

EBA/GL/2015/01

18 March 2015

Final report

Guidelines on national provisional lists of the most representative services linked to a payment account and subject to a fee under the Payment Accounts Directive (2014/92/EU)

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Executive Summary

The Payment Accounts Directive¹ ('the Directive') was published in the Official Journal on 28 August 2014. It considers it vital that consumers are able to understand fees so that they are able to compare offers from different payment service providers and make informed decisions as to which payment account is most suitable for their needs.

The Directive seeks to standardise the most relevant terminology at Member State level and at Union level. It also provides for the creation of templates to present certain fee information, which will be used by payment services providers. The Directive sets out that, at this stage, the Union-level standardisation of terminology will take place for the services that are common to at least a majority of Member States. To that end, Member States will have to appoint the competent authorities that will develop the provisional lists of at least 10 and no more than 20 of the most representative services linked to a payment account that are subject to a fee and are offered by at least one payment services provider at national level.

Article 3(2) of the Directive mandates the European Banking Authority (EBA) to issue guidelines to ensure the sound application of the criteria for Member States to establish those provisional lists. The Directive mentions that Member States shall have regard to the services that a) are most commonly used by consumers in relation to their payment account and b) generate the highest cost for consumers, both overall as well as per unit.

The guidelines set out how the designated competent authorities should apply the criteria, what factors they should take into consideration, how they should report their list of the most representative services to the EBA and to the European Commission, and what supporting data should be obtained. The guidelines mention that competent authorities should first assess the services that could potentially be included in their provisional list by ranking them against each of the criteria specified in Article 3(2). The EBA considers that competent authorities may apply these criteria independently as the criteria do not need to be used cumulatively. Given the differences in services and related pricing structures that exist between payment services providers and between Member States, it is appropriate that competent authorities apply the criteria in a way that is relevant to the specificities of local markets. For this task, competent authorities may make use of data from a wide range of sources, provided the data is reliable. Competent authorities should respond to the European Commission and to the EBA using the template provided.

Following the application of the guidelines, the Directive mandates the EBA to develop draft regulatory technical standards setting out the standardised Union terminology for those services

¹ Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features.

that are common to at least a majority of Member States, on the basis of the provisional lists provided.

These guidelines were subject to a two-month consultation period between November 2014 and January 2015.

Next steps

The guidelines will be translated into the official EU languages and published on the EBA website. The deadline for competent authorities to report whether they are complying with the guidelines will be two months after the publication of the translations. The guidelines will apply from the day after the publication of the translated versions of the guidelines.

Background and rationale

This section summarises the background to the mandate foreseen in Article 3(2) of the Payment Accounts Directive ('the Directive' for the European Banking Authority (EBA) to issue guidelines to ensure the sound application of the criteria for Member States to establish a provisional list of at least 10 and no more than 20 of the most representative services linked to a payment account and subject to a fee ('the provisional list'), and the rationale followed by the EBA when developing these guidelines. It explains how the creation of guidelines by the EBA is only the first step of a process outlined in Chapter II of the Directive.

Background

The Directive includes four mandates for the EBA. The first mandate for the EBA is to issue guidelines by 18 March 2015 to ensure the sound application of the criteria defined in Article 3(2) by Member States when establishing provisional lists of the most representative services linked to a payment account. Member States are to notify these provisional lists to the Commission and the EBA by 18 September 2015.

The Final Report, including an English text version of the guidelines, will be published by 18 March 2015. The date of application for the guidelines will be one day after all translated versions are published. Member States may accelerate this application at their own discretion considering their deadline for sending the provisional lists. Recital 17 of the Directive specifies that Member States will have to appoint the competent authorities that will develop the provisional lists. The guidelines are addressed to those designated competent authorities.

From the provisional lists, the EBA is mandated to develop draft regulatory technical standards (RTS), by 18 September 2016 setting out the standardised Union terminology for those services that are common to at least a majority of Member States. The other two mandates for the EBA are to develop implementing technical standards (ITS), also by 18 September 2016, on a standardised presentation format for the fee information document and its common symbol and for the statement of fees and its common symbol. Both ITSs will require consumer testing. Before coming into effect, these technical standards have to be adopted by the Commission. Once the RTS have entered into force, there will be a further nine-month period, as set out in Article 29(2), at the end of which payment service providers (PSPs) will have to start providing information in line with the Directive.

As set out in Recital 15 of the Directive, it is vital for consumers to be able to understand fees so that they are able to compare offers from different PSPs and make informed decisions as to which payment account is most suitable for their needs. Comparison between fees is made more difficult if PSPs use different terminology for the same services and provide information in different formats. Standardised terminology, coupled with targeted fee information presented in a consistent format covering the most representative services linked to payment accounts, may help consumers to understand and compare fees.

Recital 16 of the Directive mentions that consumers would benefit most from information that is concise, standardised and easy to understand, and makes comparing different PSPs easy. However, the tools made available to consumers to compare payment account offers would not have a positive impact if the time invested in going through lengthy lists of fees for different offers outweighs the benefit of choosing the offer that represents the best value. Therefore, the Directive sets out that, at this stage, terminology should only be standardised for the terms and definitions of the most representative payment account-related services within Member States. Following this step, a Union-level standardisation of terminology will take place for the services that are common to at least a majority of Member States.

On that basis, the Directive focuses on ensuring that, in future, consumers will be given information in Fee Information Documents (FID) and Statements of Fees (SoF) that relates to the most representative services linked to a payment account in that Member State. The aim of this measure is to avoid the risk of an excessive amount of information being provided and to facilitate swifter implementation.

Article 3 of the Directive requires Member States to determine a provisional list of at least 10 and no more than 20 of the most representative services linked to a payment account that are subject to a fee and are offered by at least one PSP at national level. When determining their national list, Article 3(2) of the Directive stipulates that: ‘Member States shall have regard to the services that:

- a) are most commonly used by consumers in relation to their payment account;
- b) generate the highest cost for consumers, both overall as well as per unit.’

Considering the next stages set out in Article 3 of the Directive, Member States should bear in mind the following when compiling their provisional list:

- the terminology in their provisional list will potentially be subject to harmonisation at the EU level;
- the services listed in the provisional list will be included in each national FID and SoF, and therefore need to be expressed in a way that consumers will understand;
- while information on other services will not be included in the FID, Member States may require PSPs to provide other information concerning services linked to the payment account together with the FID.

To be considered representative, services must be subject to a fee at a minimum of one PSP in a Member State.

Following application of the guidelines, the Directive mandates the EBA to develop draft regulatory technical standards setting out the standardised Union terminology for those services that are common to at least a majority of Member States, on the basis of the provisional lists provided.

Rationale

Taking into consideration the mandate for the EBA as set out above, the question arises as to how competent authorities should compile the lists of the most representative services linked to a payment account.

The guidelines set out how competent authorities should apply the criteria in Article 3(2), which factors they should take into consideration, how they should report their list of the most representative services to the EBA and to the Commission, and what supporting data should be obtained.

In order to give effect to the mandate, the EBA is of the view that:

Listing the services

Competent authorities should first assess the services that could potentially be included in their provisional list by ranking them against each of the criteria specified in Article 3(2). The EBA considers that the criteria in Article 3(2) do not need to be applied cumulatively. Competent authorities may apply these criteria independently. Competent authorities should rank the services that satisfy both of the criteria, and the ones that satisfy one of them. Competent authorities should follow the process to determine the relative merits of a service's inclusion on the list set out in Title II.

