therefore justified to include payment institutions under the definition of ‘institutions’ in that Directive, but only for the purpose of payment systems, and not for securities settlement systems. Payment institutions should meet the requirements and respect the rules of payment systems to be allowed to participate in those systems. Regulation XXX [PSR] lays down requirements on operators of payment systems regarding the admission of new applicants for participation, including as regards an assessment of relevant risks. Given the importance of restoring as soon as possible the level playing field between banks and ‘non-banks’ and considering the impact that the current situation causes to competition in payment markets, it is necessary to grant Member States a shorter transposition and application deadline for this new provision in Directive 98/26/EC than for the other provisions of the present

Directive. It is therefore appropriate to require Member States to transpose that new provision into their national law within **6** months of the entry into force of this Directive, rather than the 18 months that applies for the other provisions of this Directive.

⁴⁷ Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45).

Directive. It is therefore appropriate to require Member States to transpose that new provision into their national law within **3** months of the entry into force of this Directive, rather than the 18 months that applies for the other provisions of this Directive.

⁴⁷ Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45).

Or. en

Amendment 14

Proposal for a directive Recital 74

Text proposed by the Commission

(74) In keeping with the principles of better regulation, this Directive should be reviewed for its effectiveness and efficiency in achieving its objectives, as laid out in the accompanying impact assessment. The review should take place a sufficient time after the entry into force, to base the review on appropriate evidence. Five years is considered to be an appropriate period. While the review should consider the entire Directive, certain topics should be singled out for particular attention, namely the scope and the safeguarding of payment institutions funds which may be affected by the rules proposed by the Commission on 18 April 2023⁵⁰ which, when adopted, would amend Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes. Regarding the scope of this Directive, however, it is appropriate for a review to take place earlier, three years after its entry

Amendment

(74) In keeping with the principles of better regulation, this Directive should be reviewed for its effectiveness and efficiency in achieving its objectives, as laid out in the accompanying impact assessment. The review should take place a sufficient time after the entry into force, to base the review on appropriate evidence. Five years is considered to be an appropriate period. While the review should consider the entire Directive, certain topics should be singled out for particular attention, namely the scope and the safeguarding of payment institutions funds which may be affected by the rules proposed by the Commission on 18 April 2023⁵⁰ which, when adopted, would amend Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes. Regarding the scope of this Directive, however, it is appropriate for a review to take place earlier, three years after its entry

into force, given the importance attached to this subject in Regulation (EU) 2022/2554. That review of scope should consider both the possible extension of the list of covered payment services to include services such as those performed by payment systems and payment schemes, and the possible inclusion in the scope of some technical services currently excluded.

⁵⁰ COM(2023)228 final.

into force, given the importance attached to this subject in Regulation (EU) 2022/2554. That review of scope should consider both the possible extension of the list of covered payment services to include services such as those performed by payment systems and payment schemes, and the possible inclusion in the scope of some technical services currently excluded, ***including provisions related to account information service providers having regard to the relevant provisions contained in Regulation (EU) XXX (FIDA)***^{50a}.

⁵⁰ COM(2023)228 final.

^{50a} ***COM(2023)360 final.***

Or. en

Amendment 15

Proposal for a directive Recital 77

Text proposed by the Commission

(77) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on ***[XX XX 2023]***,

Amendment

(77) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on ***22 August 2023***,

Or. en

Amendment 16

Proposal for a directive Article 2 – paragraph 1 – point 24

Text proposed by the Commission

(24) ‘technical service provider’ means a provider of services which, ***although not being payment services, are necessary to***

Amendment

(24) ‘technical service provider’ means a provider of services which ***supports*** the provision of payment services, without

support the provision of payment services, without **the provider of technical services** entering at any time into possession of the funds to be transferred;

entering at any time into possession of the funds to be transferred;

Or. en

Justification

Alignment with Definition in PSR

Amendment 17

**Proposal for a directive
Article 2 – paragraph 1 – point 27**

Text proposed by the Commission

(27) ‘Information and technology (ICT) services’ means ICT Services as defined in Article 3, point 21, of Regulation (EU) 2022/2554;

Amendment

(27) ‘Information and **communication** technology (ICT) services’ means ICT Services as defined in Article 3, point 21, of Regulation (EU) 2022/2554;

Or. en

Justification

Technical amendment

Amendment 18

**Proposal for a directive
Article 2 – paragraph 1 – point 28**

Text proposed by the Commission

(28) ‘agent’ means a natural or legal person who acts on behalf of a payment institution in providing payment services;

Amendment

(28) ‘agent’ means a natural or legal person who acts on behalf of a payment institution in providing payment services, **with the exception of electronic money services**;

Or. en

Amendment 19

Proposal for a directive

Article 2 – paragraph 1 – point 38

Text proposed by the Commission

(38) ‘ATM deployer’ means operators of automated teller machines who do not *service* payment accounts.

