

Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (Text with EEA relevance)

### TITLE III

## TRANSPARENCY OF CONDITIONS AND INFORMATION REQUIREMENTS FOR PAYMENT SERVICES

### CHAPTER 1

#### *General rules*

#### *Article 38*

#### **Scope**

1 This Title applies to single payment transactions, framework contracts and payment transactions covered by them. The parties may agree that it shall not apply in whole or in part when the payment service user is not a consumer.

2 Member States may apply the provisions in this Title to microenterprises in the same way as to consumers.

3 This Directive shall be without prejudice to Directive 2008/48/EC, other relevant Union law or national measures regarding conditions for granting credit to consumers not harmonised by this Directive that comply with Union law.

#### *Article 39*

#### **Other provisions in Union law**

The provisions of this Title are without prejudice to any Union law containing additional requirements on prior information.

However, where Directive 2002/65/EC is also applicable, the information requirements set out in Article 3(1) of that Directive, with the exception of points (2)(c) to (g), (3) (a), (d) and (e), and (4)(b) of that paragraph shall be replaced by Articles 44, 45, 51 and 52 of this Directive.

#### *Article 40*

#### **Charges for information**

1 The payment service provider shall not charge the payment service user for providing information under this Title.

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2 The payment service provider and the payment service user may agree on charges for additional or more frequent information, or transmission by means of communication other than those specified in the framework contract, provided at the payment service user's request.

3 Where the payment service provider may impose charges for information in accordance with paragraph 2, they shall be reasonable and in line with the payment service provider's actual costs.

#### *Article 41*

### **Burden of proof on information requirements**

Member States shall stipulate that the burden of proof lies with the payment service provider to prove that it has complied with the information requirements set out in this Title.

#### *Article 42*

### **Derogation from information requirements for low-value payment instruments and electronic money**

1 In cases of payment instruments which, according to the relevant framework contract, concern only individual payment transactions that do not exceed EUR 30 or that either have a spending limit of EUR 150 or store funds that do not exceed EUR 150 at any time:

- a by way of derogation from Articles 51, 52 and 56, the payment service provider shall provide the payer only with information on the main characteristics of the payment service, including the way in which the payment instrument can be used, liability, charges levied and other material information needed to take an informed decision as well as an indication of where any other information and conditions specified in Article 52 are made available in an easily accessible manner;
- b it may be agreed that, by way of derogation from Article 54, the payment service provider is not required to propose changes to the conditions of the framework contract in the same way as provided for in Article 51(1);
- c it may be agreed that, by way of derogation from Articles 57 and 58, after the execution of a payment transaction:
  - (i) the payment service provider provides or makes available only a reference enabling the payment service user to identify the payment transaction, the amount of the payment transaction, any charges and/or, in the case of several payment transactions of the same kind made to the same payee, information on the total amount and charges for those payment transactions;
  - (ii) the payment service provider is not required to provide or make available information referred to in point (i) if the payment instrument is used anonymously or if the payment service provider is not otherwise technically in a position to provide it. However, the payment service provider shall provide the payer with a possibility to verify the amount of funds stored.

2 For national payment transactions, Member States or their competent authorities may reduce or double the amounts referred to in paragraph 1. For prepaid payment instruments, Member States may increase those amounts up to EUR 500.