It is acknowledged that the Directive provides competent authorities with the necessary flexibility to compile a provisional list that reflects their national market. While these guidelines consider the competent authorities' use of the criteria, Member States are required to "have regard" to the criteria. As such, the EBA recognises that other criteria may be considered pertinent by competent authorities. Given the objective of improving the comparability of services across Member States, the EBA considers that additional criteria may be relevant but only exceptionally and when required by specific market conditions.

Competent authorities should consider including as a service the provision of the account itself, payment or transactional services, or penalties and charges that are levied based on the customer's account behaviour or circumstances, including interest rates for overdraft facilities and overrunning. Competent authorities should note that the provisional list is not supposed to be a comprehensive list of all the services that might be available and their associated fees.

Given the differences in services and related pricing structures that exist between PSPs and between Member States, it is appropriate that competent authorities apply the criteria in a way that is relevant to the 'specificities of local markets'.² Taking into account that the Directive aims to ensure the comparability of fees related to payment accounts, competent authorities should aim to ensure that their provisional list of services includes the services whose fees are most relevant to consumers when they are comparing products.

² See Recital 17 of the Directive.

Competent authorities should bear in mind that more than one fee or type of fee might relate to the same service within their Member State. Each fee does not need to be considered as a separate service. Competent authorities should take into consideration that different PSPs may have different fee structures for the same service. Therefore, when determining which services to consider including on their list, competent authorities should first consider what the provided 'service' is.

Many services may be delivered through different channels. For instance, certain payment transactions might incur different fees depending on whether they are made online, by telephone or in branch. As the pricing differentiation might be particularly pertinent to customers if the costs vary significantly between channels, competent authorities are asked to indicate this in the template. Subsequently, a fee, even if the charge differs depending on the channel used, should be considered as one in the list of 10–20 fees; PSPs will still be able to disclose the range of fees for that one service in the FID. It is recognised however that the facility to use a particular channel might in itself constitute the service (e.g. if a customer is charged a fee to be able to use telephone banking).

Regular 'maintenance' fees on a payment account might cover a range of payment services (e.g. ATM withdrawals, in-branch transactions). In some cases, the use of such services might be restricted, such as by the number of transactions permitted. Additional transactions might or might not attract a separate, additional fee. Competent authorities may therefore consider that it is appropriate, according to the criteria, to include separately in their provisional list the services covered by the maintenance fee if within that Member State they are liable to attract a fee. Competent authorities should note that in making this determination, Article 4(3) of the Directive requires the services included in packages of this type and any such additional fees to be disclosed in the FID.

Exercising judgement

Once competent authorities have compiled their lists of the most commonly used and the most costly services, they should determine which to include in their provisional list of at least 10 and up to 20 most representative services. When applying the criteria and deriving their lists, competent authorities may be faced with a choice as to whether a service should be included or omitted. While they may not exceed 20 services on their provisional list, competent authorities should consider whether a service satisfies one or both of the criteria sufficiently to merit inclusion. Those services that satisfy both criteria should have priority when it comes to being included in the list. The data might not necessarily dictate a clear decision and competent authorities may have to exercise judgement. In doing so, competent authorities should bear in mind that the purpose of the list, the FID and the SoF is to aid comparison, as well as consider the intended uses of these documents. As such, competent authorities may wish to consider which services consumers would expect to find on this list of services when comparing payment accounts.

In addition to the two criteria specified, if differentiation is required then factors such as the risk of consumer detriment may be considered by competent authorities when deciding whether

to include certain fees or services in their provisional list. Consumer behavioural research shows that consumers are overoptimistic when buying new products and believe that they are unlikely to incur certain fees in the future. While certain services might be available to all consumers, they may only be used by a small proportion of consumers, but very often, and therefore are among the most common services attracting a fee. As suggested above, this might be the case for the fees that apply when a customer exceeds the number of transactions covered by the account maintenance fee or when there are insufficient funds in the account. Competent authorities should consider whether, based on their experience of the national market, the potential for the consumer or segments of consumers to incur such costs in future, and possibly suffer detriment, merits the service's inclusion on the provisional list, rather than its exclusion.

When a payment account is offered as part of a package together with another product or service that is not linked to a payment account, as described in Article 8 of the Directive, competent authorities should not include these products or services as separate items on their provisional list.

Responding with the provisional lists

Competent authorities should send the lists in a standardised and homogeneous way. To assist in categorising the services they identify and in reporting their provisional list, a template is provided. Its use by competent authorities will facilitate the EBA in its next task of determining the services that are common to at least a majority of Member States, and setting out the standardised terminology for those services.

Supporting data and evidence

Competent authorities may make use of data from a wide range of sources, provided the data is reliable. These sources might include:

- studies carried out by national authorities or other statistics entities that concern consumer banking and payments;
- data already collected by the competent authority concerning fees related to payment accounts (also on the basis of sample surveys);
- reliable data held by consumer or trade associations;
- reliable data or research that has been collected by independent research providers; and
- reliable data published or available from PSPs (e.g. fee lists on websites of PSPs).

As such, when identifying the most representative services, competent authorities are not required to collect additional data on an *ad hoc* basis to cover all payment account holders or all PSPs, for example by submitting information requests to PSPs.

Suggested methodologies

There are a number of approaches that may be considered when analysing product and fee structures, namely when trying to define the most commonly used services by consumers in relation to the payment account.

Identification of the core services by competent authorities

This scenario implies an identification of the core services linked to a payment account that generate a fee, based on each competent authority's experience, taking into consideration factors such as the existing price lists and empirical knowledge of the market.

The definition of payment services in the Payment Services Directive allows the identification of a preliminary list of services (although it should be noted that Article 3 of the Directive also covers services other than payment services):

- opening or maintenance of a payment accounts;
- services enabling cash withdrawals from payment accounts;
- issuing and/or maintenance of a payment card or other payment instrument (e.g. annuity on a debit card or credit card);
- execution of credit transfers, including standing orders; execution of payment transactions using a payment card (debit or credit card) or other payment instrument; and
- execution of direct debits.

Therefore, in order to identify the most relevant services, the competent authority may rely on three features that assume greater importance, namely:

a) Commonness

This approach may require data to be collected to clarify which services or instruments are most broadly used to ascertain, for example:

- What kind of credit transfers are most common?
- What kind of payment cards are used most often— debit cards, credit cards or deferred debit cards?
- How many consumers use these different services or instruments and how often?

b) Representativeness

As part of this approach, it may need to be assessed whether the considered services are subject to a fee in either all, the majority, the most representative or at least one PSP.

c) Cost

This may be supported by the average cost incurred by individual consumers, as well as by the calculation of the total cost of each service (by applying its corresponding fee to the number of times the service is used).

Problems arising:

- difficulties when trying to identify definitively the services that have these features;
- it is a costly and time-consuming process, placing a burden on competent authorities.

For example: although an annuity on a debit card is a common fee, it is charged only once a year and not all types of customers have a debit card. The situations in which a customer is exempt from this fee must also be considered.

Collecting data through PSP and consumer organisation collaboration

This approach would involve asking PSPs (or their associations) and consumer organisations to present data on which services are used most often by consumers, and to detail how frequently these services are used.

In addition, as mentioned above, it would need to be assessed whether these services are subject to a fee in either all, the majority, the most representative or at least one PSP. Data may be taken from price lists, if available, or requested directly from PSPs.

Problems arising:

- defining how many and which PSPs or consumer organisations would be questioned, bearing in mind that the market needs to be properly represented;
- it is a costly and time-consuming process, placing a burden on competent authorities and PSPs.