Amendment

(38) ‘ATM deployer’ means operators of automated teller machines who do not *hold* payment accounts.

Or. en

Amendment 20

Proposal for a directive

Article 3 – paragraph 2

Text proposed by the Commission

2. The authorisation referred to in *the first subparagraph* shall only be required for those payment services that the applicant payment institutions actually intend to provide.

Amendment

2. The authorisation referred to in *paragraph 1* shall only be required for those payment services that the applicant payment institutions actually intend to provide.

Or. en

Amendment 21

Proposal for a directive

Article 3 – paragraph 3 – subparagraph 1 – point j – point iii

Text proposed by the Commission

(iii) for applicant institutions wishing to enter information sharing arrangements with other payment service providers for the exchange of payment fraud related data as referred to in Article **83(5)** of Regulation XXX [PSR], the conclusions of the data protection impact assessment referred to in Article **83(5)** of Regulation XXX [PSR] and pursuant to Article 35 of Regulation (EU) 2016/679 and, where applicable, the

Amendment

(iii) for applicant institutions wishing to enter information sharing arrangements with other payment service providers for the exchange of payment fraud related data as referred to in Article **83(3)** of Regulation XXX [PSR], the conclusions of the data protection impact assessment referred to in Article **83(4)** of Regulation XXX [PSR] and pursuant to Article 35 of Regulation (EU) 2016/679 and, where applicable, the

outcome of the prior consultation of the competent supervisory authority pursuant to Article 36 of that Regulation;

outcome of the prior consultation of the competent supervisory authority pursuant to Article 36 of that Regulation;

Or. en

Justification

Technical reference correction

Amendment 22

**Proposal for a directive
Article 3 – paragraph 4 – introductory part**

Text proposed by the Commission

4. Member States shall require undertakings that apply for authorisation to provide payment services as referred to in Annex I, point (6), as a condition of their authorisation, to hold a professional indemnity insurance, covering the territories in which they offer services, or some other comparable guarantee against liability to ensure that:

Amendment

4. Member States shall require undertakings that apply for authorisation to provide payment services as referred to in Annex I, point (6), as a condition of their authorisation, to hold a ***minimum initial capital of EUR 50 000, or a*** professional indemnity insurance covering the territories in which they offer services, or some other comparable guarantee against liability to ensure that:

Or. en

Amendment 23

**Proposal for a directive
Article 5 – paragraph 1 – point d**

Text proposed by the Commission

(d) where the payment institution provides electronic money services, its capital shall at no time be less than EUR ***400 000***.

Amendment

(d) where the payment institution provides electronic money services, its capital shall at no time be less than EUR ***350 000***.

Or. en

Amendment 24

Proposal for a directive

Article 10 – paragraph 4 – point b

Text proposed by the Commission

Amendment

(b) notwithstanding national rules, if any, on providing credit by issuers of credit cards, the credit granted in connection with a payment and executed in accordance with Article 13(6) and Article 30 is to be repaid within a short period, which shall in no case exceed 12 months; **deleted**

Or. en

Amendment 25

Proposal for a directive

Article 17 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) payment institutions authorised in accordance with Article 13 and their agents *and their agents* or distributors, if any;

(a) payment institutions authorised in accordance with Article 13 and their agents or distributors, if any;

Or. en

Justification

Technical amendment

Amendment 26

Proposal for a directive

Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Payment institutions that intend to provide payment services through agents shall communicate to the competent authorities in their home Member State all

1. Payment institutions that intend to provide payment services, ***other than electronic money services***, through agents shall communicate to the competent

of the following information:

authorities in their home Member State all
of the following information:

Or. en

Justification

Aligning provisions on use of agents - Electronic money services use distributors only, not agents. Therefore this needs to be explicit in the text

Amendment 27

**Proposal for a directive
Article 19 – paragraph 2**

Text proposed by the Commission

2. Member States shall ensure that the competent authorities of the home Member State communicate to the payment institution within **2 months** of receipt of the information referred to in paragraph 1 whether the agent has been entered in the register referred to in Article 17. Upon entry in the register, the agent may commence providing payment services.