Consumer profiling

Defining customer use profiles would presuppose market research, namely surveying, to estimate for each customer profile (i) the banking services used, (ii) if these services are subject to a fee in either all, the majority, the most representative or at least on one PSP, (iii) how often each service is used and (iv) how often each fee is charged (annually, quarterly, monthly, weekly or per transaction).

Problems arising:

- how to define a customer profile (or profiles) to only identify one list of 10 to 20 fees;

- how to compare between products that are only relevant for different segments;
- how consumer profiling, when considering segments, can fit the aim of the list to provide the most representative fees for the overall population;
- it is a costly and time-consuming process for competent authorities.

EBA guidelines on national provisional lists of the most representative services linked to a payment account and subject to a fee

EBA/GL/2015/01

DD Month 2015

EBA Guidelines

on national provisional lists of the most representative services linked to a payment account and subject to a fee

Compliance and reporting obligations

Status of these guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010³. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and financial institutions must make every effort to comply with the guidelines.
2. Guidelines give the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

3. Pursuant to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by (dd.mm.yyyy). In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website to compliance@eba.europa.eu with the reference 'EBA/GL/2015/01'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to the EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

³ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, (OJ L 331, 15.12.2010, p.12).

Subject matter, scope and definitions

Subject matter and scope of application

5. These guidelines apply to the sound application of the criteria specified in Article 3(2) of Directive 2014/92/EU to be used by competent authorities when establishing a provisional list of the most representative services linked to a payment account and subject to a fee.

Addressees

6. These guidelines are addressed to competent authorities as referred to in Recital 17 of Directive 2014/92/EU.

Definitions

7. Unless specified otherwise, the terms used and defined in Directive 2014/92/EU have the same meaning in the guidelines.
8. In particular: 'services linked to the payment account' are defined in point (6) of Article 2 of Directive 2014/92/EU as all services related to the opening, operating and closing of a payment account, including payment services and payment transactions falling within the scope of point (g) of Article 3 of Directive 2007/64/EC and overdraft facilities and overrunning.

Implementation

9. These guidelines apply from dd/mm/yyyy [1 day after the publication of the translated versions of the guidelines].

Requirements regarding national provisional lists of the most representative services linked to a payment account and subject to a fee

Guideline 1: Identifying services to be considered for the provisional lists

1.1. With regard to the criterion of ‘services most commonly used by consumers in relation to their payment account’ as referred to in point (a) of Article 3(2) of Directive 2014/92/EU, the factors below should be considered, to the extent deemed necessary to determine the list:

- a. competent authorities should consider the general population of consumers, when assessing the level of diffusion of services;
- b. competent authorities should consider the relative prevalence of the services in terms of how often they constitute a feature of payment accounts;
- c. competent authorities should consider how often the services in question are used, by taking into account, where possible, the proportion of consumers using the service along with the number of times the service is used;
- d. competent authorities should include the provision of the account itself as a service.

1.2. With regard to the criterion of ‘services that generate the highest cost for consumers, both overall as well as per unit’ as referred to in point (b) of Article 3(2) of Directive 2014/92/EU, the factors below should be considered, to the extent deemed necessary to determine the list:

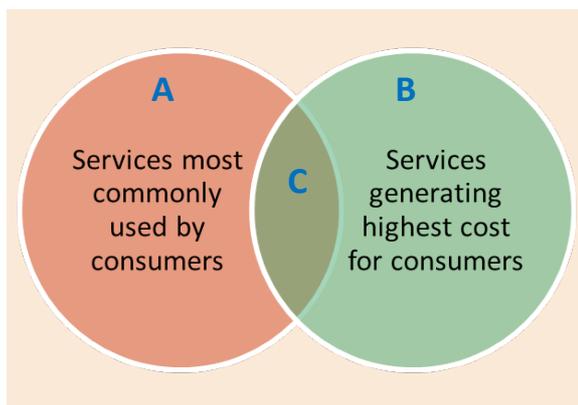
- a. when considering fees overall as well as per unit, competent authorities should not only consider services that fulfil both of those criteria simultaneously, but also services that generate the highest cost for consumers either overall or per unit;
- b. competent authorities should consider fees cumulatively when determining the unit costs or overall costs of services that might attract different types of fees;
- c. in ascertaining which are the most representative services, competent authorities should consider the costs that are incurred, or could be incurred, by consumers on an annual basis for the use of the service, preferably based on the most recent data available covering a 12 month period.

Guideline 2: Exercising judgement when establishing the provisional lists

2.1. When establishing the provisional list, competent authorities should give priority to those services that satisfy both criteria (i.e. in area C of Figure 1).

2.2. In a second step, since the criteria are not strictly cumulative, competent authorities should also consider services that only satisfy one of the criteria (i.e. in areas A or B) for inclusion in the provisional list.

Figure 1 - Services and criteria



2.3. Competent authorities should only use other criteria as an exception, for market-specific issues. In doing so, competent authorities should be able to justify the methodology used, supply supporting data and provide the reasoning behind their decisions.

2.4. Competent authorities should consider the service provided as a single service, irrespective of the potential for providers to differentiate costs according to factors such as channels of usage or the identity of the receiving payment service provider.

Guideline 3: Responding with the provisional lists

3.1. Competent authorities should respond to the Commission and to the EBA using the template in the Annex. Competent authorities should send the responses to the following dedicated mailboxes

- EC-PAD-IMPLEMENTATION@ec.europa.eu, and
- PAD@eba.europa.eu.

Guideline 4: Supporting data and evidence

4.1. Competent authorities should base their decisions on relevant data. Competent authorities may make use of data from a wide range of sources, provided the data is reliable.

4.2. Competent authorities should ensure that they are able to provide supporting data to justify any decision to include or exclude particular services from their list.

Guideline 5: Submission of the provisional lists

5.1. Competent authorities shall submit the provisional list in accordance with Article 3(3) of Directive 2014/92/EU by 18 September 2015.

Annex: Template for competent authority's response

Contact details

Member State: _____
 Competent authority: _____

Competent authority's contact person:

Name: _____
 Position: _____
 Email: _____
 Tel. no: _____
 Fax no: _____

Please describe whether the services or the terminology used have been standardised, and how (legislation, industry initiative etc.):

Instructions for filling in the template

1. Please indicate a list of at least 10 and no more than 20 of the most representative services linked to a payment account. The template is split into different types of services according to the nature of the services.
2. Please add rows to the tables for each of the services included in your list of at least 10 and no more than 20 of the most representative services linked to a payment account.
3. Please highlight specifically any word or terminology that is standardised in your Member State. Please give the terminology in an English translation and in the official language of your Member State.
4. Some examples of services that would fall under each of the types are presented in a table below the response tables. If the service you are mentioning corresponds to one or more of the examples please indicate the example's ID code(s) in the column 'ID Code'. If the service does not correspond to any of the examples, please leave the corresponding ID column empty.

5. Please note that this list of codes is not exhaustive – it is intended purely to facilitate the comparison of Member States’ responses.
6. One example of a service is pre-filled in for information purposes only. If this service is not relevant for your response, please delete it.
7. Please indicate the relevant channels of delivery for the service in question. Please note that there is a column to indicate if services have different prices depending on the channel. For example: the fee charged by a payment service provider (PSP) for making a credit transfer might vary depending on whether the customer initiates the payment online or in branch, or depending on whether the transfer is executed between accounts held with different PSPs or between accounts within one PSP.
8. Please note that you are asked to indicate the most common market practices for each service, and are not requested to indicate the amounts of fees.

Explanations for column headers used in the template

Payment account services (English) – Please provide the name of the service in English.

Name of services in the official language(s) of the Member State – Should there be more than one name, please indicate the name most commonly used in your national jurisdiction. This should include any relevant terms, pursuant to Article 3(1) of the Directive.

Description of the service in the official language(s) of the Member State – Please provide a description of the service. This should include any formal definitions that exist, pursuant to Article 3(1) of the Directive.

Description of the service (English) – Please provide a description of the service in English.

Description of the most common fees’ structure, the periodicity that is most commonly applied for the service, and if waivers are applied – Where applicable, please take into account the most common fee structure in your country. In this cell, you may describe any additional differentiation of fees that is widespread at a national level, such as when different criteria are used for maintenance fees: total balance of related accounts with the service provider; the account balance; or other services subscribed, to mention but a few. Please note that you are not required to indicate the amounts of fees. This does not need to be an exhaustive description of every structure.

Please indicate if fees are differentiated for different channels – Please use this column and the presented options if it is a common market practice in your Member State for pricing to be differentiated according to the channels of usage. Please provide an explanation if there is a mixture of practices in the national market.

ID code – If this service is included in the examples table below, please indicate the corresponding ID code.

Type 1 - Account management / maintenance and related services

1. Payment account services (English)	2. Name of services in the official language (s) of the Member State	3. Description of the service in the official language(s) of the Member State	4. Description of the service (English)	5. Description of the most common fees' structure, the periodicity that is most commonly applied for the service, and if waivers are applied	6. Please indicate if fees are differentiated for different channels	7. ID code
					Fees differentiated by channel of usage? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	
					Fees differentiated by channel of usage? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	

Examples of services under Type 1 – ‘Account management / maintenance and related services’	ID code
Regular fee for maintenance of the payment account. If this fee tends to allow consumers to access other services (without any cost), please indicate the codes for the various services that are most commonly covered by this maintenance fee in your market (e.g. ID code 4 if a debit card is provided), as would be disclosed pursuant to Article 3(3) of Directive 2014/92/EU.	1
Regular fee related to the level or method of service provision (e.g. fee for online or telephone banking)	2
Other ancillary services such as provision of copy statements, balance enquiries	3

Type 2 – Payment instruments (card and cheque services)

1. Payment account services (English)	2. Name of services in the official language (s) of the Member State	3. Description of the service in the official language(s) of the Member State	4. Description of the service (English)	5. Description of the most common fees' structure, the periodicity that is most commonly applied for the service, and if waivers are applied	6. Please indicate if fees are differentiated for different channels	7. ID code
					Fees differentiated by channel of usage? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	
					Fees differentiated by channel of usage? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	

Examples of services under Type 2 – 'Payment instruments (card and cheque services)'	ID code
Issuing or maintaining a debit card	4
Issuing or maintaining a credit card, including a deferred debit card	5
Cash withdrawals ⁴	6
Placing of fiduciary currency (banknotes and coins)	7
Use of debit card for payments abroad	8
Use of debit card for foreign ATM withdrawals	9
Use of credit card for payments abroad	10
Use of credit card for foreign ATM withdrawals	11
Provision of a cheque book	12

⁴ Please indicate if fees are differentiated for other channels using 'other' in column 6. This applies for branch or ATM withdrawals. Please also indicate if there are different charges depending on the network to which the ATM belongs, if that is the case in your market. This does not include charges imposed directly on the consumer by an ATM provider in relation to individual withdrawals and paid to the ATM provider by the consumer as a surcharge on the funds withdrawn.

Type 3 – Domestic payment services⁵

1. Payment account services (English)	2. Name of services in the official language (s) of the Member State	3. Description of the service in the official language(s) of the Member State	4. Description of the service (English)	5. Description of the most common fees' structure, the periodicity that is most commonly applied for the service, and if waivers are applied	6. Please indicate if fees are differentiated for different channels	7. ID code
Type 3 – Domestic payment services						
[Indicative example] Credit transfer - SEPA			<i>Payment transaction initiated by the payer that enables the transfer of funds, in euros, from the account of the payer with a payment services provider to the account of the payee with a payment services provider, where both the providers/the single provider is/are located within the Single Euro Payments Area (SEPA).</i>	<i>A fee may be charged to the payer when the payment transaction is initiated. This fee may vary depending on the channel used to give the order. Waivers may apply if the payment order is given through a particular channel (e.g. internet, ATM). There is no differentiation of fees charged according to the identity of the receiving payment service provider.</i>	Fees differentiated by channel of usage? <input type="checkbox"/> no <input checked="" type="checkbox"/> yes If yes, which channels: <input checked="" type="checkbox"/> branch <input checked="" type="checkbox"/> internet <input checked="" type="checkbox"/> mobile <input checked="" type="checkbox"/> other: over the phone; ATM	13
					Fees differentiated by channel of usage? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	
Examples of services under Type 3 – 'Domestic payment services'		ID code	Examples of services under Type 3 – 'Domestic payment services'			ID code
Credit transfers ⁶ – SEPA ⁷		13	Direct debits (should there be fees associated with the setting up)			16
Credit transfers – non-SEPA		14	Paid item charges (fees levied when a payment is made but there are insufficient funds in the account)			17
Standing orders		15	Unpaid items charges (fees levied when a payment is refused because of insufficient funds in account)			18

⁵ Initiated and completed within the Member State.

⁶ For credit transfers, please indicate in Column 5 if there is a differentiation of fees charged according to the identity of the receiving payment service provider.

⁷ Credit transfers pursuant to Regulation (EU) No 260/2012.

Type 4 – International payments and foreign currency-related services

1. Payment account services (English)	2. Name of services in the official language (s) of the Member State	3. Description of the service in the official language(s) of the Member State	4. Description of the service (English)	5. Description of the most common fees' structure, the periodicity that is most commonly applied for the service, and if waivers are applied	6. Please indicate if fees are differentiated for different channels	7. ID code
					Fees differentiated by channel of usage? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	
					Fees differentiated by channel of usage? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	

Examples of services under Type 4 – ‘International payments and foreign currency-related services’	ID code
Credit transfers –SEPA	13
Credit transfers – non-SEPA	14
Receipt of international electronic funds transfers	19
Currency exchange services	20
Foreign currency travellers cheques	21

Type 5 – Overdraft and overrunning services

1. Payment account services (English)	2. Name of services in the official language (s) of the Member State	3. Description of the service in the official language(s) of the Member State	4. Description of the service (English)	5. Description of the most common fees' structure, the periodicity that is most commonly applied for the service, and if waivers are applied	6. Please indicate if fees are differentiated for different channels	7. ID code
					Fees differentiated by channel of usage? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	
					Fees differentiated by channel of usage? <input type="checkbox"/> no <input type="checkbox"/> yes If yes, which channels: <input type="checkbox"/> branch <input type="checkbox"/> internet <input type="checkbox"/> mobile <input type="checkbox"/> other: _____	

Examples of services under Type 5 – ‘Overdraft and overrunning services’	ID code
Overdraft facility ⁸ (arranged overdraft)	22
Overrunning ⁹ (unarranged overdraft)	23
Paid item charges (fees levied when a payment is made but there are insufficient funds in the account)	17
Unpaid items charges (fees levied when a payment is refused because are insufficient funds in the account)	18

⁸ For overdraft facilities, please indicate in column 5 which typical costs are applied: set-up fee, usage fee, interest rate (multiple fees are permissible).

⁹ For overrunning, please indicate in column 5 which typical costs are applied: usage fee, interest rate (multiple fees are permissible).