Amendment

2. Member States shall ensure that the competent authorities of the home Member State communicate to the payment institution within **1 month** of receipt of the information referred to in paragraph 1 whether the agent has been entered in the register referred to in Article 17. Upon entry in the register, the agent may commence providing payment services.

Or. en

Amendment 28

**Proposal for a directive
Article 30 – paragraph 1 – subparagraph 2**

Text proposed by the Commission

Member States shall ensure that payment institutions that intend to outsource operational functions of the payment or electronic money services to other entities in the host Member State, inform the competent authorities of their home Member State thereof.

Amendment

Member States shall ensure that payment institutions that intend to outsource operational functions of the payment or electronic money services to other entities in the host Member State, **immediately** inform the competent authorities of their home Member State thereof.

Or. en

Amendment 29

Proposal for a directive Article 30 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Within **1 month** of receipt of all of the information referred to in paragraph 1, the competent authorities of the home Member State shall send that information to the competent authorities of the host Member State. Where the services are provided via a third Member State, the Member State to be notified shall be the one where the services are provided to payment service users.

Amendment

Within **10 working days** of receipt of all of the information referred to in paragraph 1, the competent authorities of the home Member State shall send that information to the competent authorities of the host Member State. Where the services are provided via a third Member State, the Member State to be notified shall be the one where the services are provided to payment service users.

Or. en

Amendment 30

Proposal for a directive Article 30 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Within **1 month** of receipt of the information from the competent authorities of the home Member State, the competent authorities of the host Member State shall assess that information and provide the competent authorities of the home Member State with relevant information about the intended provision of payment or electronic money services by the relevant payment institution in the exercise of the freedom of establishment or the freedom to provide services. The competent authorities of the host Member State shall inform the competent authorities of the home Member State of any grounds for concern in connection with the intended engagement of an agent, distributor or establishment of a branch with regard to money laundering

Amendment

Within **10 working days** of receipt of the information from the competent authorities of the home Member State, the competent authorities of the host Member State shall assess that information and provide the competent authorities of the home Member State with relevant information about the intended provision of payment or electronic money services by the relevant payment institution in the exercise of the freedom of establishment or the freedom to provide services. The competent authorities of the host Member State shall inform the competent authorities of the home Member State of any grounds for concern in connection with the intended engagement of an agent, distributor or establishment of a branch with regard to money laundering

or terrorist financing within the meaning of Directive (EU) 2015/849. Before doing so, the competent authority of the host Member State shall liaise with the relevant competent authorities as referred to in Article 7(2) of Directive (EU) 2015/849 to establish whether such grounds exist.

or terrorist financing within the meaning of Directive (EU) 2015/849. Before doing so, the competent authority of the host Member State shall liaise with the relevant competent authorities as referred to in Article 7(2) of Directive (EU) 2015/849 to establish whether such grounds exist.

Or. en

Amendment 31

Proposal for a directive

Article 30 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Within **3 months** of receipt of the information referred to in paragraph 1, the competent authorities of the home Member State shall communicate their decision to the competent authorities of the host Member State and to the payment institution.

Amendment

Within **a maximum of 25 working days** of receipt of the information referred to in paragraph 1, the competent authorities of the home Member State shall communicate their decision to the competent authorities of the host Member State and to the payment institution.

Or. en

Amendment 32

Proposal for a directive

Article 31 – paragraph 4

Text proposed by the Commission

4. Member States may require payment institutions operating on their territory through agents, the head office of which is situated in another Member State, to appoint a central contact point in their territory to ensure adequate communication and information reporting in compliance with Titles II and III of Regulation XXX [PSR], and to facilitate supervision by competent authorities of home Member State and host Member States, including by

Amendment

4. Member States may require payment institutions operating on their territory through agents, the head office of which is situated in another Member State, to appoint a central contact point in their territory to ensure adequate communication and information reporting in compliance with Titles II and III of Regulation XXX [PSR], and to facilitate supervision by competent authorities of home Member State and host Member States, including by

providing competent authorities with documents and information on request.

providing competent authorities with documents and information on request.
Where a Member State imposes such a requirement, each payment institution shall appoint only one central contact point in that Member State.

Or. en

Amendment 33

Proposal for a directive Article 36 – paragraph 1

Text proposed by the Commission

1. Natural or legal persons providing only the payment service referred to in Annex I, point (7), shall not be subject to authorisation but shall register with the competent authority of the home Member State before taking up activity.

Amendment

1. ***By way of derogation from Article 3***, natural or legal persons providing only the payment service referred to in Annex I, point (7), shall not be subject to authorisation but shall register with the competent authority of the home Member State before taking up activity.

Or. en

Justification

Text clarification

Amendment 34

Proposal for a directive Article 36 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

As an alternative to the requirement set out in the first subparagraph of this paragraph of holding a professional indemnity insurance, the undertakings referred to in paragraph 1 may choose to hold an initial capital of EUR 50 000, which can be replaced by a professional indemnity insurance after those

undertakings have commenced their activity as a payment institution.

Or. en

Amendment 35

Proposal for a directive Article 36 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Amendment

As an alternative to holding a professional indemnity insurance as required in paragraphs 3 and 4, the undertakings as referred to in paragraph 1 shall hold an initial capital of EUR 50 000, which can be replaced by a professional indemnity insurance after those undertakings have commenced their activity as a payment institution, without undue delay.

deleted

Or. en

Amendment 36

Proposal for a directive Article 37 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the amount of cash provided does not exceed EUR **50** per withdrawal.

(b) the amount of cash provided does not exceed EUR **100** per withdrawal.

Or. en

Amendment 37

Proposal for a directive Article 38 – paragraph 1

Text proposed by the Commission

1. Natural or legal persons providing cash withdrawal services as referred to Annex I, point 1, and who do not service payment accounts and do not provide other payment services referred to in Annex I, shall not be subject to authorisation but shall register with a competent authority of the home Member State before taking up activity.

Amendment

1. ***By way of derogation from Article 3***, natural or legal persons providing cash withdrawal services as referred to Annex I, point 1, and who do not service payment accounts and do not provide other payment services referred to in Annex I, shall not be subject to authorisation but shall register with a competent authority of the home Member State before taking up activity.

Or. en

Amendment 38

**Proposal for a directive
Article 38 – paragraph 4 a (new)**

Text proposed by the Commission

Amendment

4a. The natural or legal persons providing the services referred to in paragraph 1 of this Article shall comply with the requirements on transparency of fees and charges laid down in Article 7 of Regulation XXX (PSR), and in particular shall ensure that such fees and charges are displayed at the initiation of the provision of the services.

Or. en

Amendment 39

**Proposal for a directive
Article 39 – paragraph 1 – subparagraph 2**

Text proposed by the Commission

Amendment

On the basis of that notification, the competent authority shall take a duly motivated decision on the basis of ***criteria*** referred to in Article ***2(1)***, point (j), of

On the basis of that notification, the competent authority shall take a duly motivated decision on the basis of ***the conditions*** referred to in Article ***2(2)***, point

Regulation XXX [PSR] where the activity does not qualify as a limited network, and inform the service provider thereof.

(j), **points (i) and (ii)**, of Regulation XXX [PSR] where the activity does not qualify as a limited network, and inform the service provider thereof.

Or. en

Amendment 40

Proposal for a directive Article 39 – paragraph 2

Text proposed by the Commission

Amendment

2. **Member States shall require service providers that carry out an activity as referred to in Article 2(1), point (j), of Regulation XXX [PSR] to send a notification to competent authorities and provide competent authorities an annual audit opinion, testifying that the activity complies with the limits set out Article 2(1), point (j), of Regulation XXX [PSR].**

deleted

Or. en

Amendment 41

Proposal for a directive Article 39 – paragraph 4

Text proposed by the Commission

Amendment

4. The description of the **activity** notified under **paragraphs 2 and 3** shall be made publicly available in the registers referred to in Articles 17 and 18.

4. The description of the **services** notified under **paragraph 3** shall be made publicly available in the registers referred to in Articles 17 and 18.