Accompanying documents

Draft cost-benefit analysis/impact assessment

Introduction

Pursuant to Article 16(2) of the EBA Regulation, guidelines developed by the EBA shall be accompanied by an annex setting out an Impact Assessment (IA) which analyses ‘the potential related costs and benefits’. This IA shall provide the reader with an overview of the findings relating to the problem identification, the options identified to rectify the problem and the potential impacts of these options. This section presents the IA with a cost-benefit analysis of the provisions included in the guidelines.

The Directive mandates the EBA to issue these guidelines, by 18 March 2015, to assist Member States in determining the most representative services linked to a payment account and subject to a fee – offered by at least one payment service provider at national level – and to specify factors to identify them. Member States shall establish provisional lists of at least 10 and no more than 20 of those most representative services. In establishing that list, Member States shall have regard to the services that are most commonly used by consumers or generate the highest cost for them. Subsequently, the Directive mandates the EBA to develop draft Regulatory Technical Standards, by 18 September 2016, setting out standardised terminology for those services that are common to at least a majority of Member States. The standardised terminology – including common terms and definitions – is intended to be incorporated in the FID, the Glossary and the SoF to be provided by the payment service providers to their consumers.

Problem definition and baseline scenario

There is currently a lack of transparency and comparability of fees charged for services linked to payment accounts in the EU, and consumers exhibit little mobility – in particular across borders. In addition to other factors, such as language barriers and geographical proximity, the lack of standardised information regarding fees contributes to the low level of competition in the payment accounts sector. Fees for payment account services vary significantly between Member States¹⁰. The internal market for payment account products in the EU is incomplete.

Moreover, barriers to the completion of the internal market in the area of payment accounts may be created by the fragmentation of existing national regulatory frameworks¹¹. Existing national provisions relating to payment accounts, and particularly to the comparability of fees, vary

¹⁰ European Commission (2009): Data Collection for prices of current accounts provided to consumers.

¹¹ The Payment Services Directive requires the disclosure only of certain pre-contractual information to consumers.

between Member States¹². Some Member States have made efforts to establish general requirements for the way in which fees are presented, both when consumers seek to open an account and during the contractual relationship, and some have made it mandatory that certain information about fees is given to potential customers before entering into a contract. In other Member States, information about fees incurred is found only in bank statements. These different approaches to the way in which fees are presented to consumers may be discouraging them from seeking to compare payment account products within the market and, in some cases, also across borders. In addition, different rules in different Member States cause differing levels of consumer protection for EU citizens. Transparency, standardised information and comparability of fees were considered at Union level in a self-regulatory initiative, initiated by the banking industry. However, no final agreement was reached on that initiative. Without regulatory intervention in relation to terminology, a fee information document and a statement of fees standardised at EU level, the problems described above would persist.

Policy objectives

The general objective of the Directive is to improve the functioning of the internal market and, in particular, to increase competition and the efficiency of the market for financial services in the EU. More specifically, the aim is to facilitate consumers' comparisons of payment account products by improving the transparency of fees and the provision of standardised information. The provision of a standardised fee information document by payment account providers using harmonised terminology should support consumers in making more rational (cost-minimising) choices and can be expected to increase consumer mobility¹³, including across borders. At operational level, these guidelines intend to ensure the sound application of the criteria by competent authorities to establish provisional lists of the most representative services as set out in Article 3(2) of the Directive. Moreover, these guidelines seek to promote the sufficient comparability of those national lists across Member States.

Assessment of options

The direct costs of these guidelines are limited to those incurred by competent authorities when establishing the provisional lists (e.g. the time required). The costs may vary slightly across competent authorities, depending on whether competent authorities already have sufficient information to hand to establish the provisional list.

A study¹⁴ conducted for the European Commission's assessment of the economic impact of various policy measures to improve the transparency and comparability of fees in the payment accounts market provides the evaluation of the costs and benefits of the Directive provisions.

¹² European Commission (2012): Market study on initiatives in bank fee transparency and comparability in personal current bank accounts.

¹³ TNS (2012): Bank fees behavior study.

¹⁴ European Commission (2013): Quantification of the economic impact of EU action to improve fee transparency, comparability and mobility in the Internal Market for personal payment accounts.

According to this study, those costs can be expected to be low, irrespective of any technical specification chosen.

The cost-benefit analysis of these guidelines therefore refers only to the options considered in establishing the requirements. To define the requirements, the EBA considered the options set out below.

The Directive stipulates that when establishing the provisional lists, competent authorities shall have regard to services that are most commonly used by consumers in relation to their payment account or that generate the highest cost for them, both overall and per unit. When establishing the provisional lists, competent authorities could either exclusively apply those two criteria or identify services that fulfil neither of them but still qualify as a most representative service at national level. More precisely, for Article 3(1) of the Directive, the guidelines could:

- deal primarily with the application of the criteria by competent authorities to derive the services that are most commonly used by consumers and/or generate the highest cost for consumers, and only exceptionally consider other criteria when market specificities justify doing so (Option A1);
- have regard to services that are most commonly used by consumers or generate the highest cost for consumers, but also have the option of applying additional criteria to identify the most representative services at national level by (Option A2).

Option A1 – considering primarily the criteria mentioned in Article 3(2) of the Directive for establishing the list of most representative services, and only exceptionally any other relevant criteria – tends to result in more homogeneous lists across jurisdictions. In choosing this option, the EBA would give competent authorities more precise guidance.

Option A2 – considering criteria in addition to those mentioned in Article 3(2) of the Directive for establishing the list of most representative services – tends to result in more heterogeneous lists across jurisdictions. In choosing this option, the EBA would leave competent authorities more discretion in their decision-making.

In general, a higher number of common terms and definitions would tend to require financial institutions to provide fee information that is standardised at Union level to a higher degree. If fee information is highly standardised then this is expected to improve comparability. Article 3(4) of the Directive stipulates that the EBA shall develop draft regulatory technical standards (RTS) setting out the standardised terminology for those services that are common to at least ‘a majority of Member States’.

Option A1 tends to foster the congruence of the most representative services determined across jurisdictions. Consequently, it tends to extend the scope of terms and definitions that could be harmonised. Given that one of the primary objectives of these guidelines is the improvement of the comparability of fees related to payment accounts by developing standardised terminology

for the most representative services, a broader set of common terms and definitions can be expected to be more beneficial, in particular to the consumers' scope to compare fees. Therefore, Option A1 – yielding larger benefits in terms of the comparability of fees related to payments accounts and improving the functioning of the internal market – is the preferred option from an overall economic cost-benefit perspective.

Regarding the supporting data, competent authorities will have to base their decisions on objectively justified reasons. This means that, in practice, they will need to rely on data when deciding which services merit inclusion in their provisional lists. In this context, these guidelines could:

- ask competent authorities to collect data from firms, and to do so in a particular way (Option B1); or
- allow competent authorities to decide for themselves what data is required for this decision, and whether data already available might suffice (Option B2).

Collecting data from firms is a costly and resource-intensive process, both for competent authorities and the firms in question. There would be no significant benefit, in terms of achieving the objective of these guidelines, to mandating competent authorities to collect additional data to compile their provisional lists. Option B2, allowing competent authorities to base their decision either on data available from existing, credible sources or new data collection exercises, is the more proportionate and preferred option.

On the issue of reporting the provisional lists to the Commission and the EBA, Member States could respond either:

- without using any predefined form (Option C1); or
- using a standardised template (Option C2).

A proposed template including an indicative list of examples of services related to payment accounts, at the same time allowing competent authorities to extend that list, is attached to the guidelines. Having a common template for the reporting of provisional lists by competent authorities to the EBA and the Commission would help to achieve a higher degree of standardisation and homogeneity of provisional lists across Member States. This, in turn, can be expected to facilitate the identification of services common to a majority of Member States and the development of standardised terminology. Bearing in mind the objective of these guidelines, Option C2 – requiring competent authorities to use a predefined template when reporting the provisional lists to the EBA and the Commission – is the preferred option.