Or. en

Amendment 42

Proposal for a directive

Article 43 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) *the appropriateness of the scope of this Directive, in particular regarding the possibility of extending it to certain services, including the operation of payment systems and the provision of technical services including processing or the operating of digital wallets, which are not covered in the scope;* **deleted**

Or. en

Justification

There would be two reviews on the scope of the directive (Article 43(1) and Article 43(2) - only necessary for one review of scope, so this is now reflected

Amendment 43

Proposal for a directive

Article 43 – paragraph 2

Text proposed by the Commission

Amendment

2. The Commission shall, by [OP please insert the date= three years after the date of application of the PSR] submit to the European Parliament, the Council, the ECB and the European Economic and Social Committee, a report on the scope of this Directive, with regard in particular to payment systems, payment schemes and technical *service* providers. Where appropriate, the Commission shall submit a legislative proposal together with that report.

2. The Commission shall, by [OP please insert the date= three years after the date of application of the PSR] submit to the European Parliament, the Council, the ECB and the European Economic and Social Committee, a report on the scope of this Directive, with regard in particular to payment systems, payment schemes and ***the provision of technical services, including the processing or operating of digital wallets, which are not included in the scope. That report shall, in particular, consider whether there is a need to revise or merge provisions related to account information services providers, having regard to the provisions laid down in Regulation (EU) XXX (FIDA).*** Where

appropriate, the Commission shall submit a legislative proposal together with that report.

Or. en

Justification

Alignment with extra elements deleted under Article 43(1), subparagraph 1, point a

Amendment 44

Proposal for a directive

Article 44 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall allow payment institutions that have been authorised pursuant to Article 11 of Directive (EU) 2015/2366 by [OP please insert the date = 18 months after the date of entry into force of this Directive] to continue to provide and execute the payment services for which they have been authorised, without having to having to seek authorisation in accordance with Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive until [OP please insert the date = 24 months after the date of entry into force of this Directive].

Amendment

Member States shall allow payment institutions that have been authorised pursuant to Article 11 of Directive (EU) 2015/2366 by [OP please insert the date = 18 months after the date of entry into force of this Directive] to continue to provide and execute the payment services for which they have been authorised, without having to having to seek **a new** authorisation in accordance with Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive until [OP please insert the date = 24 months after the date of entry into force of this Directive].

Or. en

Amendment 45

Proposal for a directive

Article 44 – paragraph 1 – subparagraph 2 – introductory part

Text proposed by the Commission

Member States shall require such payment institutions as referred to in the first subparagraph to submit to the competent

Amendment

Member States shall **not** require such payment institutions as referred to in the first subparagraph to submit to the

authorities **all** information that enables those competent authorities to assess, by [OP please insert the date = 24 months after the date of entry into force of this Directive], either of the following:

competent authorities **any supplementary information other than** information that enables those competent authorities to assess, by [OP please insert the date = 24 months after the date of entry into force of this Directive], either of the following:

Or. en

Justification

This is to clarify that only the supplementary information added under this Directive and PSR for the purposes of re-authorisation needs to be submitted to competent authorities, while any information already submitted in relation to the original authorisation of PSD2 does not need to be re-submitted to competent authorities.

Amendment 46

Proposal for a directive

Article 44 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Payment institutions as referred to in the first subparagraph which upon verification by the competent authorities comply with Title II shall **be** authorised as payment institutions pursuant to Article 13 of this Directive and shall be entered in the registers referred to in Articles 17 and 18. Where those payment institutions do not comply with the requirements laid down in Title II by [OP please insert the date = 24 months after the date of entry into force of this Directive], they shall be **prohibited** from providing payment services.

Amendment

Payment institutions as referred to in the first subparagraph which upon verification by the competent authorities comply with Title II shall **remain** authorised as payment institutions pursuant to Article 13 of this Directive and shall be entered in the registers referred to in Articles 17 and 18. Where those payment institutions do not comply with the requirements laid down in Title II by [OP please insert the date = 24 months after the date of entry into force of this Directive], they shall be **suspended** from providing payment services **until such time as they provide to the relevant competent authority the required supplementary information which ensures their compliance with Title II and that competent authority has verified the accuracy of that information and duly authorised the payment services provider.**

Or. en

Amendment 47

Proposal for a directive Article 44 – paragraph 2

Text proposed by the Commission

2. Member States *may* provide for payment institutions as referred to in paragraph 1 to be authorised automatically and be entered in the register referred to in Articles 17 if the competent authorities have evidence that those payment institutions already comply with Articles 3 and 13. The competent authorities shall inform the payment institutions concerned of such automatic authorisation before the authorisation is granted.