Views of the Banking Stakeholder Group (BSG)

The EBA BSG generally supported the guidelines and the corresponding Cost/Benefit analysis and Impact assessment. The BSG also supported the options preferred by the EBA while setting out these guidelines. In particular, the BSG supported Guideline 7, and was very supportive of the recommendation made by the EBA that factors such as the risk of consumer detriment might be borne in mind by competent authorities when considering which services to include in their provisional lists.

The BSG provided proposals with a view to helping competent authorities make better choices at national level.

- a) The BSG considered that the guidelines should explicitly stipulate that all types of fees and penalties should be taken into account by competent authorities, since not only real services' fall under the definition of services linked to a payment account set in the Directive, but also fees, penalties, and interest not paid.
- b) The BSG considered that in relation to guideline 8, it would be beneficial to include a clear recommendation to competent authorities to prioritise services that generate the highest cost to consumers, even if they are not used very often; this is due to the limited number of services to be included (not more than 20) and the relevance of the highest cost for consumers.
- c) The BSG considered that the guidelines should encourage competent authorities to include as many representative services (a number closer to 20, rather than to 10) as possible, allowing for the highest possible number of representative services to be included in the final lists
- d) The BSG considered that, to assist Member States in implementing the Directive, it would be useful to include a number of country case studies, focusing on Member States where the comparison and transparency of payment account fees is less possible, and where those fees are high.
- e) The BSG also considered that the guidelines should indicate that the wide range of sources that competent authorities could use to determine the most representative services should in no case be limited to the financial industry representatives, but should also include consumer organisations.
- f) The BSG considered that the guidelines should make it clear that competent authorities should include fees that would be charged on a regular basis in their lists, regardless of temporary promotions and conditional offers.

As these views were shared by other respondents, these and other issues are addressed in detail in the feedback table 'Summary of responses to the consultation and the EBA's analysis' below.

Feedback on the public consultation

The EBA publicly consulted on the draft proposal contained in this paper.

The consultation period lasted two months and ended on 9 January 2015. A total of 12 responses were received, of which 11 were published on the EBA website.

This paper presents a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments and the actions taken to address the comments if deemed necessary.

In many cases, several industry bodies made similar comments or the same body repeated its comments in the response to different questions. In these cases, the comments and EBA analysis are included in the section of this paper where EBA considers them most appropriate.

Summary of key issues and the EBA's response

Given that the guidelines are mandated in a Directive, no respondents to the consultation questioned the value of the EBA issuing guidelines. As a general comment, all respondents were generally supportive of the draft guidelines but did provide detailed comments, both on the guidelines and on related aspects of the Payment Accounts Directive.

Regarding the more general views, a minority of the respondents were of the view that consumers will not compare cross-border current accounts' offers, which is listed as one of the aims of the Payment Accounts Directive. One respondent mentioned that the Directive's aim of achieving homogeneity would not give sufficient consideration to the diversity of products and national specificities. One respondent raised concerns about the impact of the Directive on product innovation and the ability of PSPs to distinguish themselves and their offerings.

With regard to the specifics of the guidelines, more supported comments stated that the sources of information that the competent authorities may use when compiling the list should also include consultations with consumers organisations and all relevant stakeholders.

Some respondents suggested that there should be a specific encouragement for competent authorities to report a number of services closer to 20, allowing for a higher number of potential common services.

There was some disagreement with the consideration of a single service irrespective of channels of usage and the receiving PSP. One view was that a variation of a payment service should be a different service. Another argued that the standardisation of terms explained is incomprehensible and counter-productive. A consolidation of individual terms would greatly limit the Fee Information Document, the Glossary and the Statement of Fees document with respect to the information they contain and how understandable they are. The same respondents argued that the list of the most representative services should contain separate terms and definitions for each type of transaction.

Some commented that the two documents - Fee Information Document and the Statement of Fees - envisaged in the Directive should present the differences in prices according to channels.

The EBA's views and responses are presented in the table below.

Summary of responses to the consultation and the EBA's analysis

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
State of the EU market	<p>One respondent disagreed strongly with some of the assumptions made in the consultation paper. They wrote that, while the consultation paper noted the internal market for payment account products in the EU is incomplete, a more differentiated assessment should be made based on principles of subsidiarity and proportionality. They argued that this would have identified that [effective] competition is evident in various national markets. A second respondent stated that it is unlikely that consumers will locate their bank account in a Member State that is not their country of residence. As such, the ability to compare accounts within each Member State should be the priority given the demand for EU-wide comparability will remain limited.</p> <p>The former of those two respondents was critical of the stated objective of promoting sufficient homogeneity of national lists. They argued that sufficient consideration should be given to the diversity of products and national specificities. However, the same respondent did acknowledge that the proposed guidelines give competent authorities the necessary discretion to identify the most representative services. Half of the respondents reiterated the need for the guidelines</p>	<p>Recital 6 of the PAD acknowledges that cross-border activity is currently hampered by obstacles to consumers opening a payment account abroad. These obstacles are many and varied. Furthermore, the recitals state that a lack of transparency and comparability as regards fees and services stifles demand, and this is particularly true in the cross-border context. The intention of the PAD is to address this lack of demand.</p> <p>The homogeneity refers to ensuring there is a degree of comparability in the provisional lists that Member States submit. The EBA acknowledges that it is important that Member States' provisional lists provide an overview of the fees and services available in that Member State's market in a way that will be relevant to consumers.</p>	None required

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>to accommodate the specificities of national markets. One respondent noted in particular that the familiarity to consumers of the language used in the different disclosure documents is important to the success of this initiative.</p>		
<p>Product innovation and differentiation</p>	<p>Two respondents highlighted concerns about the impact of the PAD on product innovation and the ability of PSPs to distinguish themselves and their offerings. This stemmed from the proposed template that competent authorities would use to report the provisional lists required by Article 3 of the PAD.</p>	<p>Article 3 already places a duty on Member States to submit a provisional list of services linked to a payment account. The PAD does not prevent PSPs from offering services that are not included in a Member State's list of representative services. Its purpose is to aid consumers' comparisons of different PSPs' products. The intention of the EBA in producing a template for Member States and competent authorities was not to constrain them any further than the Directive requires. Rather, the aim is to ensure that Member States submit their provisional lists in a structured way that allows the EBA and the Commission to consider easily whether services are common to a majority of Member States as is required by Article 3(4).</p> <p>In addition, Article 6 specifies that PSPs may use brand names in both the FID and the SoF, provided these brand names are used in addition to the standardised terms set out in the final list.</p>	<p>None required</p>

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Question 1.

Do you agree with the proposed guidelines?

<p>One respondent argued that the provisions in the PAD should apply to all fees and services linked to a payment account, rather than requiring Member States to compile a representative list of between 10 and 20 services. Three respondents noted that the number of fees and charges that currently exist in certain Member States exceeds 20. They argued that the EBA should encourage Member States to report as many services as possible.</p>	<p>The main objective of the PAD is to give consumers information on the fees and charges that are most relevant to them when comparing accounts. While the EBA agrees that it is essential to disclose information on costs to the consumer, it is the duty of Member States and competent authorities to determine which fees and charges are most relevant. The EBA will not seek to prejudice the judgements that Member States have to make under the PAD by using guidance to stipulate further that Member States should include as many services as possible in their provisional lists.</p>	None required
<p>Two respondents agreed on all the content of the guidelines, but based their decision on different reasons.</p> <p>The first respondent agreed on the content of the guidelines, and specifically welcomed the priority that competent authorities should give to those services that satisfy both criteria established in Article 3(2) of the PAD and the certain degree of flexibility provided to allow Member States to compile a provisional list that reflects their national markets.</p> <p>The other respondent argued that there is currently no need for any cross-border comparison between fees of current accounts, but only in the</p>	<p>The EBA has sought to strike a balance between ensuring that the process is flexible enough for Member States to take account of and reflect the specificities of their local market, and ensuring that those services that are common to a majority of Member States can be readily identified.</p> <p>As pointed out in the Cost/Benefit analysis for the proposed guidelines, option A1 represents a balanced approach between the consistent application of the Directive, its objective of promoting effective comparability at EU level, and offering flexibility for Member States to ensure future disclosures to consumers remain relevant in the context of the domestic market in question.</p>	None required

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country of residence, and agreed on the proposed guidelines because they give the competent authorities broad discretion when identifying the most representative services. The view that there is no demand for comparing payment accounts across Member States was also shared by another respondent.

Two respondents pointed out the importance of taking into account national specificities to make the document useful to consumers, and that is why both of them chose option A2 to give the competent authorities more flexibility.

Three respondents expressed their disagreement with guideline 2.4 (consideration of a single service irrespective of channels of usage and the receiving PSP).

The first respondent explained that the differentiation cost by channel is unclear in the FID and the SoF, and that the example provided with guideline 2.4 is not appropriate. It also states that penalties and charges levied, such as interest rates for overdraft facilities and overrunning, should not be included automatically.

The second respondent stated that the guidelines provide insufficient information on how to differentiate between similar services linked to a payment account. Every offered variation of a payment service should be a different service, but some services linked to a payment account are not payment services. Moreover, the respondent argues that where the only criterion applied is the

The purpose of guideline 2.4 was to ensure that competent authorities focus primarily on the service at hand, rather than considering whether the resulting fees differed based on other factors, such as the channel used to execute the service. To consider otherwise would pose the risk that Member States' provisional lists might include information on a service relating to an expensive channel (e.g. making a credit transfer in branch) and no information on other cheaper or free channels (e.g. making the same type of credit transfer online). The Directive's policy objectives would not be met if only partial fee information were provided to the consumer for the same service.

Member States are required to define each service. To aid comparison by consumers, however, Member States will need to ensure that services are framed in such a way as to cover variations on the same service and the different fees that might apply. For

Example was reworded and included in the instructions on filling in the template

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cost of a service, the service should still be sufficiently popular.

The third respondent argued that the standardisation of terms explained in guideline 2.4 is incomprehensible and counter-productive. There are different terms depending on how services are executed and there should be standardised terms and term definitions for each type of transaction in payment procedures. A consolidation of individual terms would greatly limit the FID, the glossary and the SoF with respect to the information they contain and how understandable they are. Banks, in turn, would apply their own, often clear, terms in addition to these terms.

The same respondents argued that the list of the most representative services should contain separate terms and definitions for each type of transaction.

instance, the provision of a chequebook might constitute one service, under which fees will vary depending on the number of cheques provided.

The guidelines provide guidance on exercising judgement when selecting the services for the list.

The template for responses acknowledges that services are executed in different ways and through different channels and provides for this. The EBA intends to ensure that this differentiation is considered and accommodated in the design of the FID and the SoF, and will undertake consumer testing of both documents, as required under the PAD, to assess how easy these documents are to understand.

One respondent stated that the interpretation by competent authorities of both alternative criteria should be flexible in order to reflect the Member State national market, as should the supporting data and evidence provided, and proposes a broad consultation of stakeholders – representatives of both consumers and PSPs – as a source.

The EBA considers that reasonable flexibility is already allowed in these guidelines.

None required

The suggested data collection source can be considered by Members States. The EBA does not impose nor restrict the options for data collection.

Additionally, with regard to the templates, the same respondent asks for Type 3 to be called 'SEPA payment services' instead of 'Domestic payment services', and Type 4 to be called 'NON-SEPA payment services' instead of 'International and

The EBA does not consider the requested change to the template to be appropriate because domestic payments must be clearly differentiated from international payments, irrespective of being SEPA or non SEPA.

None required

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foreign currency-related services’.

Question 2.

Are there any additional requirements that you would suggest adding?

<p>One respondent asked to duly consider and represent the differences in prices according to channels in the FID and the SOF</p>	<p>The guidelines do not interfere in the inclusion in the FID of the different fees charged by the PSP for the same service depending on factors such as the channel used</p>	<p>None required</p>
<p>One respondent questioned the differentiation of charges mentioned in the Annex for electronic funds transfers, since those transfers in SEPA are already regulated by Union law.</p>	<p>The Annex only provides a list of examples of the services that might be reported, and tries to accommodate possible responses from Eurozone and non-Eurozone Member States.</p>	<p>None required</p>
<p>Three respondents called on the EBA to encourage competent authorities to include as many services as possible in the list and to ensure that consumer-friendly measures already in place at national level are not undermined by the partial standardisation exercise.</p>	<p>As one of the objectives of the PAD is to ensure that the provisional lists contains the most relevant services for consumers when comparing accounts, the number of services included in the lists should fully depend on the specificities of the national markets. Having more items on the list does not necessarily mean it will deliver a better outcome for the consumer.</p> <p>Moreover, the ‘partial standardisation’ mentioned should not have an adverse effect on existing consumer-friendly measures. The EBA is keen to ensure that the information provided to consumers in future remains relevant and as intuitive as possible</p>	<p>None required</p>

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<p>Three respondents expressed the view that the guidelines should explicitly mandate competent authorities to consider in their lists any kind of fees and penalties linked to the use of a payment account, including overrunning penalties, to avoid hidden high fees applied by PSPs.</p>	<p>The PAD is clear that these fees and charges should be considered. The EBA is aware of the high costs that certain penalties and fees related to overrunning and overdraft facilities pose to consumers. Therefore, the EBA allows the competent authorities to choose whether or not to include these fees in the provisional lists depending on the relevance for national consumers.</p>	None required
<p>Three respondents suggested using behavioural insight to ensure that the qualification of 'representativeness' of a service is based on the consumer's perspective</p>	<p>The EBA welcomes this view. The EBA stresses that it has consumers' interests and the need for transparency of relevant information about services in mind when drafting the guidelines.</p>	None required
<p>Three respondents proposed using examples to clarify the term 'exception', which, in the guidelines, is referred to as the use of criteria other than those established by Article 3 of the PAD.</p>	<p>The two criteria in the Directive were chosen by the legislators possibly as they were seen as the two most pertinent factors in identifying the services that are most relevant for consumers. The guidelines seek to apply this logic and ensure a measure of consistency in the approach taken by Member States. The term 'exception' is used to explain that the use of different criteria might risk a Member State departing from the objectives of the PAD. As such, they should only consider the use of other criteria 'when market specificities justify it'.</p>	None required
<p>Three respondents were of the view that the standardised list of services should take into account the differentiation between normal fees and promotional fees applied by PSPs when offering consumers temporary promotions and conditional offers.</p>	<p>The EBA considers that normal fees should be the only ones taken into consideration for the provisional list. The EBA does acknowledge, however, that the use of promotional fees or the conditional waiving of fees will affect the costs incurred by consumers in practice.</p>	None required