Amendment

2. Member States *shall* provide for payment institutions as referred to in paragraph 1 to be authorised automatically and *to* be entered in the register referred to in Articles 17 if the competent authorities have evidence that those payment institutions already comply with Articles 3 and 13. The competent authorities shall inform the payment institutions concerned of such automatic authorisation before the authorisation is granted.

Or. en

Amendment 48

Proposal for a directive Article 44 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Any person as referred to in the first subparagraph who has not, by [OP please insert the date = 18 months after the date of entry into force of this Directive], been authorised or exempted under this Directive shall be *prohibited* from providing payment services.

Amendment

Any person as referred to in the first subparagraph who has not, by [OP please insert the date = 18 months after the date of entry into force of this Directive], been authorised or exempted under this Directive shall be *suspended* from providing payment services *until such time as they provide to the relevant competent authority the required supplementary information and that competent authority has verified the accuracy of that information and duly authorised the payment services provider.*

Or. en

Amendment 49

Proposal for a directive Article 45 – paragraph 1

Text proposed by the Commission

1. Member States shall allow electronic money institutions which were defined in Article 2, point 1, of Directive 2009/110/EC that have taken up, before [OP please insert the date = 18 months after the date of entry into force of this Directive], activities in accordance with national law transposing Directive 2009/110/EC as electronic money institutions in the Member State in which their head office is located in accordance with national law transposing Directive 2009/110/EC, to continue those activities in that Member State or in another Member State without having to seek authorisation in accordance with Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive.

Amendment

1. Member States shall allow electronic money institutions which were defined in Article 2, point 1, of Directive 2009/110/EC that have taken up, before [OP please insert the date = 18 months after the date of entry into force of this Directive], activities in accordance with national law transposing Directive 2009/110/EC as electronic money institutions in the Member State in which their head office is located in accordance with national law transposing Directive 2009/110/EC, to continue those activities in that Member State or in another Member State without having to seek **a new** authorisation in accordance with Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive **until ... [24 months from the date of entry into force of this Directive]**.

Or. en

Amendment 50

Proposal for a directive Article 45 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall require the electronic money institutions referred in paragraph 1 to submit to the competent authorities **all** information that those competent authorities **need** to assess, by [OP please insert the date = 24 months after the date of entry into force of this Directive], whether those electronic money institutions comply with this Directive. Where such assessment

Amendment

Member States shall **not** require the electronic money institutions referred in paragraph 1 to submit to the competent authorities **any information other than** information that **enables** those competent authorities to assess by [OP please insert the date = 24 months after the date of entry into force of this Directive], whether those electronic money institutions comply with

reveals that those electronic money institutions do not comply with those requirements, the competent authorities shall decide which measures need to be taken to ensure such compliance, or to withdraw the authorisation.

this Directive. Where such assessment reveals that those electronic money institutions do not comply with those requirements, the competent authorities shall decide which measures need to be taken to ensure such compliance, or to withdraw the authorisation.

Or. en

Amendment 51

Proposal for a directive

Article 45 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Electronic money institutions as referred to in the first subparagraph which upon verification by the competent authorities comply with Title II shall be authorised as payment institutions pursuant to Article 13 of this Directive, shall be entered in the registers referred to in Articles 17 and 18. Where those electronic money institutions do not comply with the requirements laid down in Title II by [OP please insert the date = 24 months after the date of entry into force of this Directive], they shall be **prohibited** from providing electronic money services.