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<p>To provide guidance on the practical implementation of the guidelines, three respondents suggested including a number of country case studies</p>	<p>The EBA considers that the suggested methodologies included in the 'Background and rationale' section are enough to aid the competent authorities in their task of compiling the services on the list. Notwithstanding this, a hypothetical example is included in the template in the annex.</p>	<p>A completed example is presented in the template</p>
<p>Six respondents were of the view that the sources of information that the competent authorities may use when compiling the list should also include consultations with consumers organisations and all relevant stakeholders.</p>	<p>The EBA chose option B2 as the best one to allow competent authorities to decide for themselves which data is necessary for their decision. That also includes the option to consult consumer organisations and all relevant stakeholders.</p>	<p>The suggested approach was included in the suggested methodologies list.</p>
<p>One respondent asked to clarify the distinction between 'services linked to a payment account' and services not 'linked to a payment account'.</p>	<p>Article 2(6) of the PAD defines 'services linked to a payment account' as 'all services related to opening, operating and closing of a payment account, including payment services and payment transactions falling within the scope of (PSD) and overdraft facilities and overrunning'. The EBA does not consider it appropriate to attempt to specify any further which services Member States should or should not consider for inclusion on their provisional list.</p>	<p>None required</p>
<p>Two respondents were of the view that the templates in the Annex might be difficult to use and therefore suggested presenting a number of completed examples for some services.</p>	<p>The template was intended to assist competent authorities in structuring the provisional list. However, the EBA acknowledges this suggestion</p>	<p>A completed example is presented in the template.</p>
<p>One respondent argued that, in a dynamic context, the standardisation of price lists might not be enough to ensure comparability of fees. The same respondent stated that flexibility should be</p>	<p>In the opinion of the EBA, the standardisation of terms will be an important step towards facilitating domestic and cross-border comparability of fees. On the other hand, flexibility must be used by</p>	<p>None required</p>

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maintained by allowing competent authorities to take account of existing common terminology already implemented in Member States and ensure consistency with those terms.

competent authorities to take into consideration existing common terminology already implemented in the Member States, bearing in mind the objective of arriving at a set of terminology that will be readily understood and useful for consumers.

One respondent suggested introducing an explicit requirement that the terminology used to describe services should be in plain language.

The EBA agrees with this point of view. The EBA has asked competent authorities in the document to bear in mind that the provisional list submitted is intended to be used by consumers. As such, it must be fit for purpose.

None required

One respondent was of the view that currency exchange services should not be mentioned in the template as they do not fall within the scope of the definition of 'services linked to a payment account' pursuant to the PAD.

Although the EBA admits that currency exchange services *per se* are not usually the most relevant ones for consumers in many countries and might not necessarily be linked to a payment account, it cannot be denied that consumers can use this service when operating a payment account (use of a payment card abroad). In some countries, it could be a significant comparison factor for consumers to open an account (for example, for individuals who travel frequently).

None required

Two respondents expressed the view that priority should be given in the list to services that generate the highest cost for consumers, even if they are not used very often by consumers.

The EBA considers that competent authorities should use the relevant data and national market circumstances as the basis for deciding which services and related fees are the most relevant to disclose to consumers in the FID.

None required

On the other hand, one respondent stated that where, as an exception, the only criterion used is the cost of the service, this service should still be sufficiently popular among consumers.

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<p>Two respondents suggested explicitly stipulating in the guidelines that 'the risk of consumer detriment may be borne in mind by competent authorities when considering whether to include certain services in the provisional list'</p>	<p>The EBA acknowledges the relevance of the risk of consumer detriment as a factor in determining a service that is most representative. However, the EBA guidelines focus on the criteria listed in the Directive. The current wording gives sufficient consideration to the issue of considering the risk of consumer detriment.</p>	<p>None required</p>
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Question 3.

Do you agree with the analysis of the cost and benefit impact of the guidelines?

<p>As far as the use of additional criteria is concerned, while three respondents explicitly agreed with Option A1, also preferred by the EBA, four respondents called for more discretion by competent authorities in the use of criteria and therefore preferred Option A2. Those respondents suggested allowing competent authorities to consider using additional criteria (other than those specified in the PAD) not only as an exception, but as a rule, in order to take into account local market specificities.</p>	<p>The EBA chose option A1 because it tends to promote a more consistent application of the Directive across Member States and an approach that identifies the services that are most relevant to consumers. The EBA considers, however, that this approach still provides Member States with the flexibility they require in order to include other services in their provisional list, provided the use of other criteria is made as a justified exception.</p>	<p>None required</p>
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<p>There is a broad consensus on option B2. However, one respondent suggested specifying that supporting data should be 'reliable' and suggested the methodology used by the competent authorities should be publicly available to PSPs</p>	<p>According to guideline 4.1 of the guidelines, competent authorities should base their decisions on data from a wide range of sources, provided the data is reliable. Beyond what is required by the Directive, it is for competent authorities to determine how they make information on the data and methodology used available.</p>	<p>None required</p>
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<p>Three respondents were of the view that option C1 should be chosen instead of C2, reporting the provisional list using a standardised template might affect innovation.</p>	<p>The reason why the EBA chose option C2 is based on the fact that a common template for the reporting of lists to the EBA and the Commission would improve the comparability of the provisional lists submitted by Member States. Article 3 places a duty on Member States to compile this list. Neither the Directive nor the EBA guidelines prevent PSPs from offering services that are not included in a Member State’s list of representative services. The Directive does seek to ensure, however, that consumers can compare different PSPs’ service offerings by bringing a degree of standardisation to the terminology used.</p>	<p>None required</p>
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Question 4. No comments received

Please provide any evidence or data that would further inform the analysis of the likely cost and benefit impacts of the proposals.

Comments outside the scope of the Consultation Paper EBA/CP/2014/34

<p>The issuance of the current guidelines is the first step in a process outlined in PAD. This process will culminate in the industry having to provide information in two standardised disclosure templates, the FID and the SoF, and to use certain standardised terminology to describe products and services. A number of comments focused on aspects of the implementation of PAD after the guidelines are finalised.</p>	<p>Although these comments do not address the consulted guidelines, the EBA considers it useful to reiterate the envisaged timing. The relevant regulatory and implementing technical standards must be submitted by the EBA to the Commission by 18 September 2016, which will be followed by the Commission adopting them as delegated and implementing acts. Article 29(2)(b) of PAD states that the measures in Chapter 2 of the PAD will be applied by Member States (and therefore used by PSPs when providing the requisite information) nine months after the Commission's delegated act setting out the standardised Union terminology enters into force.</p>	<p>Sentence included in the Background section to provide clarity on timing.</p>
<p>Three respondents to the consultation commented on the timing of the PAD's implementation process and highlighted the lead-in time that PSPs require to implement the necessary changes to systems and organisational changes. It was not clear from certain comments whether respondents understood fully the timing of the process.</p>		
<p>Two respondents stated that the GL and the national lists must be without prejudice to the legality or illegality of the fees therein.</p>	<p>The EBA does not consider the issue of the legality or illegality of the fees linked to a payment account to fall within the scope of the guidelines.</p>	<p>None required</p>
<p>Two respondents questioned the impact analysis by arguing that it could have been more in depth and that its conclusions do not appear to be fully justified (e.g. because in many countries payment accounts are low-cost products, and consumers do not consider the potential cost saving as being large enough to actually switch PSP).</p>	<p>The EBA considers that the criticism is generic and also notes that the respondents do not propose any alternative to the Impact Assessment and final conclusions provided with the guidelines. The decision to intervene in this area and require the provision of fee information to help consumers shop around was made by the EU legislature and is contained in the Directive. The EBA guidelines seek only to give effect to one element of this decision.</p>	<p>None required</p>