Amendment

Electronic money institutions as referred to in the first subparagraph which upon verification by the competent authorities comply with Title II shall be authorised as payment institutions pursuant to Article 13 of this Directive, shall be entered in the registers referred to in Articles 17 and 18. Where those electronic money institutions do not comply with the requirements laid down in Title II by [OP please insert the date = 24 months after the date of entry into force of this Directive], they shall be **suspended** from providing electronic money services **until such time as they provide to the relevant competent authority the required supplementary information and that competent authority has verified the accuracy of that information and duly authorised the electronic money institution.**

Or. en

Amendment 52

Proposal for a directive

Article 45 – paragraph 4

Text proposed by the Commission

4. Member States shall allow legal persons that have taken up, before [OP please insert the date = 18 months after the date of entry into force of this Directive], activities in accordance with national law transposing Article 9 of Directive 2009/110/EC, to continue those activities within the Member State concerned in accordance with that Directive until [OP please insert the date = 24 months after the date of entry into force of this Directive], without being required to seek authorisation under Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive. Electronic money institutions as referred to in paragraph 1 which, during that period, have been neither authorised nor exempted within the meaning of Article 34 of this Directive, shall be prohibited from providing electronic money services.

Amendment

4. Member States shall allow legal persons that have taken up, before [OP please insert the date = 18 months after the date of entry into force of this Directive], activities in accordance with national law transposing Article 9 of Directive 2009/110/EC, to continue those activities within the Member State concerned in accordance with that Directive until [OP please insert the date = 24 months after the date of entry into force of this Directive], without being required to seek **a new** authorisation under Article 3 of this Directive or to comply with the other provisions laid down or referred to in Title II of this Directive. Electronic money institutions as referred to in paragraph 1 which, during that period, have been neither authorised nor exempted within the meaning of Article 34 of this Directive, shall be prohibited from providing electronic money services.

Or. en

Amendment 53

**Proposal for a directive
Article 49 – paragraph 1**

Text proposed by the Commission

1. Member States shall adopt and publish, by [OP please insert the date= 18 months after entry into force of this Directive] at the latest, and within [OP please insert the date= 6 months after entry into force of this Directive] for Article 46, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

1. Member States shall adopt and publish, by [OP please insert the date= 18 months after entry into force of this Directive] at the latest, and within [OP please insert the date= 3 months after entry into force of this Directive] for Article 46, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Amendment 54

Proposal for a directive

Article 49 – paragraph 2 – subparagraph 1

Text proposed by the Commission

They shall apply those measures from [OP please insert the date= 18 months after entry into force of this Directive] and from [OP please insert the date= **6** months after entry into force of this Directive] for Article 46.

Amendment

They shall apply those measures from [OP please insert the date= 18 months after entry into force of this Directive] and from [OP please insert the date= **3** months after entry into force of this Directive] for Article 46.

Amendment 55

Proposal for a directive

Annex II – paragraph 1

Text proposed by the Commission

Issuance of electronic money, maintenance of payment accounts storing electronic money units and transfer of electronic money units.

Amendment

Issuance of electronic money **and electronic money tokens**, maintenance of payment accounts storing electronic money units and transfer of electronic money units.

EXPLANATORY STATEMENT

The first Payment Services Directive (PSD) was adopted in 2007 as the legal foundation for harmonising payment services across the European Union (EU). The primary objective of the PSD was to ensure efficient, convenient, and safe cross-border payments in all Member States. The PSD opened up the market for payment institutions and created competition, providing new choices to consumers. It also provided information and transparency for consumers.

The Payment Services Directive 2 (PSD2), adopted in 2015, continued in the same direction as PSD. The most significant point of PSD2 was strong customer authentication, which introduced two-step verification of individual payments. Furthermore, PSD2 provided more information for customers regarding budgeting, investing habits, or integrating services. In addition, banks were obliged to open their interfaces to external service providers to share data that were exclusive before the introduction of PSD2, leading to the current open banking landscape that we have in Europe.

The new Payment Services Package - Payment Services Directive 3 (PSD3) and Payment Services Regulation (PSR), - is a response to the development of the payment landscape in the EU, which has undergone significant changes. PSD3 is an opportunity to react to new technologies and trends and ensure that the EU payment ecosystem remains competitive. PSD3 is an evolution rather than an overhaul of payment services legislation. Together with the PSR, it should ensure that the EU payments ecosystem remains robust, trustworthy, and competitive. The Commission proposal is a strong starting point, and your Rapporteur advocates a resilient and future-proof approach to the benefit of consumers and the payments sector.

Your Rapporteur has identified a number of issues to address in the proposed PSD3 which aim to improve the text while not departing from the overall objectives of the PSD2. While the majority of the provisions contained in PSD2 have now been transferred to the PSR, the implementation and enforcement of various provisions will necessarily remain in the form of a Directive, meaning updating the Payment Services Directive to reflect these changes.

The provisions in this Directive aim at ensuring harmonised implementation and enforcement of the new payment services rules. To facilitate this, your Rapporteur has tabled a number of amendments on some specific areas of the proposal:

Authorisation and Grandfathering

Your Rapporteur aims to clarify the text around the question of authorisation of payment service providers (PSPs) following the entry into force of the new rules. Specifically, it is made clear that PSPs will *not* have to go through a full authorisation process if they are already authorised under PSD 2. They will simply have to provide their competent authority with the extra elements provided under the updated rules, following which the competent authority will take a decision on the continued authorisation of the PSP. An example of a new element to be sent to the competent authorities as part of the authorisation process is a winding-up plan, as provided for in Article 3(3), point (s) of this Directive.

In addition, it is appropriate to adapt the grandfathering provisions in Articles 44 and 45 (applicable to PSPs and electronic money institutions (EMIs) respectively) to clearly outline what is expected from these institutions during the transitional period and implementation period following the entry into force of this Directive.

Settlement Finality Directive

The Commission has proposed, in Article 46, an amendment to Directive 98/26/EC of 19 May 1998 (the Settlement Finality Directive), which would allow payment institutions to benefit from the same settlement systems as credit institutions and investment firms, bringing them onto a level playing field to offer products to their customers. Your Rapporteur is conscious that this amendment has also been proposed under the Instant Payments Regulation (IPR), which is currently being finalised. Until the finalisation of the legal text on IPR, your Rapporteur re-emphasises the Parliament's position on access to settlement systems for payment institutions by shortening to 3 months after the entry into force of this Directive the period for Member States to transpose the relevant changes to the Settlement Finality Directive. Access to settlement for payment institutions as soon as feasible is a priority for the Rapporteur.

Central Contact Points

Under PSD2, Member States were given the option to request that payment institutions established in another Member State set up central contact point(s) on the territory of the host Member State in order to report periodically to the host Member State information on the activities on their territory for information or statistical purposes. There have been divergent applications of this provision across the single market, and payment institutions have at times set up a number of different contact points according to the information to be provided, for example for the purposes of reporting on AML or other business activities.

In your Rapporteur's view, the implementation of this provision has led to difficulties for both Member States and payment institutions, and also is contrary to the right of freedom of establishment, the right to provide services and to the objectives of the single market. Therefore, your Rapporteur suggests as a first step streamlining the provisions to ensure that payment institutions send all relevant information to one contact point, which would then communicate the relevant information to the national competent authority of the Member State. In your Rapporteur's view, there remains an open question as to whether these contact points are necessary to achieve the aims of this Directive, or whether they in fact contribute to fragmentation in the single market.

Access to Cash

For your Rapporteur, as trends move away from cash payments overall in the EU towards card or digital wallet payments, it is more important than ever to ensure access to cash for consumers across the EU. This is particularly important in areas with limited access to bank branches, post offices or ATMs. In the Payment Services Package, the importance of access to cash is emphasised through various provisions. Your Rapporteur has reinforced these provisions in a number of ways, including by increasing the amount that retailers are permitted to give consumers in the form of cash-back, even in the absence of a purchase, from EUR 50 to EUR 100.

In addition, independent ATMs are an important addition to the provision of cash in the EU. However, consumers are often unaware that they may be charged fees for the use of such independent ATMs, with the fee transparency a concern. In his Draft Report, therefore, your Rapporteur has highlighted this issue, and will aim to ensure that the legislation provides for fees to be displayed by such ATM operators at the start of the process, i.e. as soon as a card is recognised by an ATM at the very beginning of the transaction.

Opening of Accounts by Payment Institutions

Under PSD2 and the Electronic Money Directive, we have seen that some payment institutions and EMIs have struggled to hold payment accounts with credit institutions due to the latter's refusal to open, and in some cases suddenly close, accounts from which the PSP or EMI could operate. Often these refusals or closures came without any justification. Therefore, your Rapporteur believes it is important, in the interest of avoiding unwarranted de-risking, to strengthen the requirements for credit institutions to clearly communicate the reasons behind the refusal to open or decision to close accounts held by payment institutions and EMIs.